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DIN- 20240371ML000000A342**Show Cause Notice****(Issued under Section 30 of SEZ Act, 2005 read with Section 28 of the Customs Act, 1962)**

Whereas, intelligence gathered by the officers of P&I Section, KASEZ indicated that certain SEZ Units were importing Flat rolled products of Stainless Steel falling under CTH 7219 & 7220, from China and Indonesia and subsequently clearing into DTA without payment of applicable CVD. Further, the Intelligence revealed that SEZ Units along with DTA clients are mis-classifying the goods imported from China in order to avail benefit of concessional rate of Basic Customs duty. In view of the above mis-declarations by the said SEZ Units, undue benefits were being availed which resulted into misuse of the FTA and evasion of Customs duty.

1.1. Whereas, this office has received a **letter F. No. K-43017(16)/1/2021-SEZ dated 13.07.2021 from Ministry of Commerce and Industry along with DRI letter F. No. DRI/AZU/CI/INT-02/2021/494 dated 09.06.2021 (RUD-01)**. Vide said letter, it has been informed that during the course of inquiry proceedings by the Directorate of Revenue Intelligence (here-in-after referred to as "DRI"), it appeared that certain importers have cleared subject goods from SEZ to DTA **without payment of applicable CVD**. Further, it has been informed that the said importers have also indulged in other violations like mis-classification, wrong availment of benefit of exemption under Preferential Trade Agreement, clearance without mandatory SIMS registration etc. Further, DRI has informed that since the inquiry on the same matter had already been initiated by KASEZ customs, in the interest of revenue, DRI transferred all the files and documents related to the case to KASEZ Customs for further investigation.

1.2. Whereas, during the test check of records for the period 2019-21, the Sr. Audit Officer (CRA-I) noticed that certain KASEZ units had cleared "Cold Rolled Stainless Steel Sheet in Coils (J3 Grade)" in DTA classifying them under CTH 72209022 and the Customs duty was paid on these DTA clearances at the rate of 23.35%. Whereas, the Audit team on scrutiny of their "Mill Test Certificate", noticed that these items contained "Chromium-Cr" (12.4% -12.5%) and "Manganese-Mn" (9.2 % -9.4%) in majority and only a small quantum of "Nickel Ni" (1.03% -1.07%). Therefore, Audit team made an observation that the subject goods cleared in DTA were actually "chromium-manganese austenitic type" stainless steel and were correctly classifiable under CTH 72209090 and subsequently, benefit of Notification 50/2018-Cus was also not admissible for subject goods. The above said observations were communicated by the Audit team to KASEZ vide HM dated 27.09.2021 and subsequently vide LAR dated 03.11.2021 **(RUD-02)**.

1.3. Acting on the intelligence gathered by the P&I Section and the inputs received from DRI Ahmedabad & Audit observation, an inquiry was initiated against all such SEZ Units and subject DTA clients. M/s. Stash Barn Enterprises, Kandla Special Economic Zone, Gandhidham, Kutch, is one of such units which have cleared imported goods into DTA without payment of applicable CVD and availed concessional rate of duty of the goods originated from China by mis-classifying the goods under 72209022 instead of 72209090.

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1.4. Whereas, M/s. Stash Barn Enterprises (hereinafter also referred to as 'SEZ Unit'), is situated at Shed No.390, AS-III Type, Sector-III, Kandla Special Economic Zone, Gandhidham, Kutch in Kandla SEZ having letter of Approval No. 05/2015-16 dated 02.06.2015 issued by the Joint Development Commissioner vide letter F.No KASEZ/IA/005/2015-16 **(RUD-03)** under Section 15(9) of the Special Economic Zones Act, 2005 read with Rule 18 of the Special Economic Zones Rules, 2006 to operate as an SEZ unit and carry out authorized operations of warehousing and trading activity.

1.5. Whereas, the Government of India vide Notification No. 01/2017-Cus (CVD) dated 07.09.2017 **(RUD-04)** imposed Countervailing Duty (CVD) of 18.95% on the goods falling under Chapter 7219 or 7220 and having description “Flat-rolled products of stainless steel” when imported from “China PR”. Subsequently, vide notifications no. 02/2021-Cus (CVD) dated 01.02.2021, 05/2021-Cus (CVD) dated 30.09.2021 and 01/2022-Customs (CVD) dated 01.02.2022, the imposition of CVD on import of goods under Chapter 7219 or 7220 from China was rescinded w.e.f. 02.02.2021. Whereas, by virtue of above said notifications the import of goods falling under Chapter 7219 or 7220 and having description “Flat-rolled products of stainless steel” from “China PR” during the period from 07.09.2017 to 01.02.2021 attracted CVD in addition to standard/ applicable BCD, SWS & IGST.

1.6. Whereas, the Government of India vide Notification No. 02/2020-Cus (CVD) dated 09.10.2020 **(RUD-05)** imposed Countervailing Duty (CVD) on the goods falling under Chapter 7219 or 7220 and having description “Flat-rolled products of stainless steel” when imported from “Indonesia”. Subsequently, vide Notification no. 01/2021-Cus (CVD) dated 01.02.2021, the imposition of CVD on import of goods under Chapter 7219 or 7220 from Indonesia was rescinded w.e.f. 02.02.2021. Whereas, by virtue of above said notifications the import of goods falling under Chapter 7219 or 7220 and having description “Flat-rolled products of stainless steel” from “Indonesia” during the period from 09.10.2020 to 01.02.2021 attracted CVD in addition to standard/ applicable BCD, SWS & IGST.

2. During the course of investigation, Statements of Partner of M/s. Stash Barn Enterprises were recorded under Section 108 of Customs Act, 1962 wherein they have agreed that they have not paid CVD portion due to lack of knowledge of their authorized person Mr. Deepak Manuja. Further, it is stated that after initiation of investigation, they have paid an amount of **Rs. 2,36,95,459/-** towards duty and interest including differential duty of Rs. 17,00,738/- towards BCD and Rs. 5,87,308/- towards interest in regard to the objections raised by the Audit team and communicated to them vide KASEZ Customs letter dated 29.09.2021 **(RUD-06)**.

