



DIN:20240671MO000000C336

SHOW CAUSE NOTICE

Whereas it appears that M/s. Rudram Inc., C-3/19, Ashok Vihar, Phase-2, New Delhi-110052, having IEC No.ABBFR6878F, has filed Shipping Bill No.6578719 dated 06.01.2024 through their CHA-M/s World Wind Shipping Services for export of goods declared as "Indian Parboiled Rice" classified under CTH-10063010.

2. As per Board Instruction No.29/2022-Customs dated 28.10.2022, representative sample was drawn and sent to CRCL Kandla vide Test Memo No.56 dated 17.01.2024 and the cargo was allowed for export on provisional basis on submission of Test Bond No. 3738 dated 13.01.2024 submitted by the Exporter having conditions that in the event of failure of cargo in the Test Report, the Exporter will pay the duty alongwith interest, fine and/or penalty, if any imposed for contravention of the Customs Act, 1962 and other allied Acts. The above Bond was accepted by the Deputy Commissioner (Export), Customs House, Mundra.

3. CRCL, Kandla vide Test Report No.10666 dated 31.01.2024 submitted their report as under :

Sr.No.	Shipping Bill No. & Date	Net Wt.	FOB Declared in SB (in Rs.)	Summary of Test Result
1.	6578719 dated 06.01.2024	260 MTs	87,94,500/-	Parboiled Rice (Broken 68.62%)

4. The copy of the said Test Report was provided to the Exporter, viz., M/s. Rudram Inc. through CHA-M/s World Wind Shipping Services vide acknowledgement dated 08.02.2024 for their information with a specific request to submit their submission within 10 days of the communication as to why the proceedings should not be initiated under the Customs Act, 1962 as the instant case was seen falling under the purview of Mis-declaration of the Export cargo.

5. Therefore, the exporter vide letter dated 19.02.2024 made a request for re-testing of the sample which was accepted by the competent authority and sample was sent for re-testing to CRCL, New Delhi. CRCL, New Delhi submitted the Test Report No.197 dated 21.03.2024 as under:-

Sr. No.	Shipping Bill No. & Date	Net Wt.	FOB Declared in SB (in Rs.)	Summary of Test Result
1.	6578719 dated 06.01.2024	260 MTs	87,94,500/-	Parboiled Rice (Broken 62.25%)

6. With reference to above mentioned Shipping Bill, the Exporter has declared the goods as "*Indian Parboiled Rice*" and classified the same under *CTH-10063010*. However, on pursuant to the outcome of the Test Results, the consignment is found to be "*Parboiled Rice having broken percentage of 68.62% as per First Test Report and broken percentage of 62.25% as per Second Test Report*". Whereas, the maximum limit of broken rice to be exported is 25%. Therefore, as the percentage of Broken Rice has exceeded 25%, the export consignment which has already been exported is to be considered as **Broken Rice** classifiable under **CTH-10064000**.

7. As per **Notification No.31/2015-2020-Customs dated 08.09.2022**, the export of Broken Rice under CTH-10064000 is prohibited **w.e.f. 09.09.2022**. The relevant portion of above notification is re-produced as under:-

The Central Government, in exercise of powers conferred by Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20, hereby amends the Export Policy of broken rice against ITC (HS) code 1006 40 00 of Chapter 10 of Schedule 2 of the ITC (HS) Export Policy, as under:-

ITC HS Code	Description	Export Policy	Revised Export Policy
10064000	Only for broken rice	Free	Prohibited

8. Whereas, the Exporter under a Test Bond No. 3738 dated 13.01.2024 has bound themselves to the effect that in the event of failure of cargo in the Test Report, the Exporter will pay the duty alongwith interest, fine and/or penalty, if any imposed for contravention of the Customs Act, 1962 and other allied Acts. And on the basis of Customs Bond submitted by the Exporter, the goods have been allowed for ultimate export provisionally.

9. In view of above, the above impugned goods i.e. **260 MTs of Broken Rice** having FOB Value of **Rs.87,94,500/-** entered for export vide Shipping Bill No.6578719 dated 06.01.2024, which have been exported are mis-declared and mis-classified and therefore liable for confiscation under Section 113(d) and 113(i) of the Customs Act, 1962.