2.1. Whereas, during the course of investigation, it has been found that below mentioned 03 importers have imported goods through SEZ Unit M/s. Stash Barn Enterprises and subsequently cleared into DTA without payment of applicable CVD. Letters have been forwarded to jurisdictional GST commissionerates to carry out the verification of genuineness of the said importers. The outcome of the verification proceedings has been detailed below **(RUD-07)**:

Sr. No.	Name of DTA Importer (M/s.)	Declared address of DTA Importer.	Outcome of IEC verification proceedings.
1.	M/s. Metal Steel and India	1/25b Asaf Ali Road, Delhi 110002	Found Existent

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2.	M/s. Om Drishian International Ltd.	SSI-58, G.T. Karnal Road, Industrial Area, North West Delhi – 110033.	Found Existent
3	M/s. Udaya Udhyog	30, Lifescapes Nilay, Dr Babasaheb, Jaykar Marg Thakurdwar Road, Mumbai, Maharashtra, India – 400002	Found Existent

3.1. During the course of investigation, Statement of Shri Rakesh Bansal, partner of M/s. Stash Barn Enterprises was recorded on 05.02.2021 **(RUD-08)** under Section 108 of Customs Act, 1962 wherein he, inter alia, stated:

- that he is one of the partners of M/s. Stash Barn Enterprise and their firm M/s. Stash Barn Enterprise is a Unit engaged in providing warehousing services in KASEZ as per the LoA issued by the Development Commissioner of KASEZ since the year 2015.
- that Mr. Deepak Manuja, their employee at Gandhidham, looked after all activities related to import and subsequent clearance of Stainless Steel; He was responsible for filing Bills of entry and he was authorized signatory of the firm for all Customs and banking related work.
- that they were not aware of CVD in relation to import of Stainless Steel under CTH 7219 and 7220. They got to know about such duty only through letter of Customs KASEZ.
- that they immediately checked their records and found that CVD was otherwise payable but they had not paid the CVD portion due to lack of knowledge of their authorized person Mr. Deepak Manuja, who should have known about the duty applicable on CTH 7219 and 7220. Further, they immediately contacted their clients and conveyed them regarding the non-payment of CVD which was otherwise payable as per Notification No. 1/2017-Customs (CVD) dated 07.09.2017 and Notification No. 2/2020-Customs(CVD) dated 09.10.2020. Further, he conveyed that their clients readily accepted the demand and paid the Customs duty (CVD) along with applicable interest.
- that, for verification of genuineness of their DTA clients, they take KYC of the party such as copy of IEC, details of firm, GST registration certification, PAN card, Aadhar card, Bank attested and notarized documents and a photograph for identification.
- that they verify the companies registered with GST from GST portal, they further verify the credential from Aadhar card portal also. That they take all due care to verify the veracity of their clients and till date no offence related to evasion of Govt. dues has been noticed on their part.
- That they have all the authorization from their respective clients to file Bills of entry on their behalf as per SEZ Rule.

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- That they have permission of various OGL items but currently they only dealing in goods falling under CTH 7219 and 7220.
- That they have started to warehouse goods falling under CTH 72 from Nov-2016.
- That they do not have technical knowledge regarding finer details such as how bills of entry are filed and applicable rate of duty on various commodities. He further stated that all technical matters related to Customs clearance was erstwhile managed by Mr. Deepak Manuja.
- That they filed DTA bills of entry of goods falling under CTH 72 and submitted all the details of goods cleared.
- that all the Customs related work was handled by Mr. Deepak Manuja and it appears that due to lack of knowledge about applicability of CVD on the goods falling under CTH 72 coupled with the fact that neither the CVD provision was reflected nor was calculated at the time of filing of Bills of entry at SEZ online system. The mistake probably happened due to error of SEZ online portal. Since the time KASEZ Customs has informed them regarding the non-payment of applicable CVD on the goods falling under CTH 72, they have already paid full differential duty i.e. 18.95% of the Landed value as required by KASEZ Customs letter dated 16.01.2021 regarding recovery of Short Paid duty.
- that he rigorously followed up with all their DTA clients and their clients have already paid Rs. 2,14,07,413/- with interest.
- that this incident of short payment of Customs duty was not intentional and has happened due to the fact that SEZ online was not updated with relevant CVD Notification and its provisions which is unable of update its system as and when changes introduced by various notifications of Customs and lack of awareness regarding deeper knowledge of Rules and day to day changing Notifications of Customs.

3.2. During the course of investigation, another Statement of Shri Rakesh Bansal, partner of M/s. Stash Barn Enterprises was recorded on 25.01.2024 **(RUD-09)** under Section 108 of Customs Act, 1962 wherein he, inter alia, stated:

- that he is one of the partners of M/s Stash Barn Enterprise and his firm M/s Stash Barn Enterprise is a unit engaged in providing warehousing services in KASEZ as per the LOA issued by the Development Commissioner of Kandla Special Economic Zone since the year 2015. **He is also one of the Directors of M/s. Om Drishian International Ltd.**
- **that he had been authorized by M/s. Metal and Steel India and M/s. Udaya Udhog** to present and depose statement on behalf of them in reference to Summons issued to them and submitted copies of authorization letters/ emails.
- That till date, details of amount paid towards BCD, CVD & Interest by their DTA Clients are detailed in the table below

Sl No	Name of the DTA Client	Basic Customs	CVD (in INR)	Interest (in INR)	Total (in INR)

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		Duty (in INR)			
1	M/s Metal & Steel India	17,00,738	1,07,92,775	37,42,088	1,62,35,601
2	M/s Udaya Udyog		26,38,369		26,38,369
3	M/s Om Drishian International Ltd		48,21,489		48,21,489
TOTAL					2,36,95,459

- a. Out of the above mentioned amounts, an amount of Rs. 17,00,738/- towards BCD and Rs. 5,87,308/- towards interest has been paid in regard to the objections raised by the Audit team and communicated to them by KASEZ Customs vide letter dated 29.09.2021.
 - b. In regard to payments made towards differential duty on account of non-payment of CVD, the Bill of Entry wise reconciliation with payments made by them would be submitted in 05 working days. The payments made by respective DTA clients may be considered for differential duty in first in first out manner towards DTA clearances of respective clients.
 - c. In regard to 03 DTA clearances made by their client M/s. Metal & Steel India vide Bills of entry no. 2003770 dated 12.04.2018, 2011311 dated 08.10.2018 and 2011312 dated 08.10.2018, though the country of Origin of these imported goods is “Indonesia” due to clerical mistake in filing Bill of Entry for DTA clearance they had mentioned the Country of Origin as “China” and they submitted attested copies of Import documents pertaining to said 03 Bills of entry. Further, they requested to consider above said facts while arriving at differential duty calculations.
- With regard to goods imported from supplier M/s. Cekap Prima Sdn Bhd vide Bills of entry no. 1013102 & 1013103 both dated 16.12.2020 and subsequently cleared into DTA to their client vide Bills of entry no. 2010917 dated 21.12.2020 and 2010914 dated 21.12.2020, in light of information that the supplies made by Malaysian supplier M/s. Cekap Prima Sdn Bhd under the benefit of ASEAN-India Preferential Trade Agreement and India-Malaysia Preferential Trade Agreement are found to be non-authentic, they stated that they have imported against non-preferential COOs issued by the said supplier and discharged applicable Custom duties (BCD+SWS) & IGST at the time of DTA clearance of said imported goods.
- that due to clerical mistake they erroneously declared COO as “India” in Bill of entry no. 2003529 dated 29.05.2020 whereas actual Country of Origin is “China” same is also available in uploaded documents.

3.3. Subsequently, the unit had submitted details, vide email dated 02.02.2024, of duty payments made till date (**RUD-06**). The reconciliation appears to be incorrect for the facts that IGST portion is not revised taking into account amount of CVD, some of the Bills of entry are not considered for differential duty calculation etc..

3.4. It is apt to re-iterate here that, during his statement dated 05.02.2021 (**RUD-08**), Shri Rakesh Bansal, Partner of M/s. Stash Barn Enterprises, KASEZ categorically stated that Mr. Deepak Manuja, their employee at Gandhidham, looked after all activities related to import and subsequent clearance of Stainless Steel, and he was responsible for filing Bills of entry and he was authorized signatory of the firm for all Customs and banking related work. He further stated that they had not paid the CVD portion due to

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lack of knowledge of their authorized person Mr. Deepak Manuja, who should have known about the applicable duty on goods falling under CTH 7219 and 7220.

In this connection, to elicit more facts/ details related to subject investigation, reliance is made on a statement dated 29.01.2021 (**RUD-10**), made before DRI, AZU, of Shri Deepak Manuja, in the capacity of Proprietor of M/s. Unique Steel, Gandhidham, recorded under Section 108 of Customs Act, 1962, in a parallel investigation initiation based on the subject intelligence gathered by KASEZ Customs and inputs received from DRI. It is pertinent to place on record that as Shri Deepak Manuja is an employee and authorized signatory of M/s. Stash Barn Enterprises, some of facts stated by him in the statement appears to be relevant to present investigation. The relevant portion of the statement dated 29.01.2021 of Shri Deepak Manuja is as under:-

- that, he is the proprietor of M/s Unique Steel, his wife, Smt. Shivani Manuja is the proprietor of M/s AD Enterprises and his elder brother, Shri Sandeep Manuja is the proprietor of M/s D.S. Trading Company. That, all the companies were established by himself only and his wife as well as his brother were not involved in any activities of the companies. That, all the day today work related to all the activities like sales, purchase etc. was looked after by him only.
- that, M/s Unique Steel, M/s AD Enterprises and M/s D.S. Trading Company, are engaged in trading of Flat rolled products of Stainless-Steel Cold Rolled Coils/Hot Rolled Coil/ Circles. That, first they purchased Flat rolled products of Stainless-Steel Cold Rolled Coils/Hot Rolled Coil/Circle from overseas supplier based in China and Malaysia and further imported the consignments in bulk and warehoused the same in KASEZ. That, thereafter, from KASEZ, they cleared in DTA on payment of applicable duties and sold to various Importers in Domestic market.
- **that, regarding classification of goods, availment of any exemption viz. Asian Pacific Trade Agreement (APTA), payment of Custom duty, GST and other Anti-dumping duties and CVD etc. he stated that he has some knowledge of customs and accordingly, based on the documents received from the overseas suppliers, they filed the Bill of entry.**
- that, he contacted overseas suppliers for supply of Flat rolled products of Stainless-Steel Cold Rolled Coils/ Hot Rolled Stainless Steel Coil/ Stainless Steel Circle and did not issue any purchase order but they received proforma Invoice and accordingly they made the advance payment through banks as no credit limit or time was given by overseas supplier.
- that, on being asked about the operation of the bank accounts, he informed that his brother, Sandeep Manuja operated the accounts of all the three firms viz. M/s. Unique Steel, M/s. AD Enterprises and M/s. D.S. Trading Company and they did not operate the accounts of M/s RMC Enterprise and M/s AJ Steel.
- That, they do not know the end use of product viz. Flat rolled products of Stainless-Steel Cold Rolled Coils/Hot Rolled Stainless Steel Coil/ Stainless Steel Circle and they do not have any end-use certificate also.
- that, under CTH 72 goods mainly steel product i.e., S.S. Coil/pipe are classified. That, there are two types of coils i.e., HRC (Hot Rolled Coil) and CRC (Cold Rolled Coil). That, as far as difference between HRC and CRC is concerned, it is depend on the rolling mechanism, temperature used on it, and CRC is made from HRC after finishing of it. That, they have imported both types of coils. That, under CTH 7219, Flat-rolled products of stainless steel of a width of 600 mm or more

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have been classified whereas under CTH 7220, Flat-rolled products of stainless steel of a width of less than 600 mm have been classified.

- that, they have filed the Bills of Entry for the goods with description of Cold Rolled Coils under CTH 72209022 Nickel Chromium Austenitic Type' and for the goods with description of Hot Rolled Coils under CTH 72201222 with description 'Nickel Chromium Austenitic Type. That, they filed the Bills of Entry under said CTH for taking benefit of SAPTA Notification under the description of 'Nickel Chromium Austenitic Type.
- **that, they classified the imported goods under said CTH for taking benefit of SAFTA and further, he accepted that it is does not fall under category of Nickel Chromium Austenitic Type.**
- **that, on being asked to go through the CTH 7220, he found that the correct classification of imported goods with description of Hot Rolled Stainless Steel have to be classified under CTH 72201290 and imported goods with description of Hot Rolled Stainless Steel have to be classified under 72209090.**
- **that, SIMS (Steel Import Monitoring System) registration is required for the import of steel. Importer has to register it.** As far as goods imported by M/s Unique Steel, M/s AD Enterprises and M/s D.S. Trading Company, we have not had SIMS registration.
- **that, Initially, they received the documents from their overseas supplier with HS code or CTH mentioned in 6 digits i.e. 7220.90 but as the CTH mentioned in SAPTA Notification no. 50/2018 the eligible HS code to claim benefit on BCD is mentioned as 72209022 therefore, they asked their suppliers to mention HS code 72209022 on the import documents where as their goods imported are of HS Code 72209090.**
- that, as said imported goods are not falling under category of Nickel Chromium Austenitic, therefore, it appears that SAFTA benefit is not applicable on the said products by M/s Unique Steel, M/s AD Enterprises and M/s D.S. Trading Company.
- That, on being asked about applicability of CVD on the imported products as per Customs Notification no. 01/2017 (CVD), he agreed that as per the said notification CVD is applicable on the goods imported by them.

4. Scrutiny of documents and analysis of evidences gathered during investigation-

4.1. During the analysis of statistical data of the import/ DTA clearances by KASEZ Customs, it was noticed that several importers are clearing Stainless Steel Coil/ Circles imported from China and Indonesia into DTA, without paying applicable CVD. In regard, KASEZ Customs vide letter dated 16.01.2021 & 27.01.2021(**RUD-06**), inter-alia, requested M/s. Stash Barn Enterprises, KASEZ to pay the Countervailing Duty (CVD) leviable under Notification No. 01/2017-Customs (CVD) dated 07.09.2017 & Notification No. 02/2020 – Customs (CVD) dated 09.10.2020 on the said goods along with the applicable interest.

In response, below mentioned 03 DTA clients/importers of M/s Stash Barn Enterprises have paid an amount of Rs. 2,14,07,413/- (Two Crores Fourteen Lakhs Seven Thousand Four Hundred and Thirteen rupees only) towards differential duty(CVD)

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and interest. The challans submitted by the DTA clients/ importers have been forwarded to SBI, KASEZ for verification vide letter dated 16.04.2021 and the Bank vide their letter ref: KAFTZ/2021-22/20 dated 22.04.2021 confirmed the payment of duty vide cheques mentioned therein (**RUD-06**).