10. Further, the Exporter have failed to declare correct description and correct classification of the impugned goods exported vide Shipping Bill No.6578719 dated 06.01.2024. It appears that the Exporter has resorted to mis-classification and mis-declaration of the impugned exported goods in order to circumvent policy restriction/prohibition on the impugned cargo. Thus, the Exporter has contravened the provisions of the Section 50 of the Customs Act, 1962. Therefore, for the acts and omission on the part of the exporter, the exporter is also liable for penalty under Section 114(i) of Customs Act, 1962 and for contravention of Section 50 of the Customs Act, 1962 liable for penalty under Section 117 of Customs Act, 1962.

Legal Provisions:

11. The relevant provisions of law pertaining to export of goods in general, the policy & rules relating to exports, the liability of the goods to confiscation and the persons concerned to penalty for illegal exportation under provisions of Customs Act, 1962 and the other laws for the time being in force are summarized as under:

11.1 Section 2(33) in the Customs Act, 1962

Section 2:

(1)

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

11.2 Section 50. Entry of goods for exportation. -

(1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed.

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.

(2) The exporter of any goods, while presenting a shipping bill or

bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force."

11.3 **Section 110 of the Customs Act, 1962**, provides for Seizure of goods, documents and things. - (1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:.

11.4 **113. Confiscation of goods attempted to be improperly exported, etc.—**

The following export goods shall be liable to confiscation:—

a.

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(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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

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11.5 **114. Penalty for attempt to export goods improperly, etc.**

Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable,—

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5 [not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher: Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

11.6 117. Penalties for contravention, etc., not expressly mentioned.—

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.

12. Now, therefore, M/s. Rudram Inc., C-3/19, Ashok Vihar, Phase-2, New Delhi-110052, are hereby called upon to show cause in writing to the Additional Commissioner of Customs (Export), Customs House, Mundra having office at PUB Building 5B, Adani Port, Mundra, as to why:

(i) The classification of the goods declared by the Exporter under Shipping Bill No.6578719 dated 06.01.2024 as "Parboiled Rice" under CTH-10063010 should not be rejected and re-classified as "Broken Rice" under CTH-10064000;

(ii) The goods covered under Shipping Bill No.6578719 dated 06.01.2024 having FOB value of Rs.87,84,500/- (Eighty Seven Lakh Eighty Four thousand Five Hundred Rupees Only) should not be confiscated under Section 113 (d) and 113(i) of the Customs Act, 1962 ;

(iii) Penalty under Section 114 (i) of the Customs Act, 1962 should not be imposed upon the Exporter;

(iv) Penalty under Section 117 of the Customs Act, 1962 should not be imposed upon the Exporter;

13. The Exporter/Noticee is further required to produce, at the time of showing cause, all the evidences upon which they intend to rely in support of their defence. They are further called upon to inform in writing to the Addl. Commissioner of Customs (Exports), Customs House, Mundra, as to whether they desire to be heard in person before the case is adjudicated. If no cause is shown within 30 days from the date of receipt of this notice or if they fail to appear for personal hearing before the adjudicating authority when the case is posted for hearing, the case will be decided *ex-parte* on the basis of evidences available on record without any further reference to them.

14. This Show Cause Notice is issued without prejudice to any other action that may be taken against the Noticee under the Customs Act, 1962, or under any other law for the time being in force in India.

15. The Department reserves its rights to modify, amend or supplement this notice at any time on the basis of available / further evidences prior to the adjudication of the case and or to take into consideration any other evidences collected after issue of this Show Cause Notice and accordingly to make addendum in furtherance to this Show Cause Notice.

Signed by

Mukesh Kumari

Date: 20-06-2024 18:43:39

Additional Commissioner,

Export Assessment

Customs House, Mundra

F.No. CUS/ASS/MISC/174/2024-EA
BY SPEED POST

Date :20-06-2024

To,

M/s. Rudram Inc.,
C-3/19, Ashok Vihar,
Phase-2, NEW DELHI-110052.

Copy to :

1. The Deputy Commissioner (Export), Customs House, Mundra.
2. The Deputy Commissioner (RRA), Customs House, Mundra
3. The Deputy Commissioner (TRC), Customs House, Mundra
4. The Deputy Commissioner (EDI), Customs House, Mundra

5. Guard File