4.2. Whereas, during the test check of records for the period 2019-21, the Sr. Audit Officer (CRA-I) noticed that the said SEZ Unit along with DTA Importers have mis-classified the goods imported under CTH 72209022 to claim the benefit of Asian Pacific Trade Agreement (APTA) under Notification No. 50/2018 dated 30.06.2018, wherein benefit/ exemption of @45% on the BCD on the goods imported from China is available. The Audit team, on scrutiny of “Mill Test Certificates” had observed that actual classification of these goods should be 7220 9090. The audit observations have been communicated to the SEZ Unit vide this office letter dated 29.09.2021 with a request to pay the differential duty/outstanding amount along with applicable interest. In response the unit vide their letter dated 23.12.2021 (**RUD-06**) intimated that they have paid an amount of Rs. 17,00,738/- vide TR-6 challan no. 04/2021-122 dated 22.12.2021 towards short levy of Customs Duty and an amount of Rs. 5,87,308/- vide TR-6 challan no. 05/2021-22 dated 22.12.2021 towards the interest.

4.3. The details of duty payments and interest payments made by the 03 DTA clients/ importers, till date, are tabulated hereunder:

(i) M/s Metal & Steel India:

Sl. No	Challan/ Cheque No – Date	Amount paid	TOTAL
1	016556 Dt: 20.01.2021	50,00,000/-	50,00,000
2	016557 Dt: 20.01.2021	50,00,000/-	50,00,000
3	016558 Dt 20.01.2021	7,92,775/- + 31,54,780/-	39,47,555
4	469510 & 469511 dt: 22.12.2021	17,00,738/-	17,00,738
5	469512 dt 22.12.2021	5,87,308/-	5,87,308
TOTAL		1,62,35,601	1,62,35,601

(ii) M/s Om Drishian International Limited:

Sl No	Challan/ Cheque No – Date	CVD& Interest	TOTAL
1	375508 Dt 01.02.2021	48,21,489	48,21,489

(iii) M/s Udaya Udhyog

Sl No	Challan/ Cheque No – Date	CVD & Interest	TOTAL
1	004566 Dt 30.01.2021	26,38,369	26,38,369

4.5. Import without SIMS registration: Whereas, DGFT vide notification no. 33/2015-2020 dated 28.09.2020 has amended the import policy for goods falling under Chapter 72 and 73 from “Free” to “Free subject to compulsory registration under Steel Import Monitoring System (SIMS)”. During the course of investigation, it emerged that subject SEZ unit in connivance with DTA importers have imported subject goods without

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compulsory registration under SIMS as mandated by prevailing import policy notified by DGFT.

5. Legal Provisions:

The following are the legal provisions, which are in general applicable in the present case. The list given herein is indicative and not exhaustive, as the context of legal provisions may otherwise require reference of other legal provisions, reference of which are also to be invited, as and when required:

5.1. The Customs Act, 1962:

- 5.1.1. Section 46 of the Customs Act, 1962
- 5.1.2. Section 11 of the Customs Act, 1962
- 5.1.3. Section 2(33) of the Customs Act, 1962
- 5.1.4. Section 2(39) of the Customs Act, 1962
- 5.1.5. Section 111(d), (m) and (o) of the Customs Act, 1962.
- 5.1.6. Section 112 of the Customs Act, 1962
- 5.1.7. Section 114AA of the Customs Act, 1962
- 5.1.8. Notification No. 01/2017-Cus (CVD) dated.07.09.2017
- 5.1.9. Notification No. 02/2020-Cus (CVD) dated.09.10.2020.

5.2. SEZ Act, 2005 and SEZ Rules, 2006

- 5.2.1 Section 30 of the SEZ Act, 2005.
- 5.2.2. Section 15(9) of the SEZ Act, 2005.
- 5.2.3. Rule 18 of the SEZ Rules, 2006.
- 5.2.4. Rule 27(10) of the SEZ Rules, 2006.
- 5.2.5. Rule 29(1) of the SEZ Rules, 2006.
- 5.2.6. Rule 29(2) of the SEZ Rules, 2006.
- 5.2.7. Rule 47 of the SEZ Rules, 2006.
- 5.2.8. Rule 48 of the SEZ Rules, 2006.

5.3. Foreign Trade (Development and Regulation) Act, 1992

- 5.3.1. Section 3(2) and (3) of the FTDR Act, 1992
- 5.3.2. Section 5 of the FTDR Act, 1992
- 5.3.3. Section 11 (1), (2), (3), (8) of the FTDR Act, 1992
- 5.3.4. Section 12 of the FTDR Act, 1992

5.4. Foreign Trade (Regulation) Rules, 1993

- 5.4.1. Rule 11 of the FTR, 1993
- 5.4.2. Rule 14 of the FTR, 1993
- 5.4.3. Rule 15(3)(a) of the FTR, 1993
- 5.4.4. Rule 17 of the FTR, 1993

5.5. Foreign Trade Policy 2015-2020

- 5.5.1. Para 2.01 of the FTP
- 5.5.2 Para 2.03(a) of the FTP
- 5.5.3. Para 2.20 of the FTP
- 5.5.4. Para 9.41 of the FTP

5.6. DGFT Notification No. 33/2015-2020 dated 28.09.2020

6. Discussion related to legal contraventions:

6.1. Whereas, Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Under self-assessment the importer or

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exporter has to ensure correct classification, applicable rate of duty, value and exemption notifications, if any, in respect of imported /export goods while presenting bill of entry or shipping bill. Further, Rule 75 of the SEZ Rules, 2006 also provides that unless and otherwise specified in these rules, all inward or outward movements of the goods into or from SEZ by the Unit/Developer shall be based on self-declaration made by the Unit/Developer. While importing subject goods, the said SEZ unit and DTA importers were bound for true and correct declaration and assessment. As the said SEZ unit engaged in business of providing warehousing services in respect of subject goods, they were fully aware of specifications, characteristics, nature, rate of duty and description of the goods imported and warehoused on behalf of DTA client. Whereas, Section 46(4A) of the Customs Act, 1962, the importer, who is presenting the bill of entry should ensure the accuracy and completeness of the information given therein, the authenticity and validity of any document supporting it; and compliance with the restriction or prohibition, if any, relating to the goods under the Customs Act, 1962 or under any other law for the time being in force.

6.2 During the course of investigation, it emerged that Shri Deepak Manuja, employee and authorized signatory of M/s Stash Barn Enterprises in his statement dated 29.01.2021 (RUD-10), in relation to another investigation, stated that they willfully mis-classified the imported goods to avail benefit of concessional rate of duty. The facts of himself being proprietor of an importing firm and handling other 02 firms established in the name of his wife and brother, dealing directly with overseas suppliers, DTA importers, filing Bills of entry etc. clearly suggest that he is well aware of actual classification, rate of duty and other details of imported goods. Further, the fact that the SEZ unit, its partner, the DTA clients and the employee/ authorized signatory themselves being engaged in the business of importing/ trading of subject goods, it appears they were fully aware of specifications, characteristics, nature, rate of duty and description of the goods imported and willfully mis-declared and mis-represented the facts to evade the Custom duty. The legal contraventions caused out of acts of omissions and commission on the part of the DTA Clients and the SEZ in evasion of Customs duty would have not come to the notice of Customs authorities except for Statistical data analysis, intelligence gathering, and inputs from reliable sources and further investigation by Customs. Further, the CRA team observed willful mis-classification of imported goods to evade customs duty by way of availing non-eligible benefits of concessional rate of duty under India-ASEAN FTA. In view of all the above discussed acts of omissions and commissions, it appears to be a clear case of willful mis-statement and suppression of facts and thereby attracts the invocation of extended period of demand of duty under Section 28(4) of the Customs Act, 1962. Further, it emerges that all these acts had been done with well and pre-planned strategy so as to illegally enrich the said SEZ unit and DTA importers through evasion of Customs duty.

6.3 During the course of Investigation, it emerges that the said SEZ Unit along with DTA importers have wrongly availed the benefit of exemption on goods imported from China by mis-classifying the goods and evaded the Customs duty by mis-declaring the applicable rate of duty/ CVD. Such indulgence and endeavor on the part of said SEZ Unit and DTA importers are in violation of the provisions of Section 46 of the Customs Act, 1962, irrespective of the importability of the impugned goods and other aspects involved in the case, which makes the impugned goods liable for confiscation in terms of Section 111(m) and Section 111(o) of the Customs Act, 1962 and said SEZ unit and their DTA importers liable for penalty under Section 112 , Section 114A and section 114AA of the Customs Act, 1962.

Mis-classification of the goods to avail undue APTA benefits:

6.4 During the course of Investigation, it emerges that the said SEZ Unit along with DTA Importers have mis-classified the goods imported under CTH **7220-9022** to claim

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the benefit of Asian Pacific Trade Agreement (APTA) under Notification No. 50/2018 dated 30.06.2018, wherein benefit/exemption of @45% on the BCD on the goods imported from China, resulted in the short payment in Customs Duty. The actual classification of these goods appears to be **7220-9090 (Chromium-Manganese Austenitic Stainless Steel)** as per the Mill test reports discussed above. Such indulgence and endeavor on the part of said SEZ Unit and DTA importers are in violation of the provisions of Section 46 of the Customs Act, 1962, irrespective of the importability of the impugned goods and other aspects involved in the case, which makes the impugned goods liable for confiscation in terms of Section 111(m) and Section 111(o) of the Customs Act, 1962 and said SEZ unit and their DTA importers liable for penalty under Section 112, Section 114A and Section 114AA of the Customs Act, 1962.

Clearance of the goods without SIMS Registration.

6.5 Whereas, DGFT vide notification no. 33/2015-2020 dated 28.09.2020 has amended the import policy for goods falling under Chapter 72 from “Free” to “Free subject to compulsory registration under Steel Import Monitoring System (SIMS)”. During the course of investigation, it emerged that Shri Deepak Manuja, employee and authorized signatory of M/s Stash Barn Enterprises in his statement dated 29.01.2021 (RUD-10) has stated that he is aware of the compulsory SIMS (Steel Import Monitoring System) Registration for the import of steel products. Thus, it is evident that subject SEZ unit in connivance with DTA importers have imported subject goods without compulsory registration under SIMS as mandated by prevailing import policy notified by DGFT. Such indulgence and endeavor on the part of said SEZ Unit and DTA importers are in violation of the provisions of Section 46 of the Customs Act, 1962, irrespective of the importability of the impugned goods and other aspects involved in the case, which makes the impugned goods liable for confiscation in terms of Section 111(d) and Section 111(o) of the Customs Act, 1962 and said SEZ unit and their DTA importers liable for penalty under Section 112 and section 114AA of the Customs Act, 1962.

7. Quantification of Duty Evasion

7.1. The bill of entry-wise details of DTA clearances made by M/s. Stash Barn Enterprises without payment of applicable CVD are enlisted in Annexure-A to this notice. Whereas, the partner of the SEZ Unit in his statement dated 25.01.2024, stated that in respect of 03 DTA clearances made by their client M/s Metal & Steel India vide Bills of entry no. 2003770 dated 12.04.2018, 2011311 dated 08.10.2018 and 2011312 dated 08.10.2018, though the country of Origin of the subject imported goods is “Indonesia” due to clerical mistake in filing Bill of Entry for DTA clearance they have mentioned as Country of Origin as “China” and submitted attested copies of Import documents pertaining to said 03 Bills of entry. Whereas, on scrutiny of documents submitted by the unit, the details mentioned in the import documents are in support of the claim of the unit that the actual COO of the imported goods appears to be “Indonesia”. Accordingly, it appears that the CVD is not leviable/ payable on DTA clearances made vide Bills of entry no. 2003770 dated 12.04.2018, 2011311 dated 08.10.2018 and 2011312 dated 08.10.2018 and the said 03 Bills of entry (mentioned at Sr.No.03 to 05 in Annexure-A) are omitted while arriving at the differential duty payable. During the scrutiny, with respect to goods cleared into DTA under BE No. 2008528 dated 09.09.2019 (Sr.No. 11 of Annexure-A) it is observed that the SEZ Unit declared goods under CTI 72209090 and wrongly availed concessional rate of BCD, the benefit of which is not available for CTI 72209090 and the same should attract full rate of BCD. Whereas, the partner of the SEZ Unit in his statement dated 25.01.2024, stated that the payments made by respective DTA clients may be considered for differential duty in first in first out manner towards DTA clearances of respective clients. Accordingly, out of the differential duty paid by the DTA importer M/s. Metal and Steel India, till date, amounts of Rs. 22,40,336/- and Rs. 10,92,164/- shall be considered as differential duty and

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interest, respectively, paid towards the DTA clearances made vide 02 DTA Bills of entry i.e. 2011075 and 2011076 both dated 07.10.2017, mentioned at Sr. No. 1 & 2 of the Annexure-A. Now, the importer-wise revised/balance duty paid details, after above discussed adjustments, shall be as under:

Sr.No.	Name of the DTA client (M/s.)	Customs duty (BCD/CVD) (in Rs.)	Interest (in Rs.)	Total (in Rs.)
1	Metal and Steel India	1,02,53,177/- (17,00,738/- BCD + 85,52,439/- CVD)	26,49,924/-	1,29,03,101/-
2	Om Drishian International Ltd.	48,21,489/-		48,21,489/-
3	Udaya Udhyog	26,38,369/-		26,38,369/-

7.2. Whereas, from the investigation carried out so far, it appears that the SEZ unit and their DTA clients have contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they intentionally misclassified the subject goods to avail the benefits of Concessional rate of duty, mis-declared applicable rate of duty, filed Bills of Entry for import of subject goods without SIMS Registration, cleared goods after availing the benefits of concessional rate of duty and short paid the applicable Customs duty. All these acts and omissions on their part have rendered the goods having total assessable value of Rs. **9,62,51,249/-** (Rupees Nine Crore Sixty Two lakh Fifty One Thousand Two Forty nine only) liable to confiscation under the provisions of Section 111(m) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-B, Annexure-C and Annexure-D** to this SCN and goods having total assessable value of Rs. **27,11,31,698/-** (Rupees Twenty Seven Crore eleven lakh thirty one Thousand six Hundred and Ninety Eight only) liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-E, Annexure-F, Annexure-G and Annexure-H** to this SCN. The said acts of omission and commission on the part of the SEZ unit and their DTA clients have rendered them liable for penalty, under the provisions of Section 112/ 114A, 114AA of the Customs Act, 1962.

7.3 Whereas, it appears that, in addition to mis-classification, the SEZ unit, DTA importers and Shri Deepak Manuja, employee of the SEZ unit indulged in mis-declaration of applicable rate of duty i.e. CVD component. This deliberate act of mis-declaration and mis-classification appears to be with intent to evade Customs duty. Therefore, the total differential customs duty amounting to **Rs. 2,68,00,170/-**(Rupees Two Crore Sixty Eight Lakhs One Hundred and Seventy only) on the said goods imported, as shown in the Annexure-B, Annexure-C and Annexure-D to this Show Cause Notice, which was lawfully payable by them is liable to be recovered from the said respective DTA Clients, individually and separately, under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

7.4 Whereas, from the investigation carried out so far, it appears that M/s. Metal and Steel India, contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they intentionally mis-declared applicable rate of duty, mis-classified the imported goods, cleared goods after availing the benefits of concessional rate of duty & short paid applicable Customs duty and filed Bills of Entry for import of subject goods without SIMS Registration. All these acts and omissions on their part have rendered the goods having total assessable value of Rs.**4,48,80,802/-** (Rupees Four crore Forty Eight lakh Eighty thousand Eight hundred and Two only) are liable to confiscation under the provisions of Section 111(m) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-B** to this SCN and also rendered goods having total assessable value of **Rs. 1,19,00,073/-** (Rupees One crore Nineteen lakh and Seventy three only) are liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-E** to this SCN. Further, the total differential customs duty

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amounting to **Rs. 1,26,69,339/-** (Rupees One crore Twenty Six Lakh Sixty Nine Thousand Three Hundred and Thirty Nine only), on the said goods imported, as shown in the **Annexure-B** to this Show Cause Notice, which was lawfully payable by them is liable to be recovered from the said respective DTA importers under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. The said acts of omission and commission on the part of M/s. Metal and Steel India have rendered them liable for penalty, under the provisions of Section 112/ 114A and 114AA of the Customs Act, 1962.

7.5 Whereas, from the investigation carried out so far, it appears that M/s. Om Drishian International Ltd. contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they intentionally mis-declared applicable rate of duty & short paid applicable Customs duty and filed Bills of Entry for import of subject goods without SIMS Registration. All these acts and omissions on their part have rendered the goods having total assessable value of Rs. **4,13,69,761/-** (Rupees Four crore Thirteen lakh Sixty Nine thousand Seven hundred and Sixty One only) are liable to confiscation under the provisions of Section 111(m) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-C** to this SCN and also rendered goods having total assessable value of **Rs. 7,38,16,133/-** (Rupees Seven Crore Thiry eight lakh sixteen thousand one hundred and thirty three only) are liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-F** to this SCN . Further, the total differential customs duty amounting to **Rs. 1,12,00,690/-** (Rupees One crore Twelve lakh six hundred and Ninety only), on the said goods imported, as shown in the **Annexure-C** to this Show Cause Notice, which was lawfully payable by them is liable to be recovered from the said respective DTA importers under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. The said acts of omission and commission on the part of M/s. Om Drishian International Ltd. have rendered them liable for penalty, under the provisions of Section 112/ 114A and 114AA of the Customs Act, 1962.

7.6 Whereas, from the investigation carried out so far, it appears that M/s. Udaya Udhyog contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they intentionally mis-declared applicable rate of duty & short paid applicable Customs duty and filed Bills of Entry for import of subject goods without SIMS Registration. All these acts and omissions on their part have rendered the goods having total assessable value of Rs. **1,00,00,686/-** (Rupees One crore Six hundred and eighty six only) are liable to confiscation under the provisions of Section 111(m) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-D** to this SCN and also rendered goods having total assessable value of **Rs. 2,99,84,584/-** (Rupees Two Crore Ninety nine lakh eighty four thousand five hundred and eighty four only) are liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-G** to this SCN. Further, the total differential customs duty amounting to **Rs. 29,30,141/-** (Rupees Twenty Nine Lakh Thirty thousand One hundred and forty one only), on the said goods imported, as shown in the **Annexure-D** to this Show Cause Notice, which was lawfully payable by them is liable to be recovered from the said respective DTA importers under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. The said acts of omission and commission on the part of M/s. Udaya Udhyog have rendered them liable for penalty, under the provisions of Section 112/ 114A and 114AA of the Customs Act, 1962.

7.7 Whereas, from the investigation carried out so far, it appears that M/s. New Era Trading Pvt. Ltd. contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they intentionally filed Bills of Entry for import of subject goods without SIMS Registration. All these acts and omissions on their part have rendered the goods having total assessable value of Rs. **15,54,30,909/-** (Rupees Fifteen crore fifty four

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thousand thirty lakh nine hundred and nine only) are liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 as detailed in **Annexure-H** to this SCN. The said acts of omission and commission on the part of M/s. New Era Trading Pvt. Ltd. have rendered them liable for penalty, under the provisions of Section 112 of the Customs Act, 1962.

8. Statement of charges and Authority to adjudicate the subject charges

8.1. Now, therefore, **M/s. Stash Barn Enterprises, KASEZ** (IEC - 0515046914) having Letter of Approval No. F.No KASEZ/IA/005/2015-16 dated 02.06.2015 are hereby called upon to show cause to the Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i) The classification of the imported goods under CTH 7220 9022 and cleared into DTA, vide bills of entry as detailed at Sr.No. 1 to 4 and 7 to 13 in **Annexure-B** should not be rejected and re-classified under CTH 7220 9090 and subsequently benefit of concession rate of duty availed by virtue of the Sl. No. 729 of the table mentioned under Notification 50/2018-Cus dated 30.06.2018 should not be denied.
- ii) the goods imported and further cleared into DTA vide Bills of Entry as detailed in **Annexure-B, Annexure-C and Annexure-D** having declared assessable value of Rs. **9,62,51,249/-** (Rupees Nine crore Sixty two lakh Fifty one thousand two hundred and forty nine only) should not be confiscated under Section 111(m) and 111(o) of the Custom Act, 1962 for the non-payment of applicable CVD.
- iii) The imported goods cleared into DTA vide Bills of Entry as detailed in **Annexure-E, Annexure-F, Annexure-G and Annexure-H** having declared assessable value of Rs. **27,11,31,698/-** (Rupees Twenty Seven Crore eleven lakh thirty one Thousand six Hundred and Ninety Eight only) should not be confiscated under Section 111(d) and 111(o) of the Custom Act, 1962 for non-compliance in respect of mandatory SIMS registration as per prevailing Import policy and DGFT Notification No. 33/2015-2020 dated 28.09.2020;
- iv) Penalty under Section 112 and 114AA of the Customs Act, 1962 should not be imposed on them in relation to the said goods;

8.2. Now, therefore, **M/s. Metal and Steel India**, (IEC – 0504038788/ AAAFM4581A), 1/25B, First Floor, Asaf Ali Road, New Delhi, Delhi, India - 110002 is hereby called upon to show cause to the Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i) The classification of the imported goods under CTH 7220 9022 and cleared into DTA, vide bills of entry as detailed at Sr.No. 1 to 4 and 7 to 13 in **Annexure-B** should not be rejected and re-classified under CTH 7220 9090 and subsequently benefit of concession rate of duty availed by virtue of the Sl. No. 729 of the table mentioned under Notification 50/2018-Cus dated 30.06.2018 should not be denied.
- ii) The differential Customs duty of **1,26,69,339/-** (Rupees One crore Twenty Six Lakh Sixty Nine Thousand Three Hundred and Thirty Nine only) as detailed in '**Annexure-B**' to the Show Cause Notice, should not be demanded and recovered under the provisions of Section 28(4) of the Customs Act, 1962, along with interest, under the provisions of Section 28AA of the Customs Act, 1962.

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- iii) The differential Customs duty and interest, totalling, Rs. 1,29,03,101/- (Rupees One crore Twenty Nine lakh Three thousand One hundred and One only), paid by them, should not be appropriated against the differential duty and applicable interest mentioned at Sr.No. (ii) above.
- iv) The goods imported from China and further cleared into DTA vide Bills of Entry as detailed in '**Annexure-B**' having declared assessable value of Rs. **4,48,80,802/-** (Rupees Four crore Forty Eight lakh Eighty thousand Eight hundred and Two only) should not be confiscated under Section 111(m) and 111(o) of the Custom Act, 1962 for the non-payment of applicable CVD.
- v) The imported goods cleared into DTA vide Bills of Entry as detailed in '**Annexure-E**' having declared assessable value of **Rs. 1,19,00,073/-** (Rupees One crore Nineteen lakh and Seventy three only) should not be confiscated under Section 111(d) and 111(o) of the Custom Act, 1962 for non-compliance in respect of mandatory SIMS registration as per prevailing Import policy and DGFT Notification No. 33/2015-2020 dated 28.09.2020;
- vi) Penalty under Section 112/114A and 114AA of the Customs Act, 1962 should not be imposed on them in relation to the said goods;

8.3. Now, therefore, **M/s. Om Drishian International Limited, (IEC-0501044825/AABCO0120B)**, SSI-58, G.T Karnal Road, Delhi, Delhi, India - 110033 is hereby called upon to show cause to the Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i) The differential Customs duty of Rs. **1,12,00,690/-** (Rupees One crore Twelve lakh six hundred and Ninety only) as detailed in '**Annexure-C**' to the Show Cause Notice, should not be demanded and recovered under the provisions of Section 28(4) of the Customs Act, 1962, along with interest, under the provisions of Section 28AA of the Customs Act, 1962.
- ii) The differential Customs duty and interest, totalling, **Rs. 48,21,489/-** (Rupees Forty Eight lakh Twenty One thousand Four hundred and Eighty Nine only), paid by them, should not be appropriated against the differential duty and applicable interest mentioned at Sr.No. (i) above.
- iii) The goods imported from Indonesia and further cleared into DTA vide Bills of Entry as detailed in '**Annexure-C**' having declared assessable value of Rs. **4,13,69,761/-** (Rupees Four crore Thirteen lakh Sixty Nine thousand Seven hundred and Sixty One only) should not be confiscated under Section 111(m) and 111(o) of the Custom Act, 1962 for the non-payment of applicable CVD.
- iv) The imported goods cleared into DTA vide Bills of Entry as detailed in '**Annexure-F**' having declared assessable value of **Rs. 7,38,16,133/-** (Rupees Seven Crore Thrity eight lakh sixteen thousand one hundred and thirty three only) should not be confiscated under Section 111(d) and 111(o) of the Custom Act, 1962 for non-compliance in respect of mandatory SIMS registration as per prevailing Import policy and DGFT Notification No. 33/2015-2020 dated 28.09.2020;
- v) Penalty under Section 112/114A and 114AA of the Customs Act, 1962 should not be imposed on them in relation to the said goods;

8.4. Now, therefore, **M/s. Udaya Udhog, (IEC-0300018754/ AAAFU0989Q)**, 30, Lifescapes Nilay, Dr Babasaheb, Jaykar Marg Thakurdwar Road, Mumbai, Maharashtra, India - 400002 are hereby called upon to show cause to the Commissioner of Customs,

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having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i) The differential duty amount of **Rs. 29,30,141/-** (Rupees Twenty Nine Lakh Thirty thousand One hundred and forty one only) as detailed in '**Annexure-D**' to the Show Cause Notice, should not be demanded and recovered under the provisions of Section 28(4) of the Customs Act, 1962, along with interest, under the provisions of Section 28AA of the Customs Act, 1962.
- ii) The differential Customs duty and interest, totalling, **Rs. 26,38,369/-** (Rupees Twenty Six lakh Thirty Eight thousand Three hundred and Sixty Nine only), paid by them, should not be appropriated against the differential duty and applicable interest mentioned at Sr.No. (i) above.
- iii) The goods imported from Indonesia and further cleared into DTA vide Bills of Entry as detailed in '**Annexure-D**' having declared assessable value of Rs. **1,00,00,686/-** (Rupees One crore Six hundred and eighty six only) should not be confiscated under Section 111 (m) and 111(o) of the Custom Act, 1962 for the non-payment of applicable CVD.
- iv) The imported goods cleared into DTA vide Bills of Entry as detailed in '**Annexure-G**' having declared assessable value of **Rs. 2,99,84,584/-** (Rupees Two Crore Ninety nine lakh eighty four thousand five hundred and eighty four only) should not be confiscated under Section 111(d) and 111(o) of the Custom Act, 1962 for non-compliance in respect of mandatory SIMS registration as per prevailing Import policy and DGFT Notification No. 33/2015-2020 dated 28.09.2020;
- v) Penalty under Section 112 and 114AA of the Customs Act, 1962 should not be imposed on them in relation to the said goods;

8.5. Now, therefore, **M/s. New Era Trading Pvt Ltd** (IEC-0512064831/AAECN1601K), 504, 5th Floor, Inderprastha Tower, Plot No.6, Wazirpur Industrial Area,, Delhi, India - 110052 are hereby called upon to show cause to the Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i) The imported goods cleared into DTA vide Bills of Entry as detailed in '**Annexure-H**' having declared assessable value of Rs. **15,54,30,909/-** (Rupees Fifteen crore fifty four thousand thirty lakh nine hundred and nine only) should not be confiscated under Section 111(d) and 111(o) of the Custom Act, 1962 for non-compliance in respect of mandatory SIMS registration as per prevailing Import policy and DGFT Notification No. 33/2015-2020 dated 28.09.2020;
- ii) Penalty under Section 112 of the Customs Act, 1962 should not be imposed on them in relation to the said goods;

9. Each of the above Noticees are required to submit their reply in writing to the Adjudicating Authority, as above, within 30 days from the date of receipt of this notice. In their written reply, the Noticees may also state as to whether they would like to be heard in person. In case, no reply is received within the time limit stipulated above or any further time which may be granted to them by the Adjudicating Authority and/or if they fail to appear for personal hearing, when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the Noticee(s). Further, the Noticees are advised to mention their email address in writing for virtual hearing as per CBIC's Instruction dated 21.08.2020 issued vide F.No. 390/Misc/3/2019-JC.

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10. This notice is issued without prejudice to any other action that may be taken in respect of the above goods and / or the persons / firms mentioned in the notice under the provisions of the Customs Act, 1962 and / or any other law for the time being in force, in the Republic of India.

11. The department reserves the right to add, amend, modify, delete any part or the portion of this notice any such addendum, amendment, modification, deletion, if made, shall be deemed to be part and parcel of this notice.

12. The list of relied upon documents (RUDs) in this case is as per Annexure-R.

Commissioner of Customs,
Custom House, Kandla

F.No. GEN/ADJ/COMM/146/2024-Adjn
By Speed Post/Courier/E-mail

To,

- i) M/s. Stash Barn Enterprises (IEC-0515046914), Shed No.390, AS-III Type, Sector-III, Kandla Special Economic Zone, Gandhidham, Kutch-370230.
- ii) M/s. Metal and Steel India, (IEC – 0504038788/ AAAPM4581A), 1/25B, First Floor, Asaf Ali Road, New Delhi, Delhi, India - 110002.
- iii) M/s. Om Drishian International Limited, (IEC-0501044825/ AABCO0120B), SSI-58, G.T Karnal Road, Delhi, Delhi, India - 110033.
- iv) M/s. Udaya Udhyog, (IEC-0300018754/ AAAPU0989Q), 30, Lifescapes Nilay, Dr Babasaheb, Jaykar Marg Thakurdwar Road, Mumbai, Maharashtra, India – 400002
- v) M/s. New Era Trading Pvt Ltd (IEC-0512064831/ AAECN1601K), 504, 5th Floor, Inderprastha Tower, Plot No.6,, Wazirpur Industrial Area,, Delhi, India – 110052.

Copy to:

1. The Development Commissioner, Kandla Special Economic Zone, Gandhidham, Kutch.
2. The Principal ADG, DRI, Ahmedabad Zonal Unit, Ahmedabad for kind information.
3. The Deputy/Assistant Commissioner of Customs, Adjudication Cell, Kandla Customs House, Kandla.
4. The Deputy Commissioner of Customs, KASEZ, Gandhidham.
5. Guard file.

Annexure-R

Attached to Show Cause Notice issued to M/s. Stash Barn Enterprises, KASEZ and others
(List of Relied upon Documents)

- RUD-01:** (i) DRI letter F. No. DRI/AZU/CI/INT-02/2021/494 dated 09.06.2021 &
(ii) F. No. K-43017(16)/1/2021-SEZ dated 13.07.2021 from Ministry of Commerce and Industry
- RUD-02:** (i) HM dated 27.09.2021 issued by PDA(Central), Ahmedabad &
(ii) Para No. 4 LAR No. 14/2021-22 dated 03.11.2021 issued by PDA(Central), Ahmedabad.
- RUD-03:** Letter of Approval No. 05/2015-16 dated 02.06.2015 issued by the Joint Development Commissioner.
- RUD-04:** Notifications No. 01/2017-Cus (CVD) dated 07.09.2017, no. 02/2021-Cus dated 01.02.2021, 05/2021-Cus (CVD) dated 30.09.2021 and 01/2022-Customs (CVD) dated 01.02.2022 .
- RUD-05:** Notifications No. 02/2020-Cus (CVD) dated 09.10.2020 and 01/2021-Cus (CVD) dated 01.02.2021.
- RUD-06:** (i) Letter vide F.NO. KASEZ/CUS/D&R/Audit/13/21-22 dated 29.09.2021 & Unit's reply letter dated 23.12.2021 along with Copies of Bank Challan towards objection raised in Audit Para - Rs. 17,00,738/- (BCD) + Rs. 5,87,308/- (interest)
(ii) Kasez Customs letter dated 16.01.2021 & 27.01.2021
(iii) Copies of Bank Challan towards CVD & interest – Rs. 21407413/-
(iv) SBI, KASEZ letter ref: KAFTZ/2021-22/20 dated 22.04.2021
(v) Unit's email dated 02.02.2024
- RUD-07:** Verification letters received from Jurisdictional GST Authorities.
- RUD-08:** Statement of Shri Rakesh Bansal dated 05.02.2021.
- RUD-09:** Statement of Shri Rakesh Bansal dated 25.01.2024 along with enclosures.
- RUD-10:** Statement of Shri Deepak Manuja recorded on 29.01.2021 by DRI, Ahmedabad Zonal Unit.
- RUD-11: Annexure-A:** Details of DTA Clearances of Flat products of Stainless Steel made without payment of applicable CVD from M/s. Stash Barn Enterprises, KASEZ
- RUD-12: Annexure B:** Differential Duty calculation sheet in respect of DTA Clearances of Flat products of Stainless Steel made without payment of applicable CVD to M/s. Metal and Steel India, Delhi
- RUD-13: Annexure C:** Differential Duty calculation sheet in respect of DTA Clearances of Flat products of Stainless Steel made without payment of applicable CVD to M/s. Om Drishian International Ltd, Delhi
- RUD-14: Annexure D:** Differential Duty calculation sheet in respect of DTA Clearances of Flat products of Stainless Steel made without payment of applicable CVD to M/s. Udaya Udhyog, Mumbai
- RUD-15 Annexure-E:** Details of DTA Clearances of made without SIMS registration by M/s. Metal and Steel India, Delhi
- RUD-16 Annexure-F:** Details of DTA Clearances of made without SIMS registration by M/s. Om Drishian International Ltd., Delhi

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- RUD-17 Annexure-G:** Details of DTA Clearances of made without SIMS registration by M/s. Udaya Udhog, Mumbai
- RUD-18 Annexure-H:** Details of DTA Clearances of made without SIMS registration by M/s. New Era Trading Pvt Ltd., Delhi
- RUD-19:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-B
- RUD-20:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-C
- RUD-21:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-D
- RUD-22:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-E
- RUD-23:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-F
- RUD-24:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-G
- RUD-25:** Copies of DTA clearance Bills of Entry for the goods mentioned in Annexure-H