

	<b>सीमा शुल्क के आयुक्त का कार्यालय</b> <b>सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</b> <b>OFFICE OF THE COMMISSIONER OF CUSTOMS</b> <b>CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT</b> <u>Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62,</u> <u>Email-adj-mundra@gov.in</u>	
<b>A. File No.</b>	:	GEN/ADJ/COMM/580/2024-Adjn-O/o Pr. Commr-Cus-Mundra
<b>B. Order-in-Original No.</b>	:	MUN-CUSTM-000-COM-40-25-26
<b>C. Passed by</b>	:	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
<b>D. Date of order and Date of issue:</b>	:	10.12.2025 10.12.2025
<b>E. SCN No. &amp; Date</b>	:	GEN/ADJ/COMM/580/2024-Adjn-O/o Pr. Commr-Cus-Mundra, dated 11.12.2024.
<b>F. Noticee(s) / Party / Importer</b>	:	M/s. Arcus Overseas & Others
<b>G. DIN</b>	:	20251271MO000000AF01

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए-3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है।

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

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीव प्राधिकरण, पश्चिम जोनल पीठ, 2<sup>nd</sup> फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

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

3. उक्त अपील यह आदेश मेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ - / 1000 रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान बैंक पीठ बैंक आहरितटिक्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

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

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

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील जापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

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

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

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

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

Whereas it appears that M/s. Arcus Overseas, Maruti Chamber, Shop No. 14, First Floor, Survey No. 81/2, Plot NO. 4, Timbdi, Morbi, Gujarat-363642 (IEC No. ABVFA3656N) (hereinafter referred to as 'the importer') were engaged in import of 'Raw Magnesium Carbonate lumps', 'Natural Magnesium Carbonate (Magnesite) lumps', 'Magnesium Carbonate lumps', 'Natural Magnesium Carbonate (Magnesite)', 'Raw Magnesite Powder' etc. (hereinafter referred to as 'the subject goods') under declared CTH 25191000 & 25199090 of the Customs Tariff Act, 1975. Intelligence gathered by the officers of Directorate of Revenue Intelligence (DRI) indicated that the importer was importing the subject goods originated from Pakistan, which were falling under CTH 98060000 of the Customs Tariff Act, 1975, but the same were mis-declared in the Bills of Entry by way of showing the same originated from Turkmenistan/Turkey with intent to evade differential Customs Duty payable thereon. Intelligence further indicated that the goods when exported from or originated in Islamic Republic of Pakistan were attracting Basic Customs Duty @ 200% Adv under CTH 98060000w.e.f. 16.02.2019 in terms of Notification No. 05/2019-Customs dated 16.02.2019 as briefed here under: -

"In the First Schedule to the Customs Tariff Act, in Section XXI, in Chapter 98, after tariff item 9805 90 00 and the entries relating thereto, the following tariff item and entries shall be inserted, namely: -

1	2	3	4	5
*9806 00 00	All goods originating in or exported from the Islamic Republic of Pakistan	-	200 %	-

while the subject goods imported from countries other than Islamic Republic of Pakistan attract BCD at much lower rate i.e. @ 5%.

**2.** Acting upon the intelligence, the import consignment covered under Bill of Entry No.9210015 dated 13.12.2023 was put on hold by the DRI for further examination. Further, on the basis of lead obtained during investigation, searches were conducted at the current office premises of the importer situated at Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi under Panchnama dated 21.12.2023 (**RUD No.1**) and at the premises of CHA M/s Tulsidas Khimji Pvt. Ltd., 313/314, DevNandan Mega mall, Opp. Sanyas Ashram, Nr. M J Library, Ashram Road, Ahmedabad under Panchnama dated 21.12.2023 (**RUD No.2**). During the Panchnama proceedings carried out at the said addresses, some files/ documents/records relating to sale/purchase/import of the importer and some print outs of email conversations held between the importer and the suppliers of subject goods were resumed by the visiting officers on a reasonable belief that the same were required for DRI investigation.

**3.** During the Panchnama proceedings dated 21.12.2023 carried out at the office premises of the importer, Shri Deep Sitapara and Shri Harsh Kaila, Partners of the importer firm M/s. Arcus Overseas were present. On being asked by visiting officers of DRI, Shri Deep Sitapara informed during Panchnama that all the work relating to importer firm was looked after by him.

#### **4. Statements recorded in the case**

During the course of investigation, in order to collect the evidence/corroborative evidence statement of persons who were directly/indirectly involved in export of goods were recorded by the DRI under the provisions of Section 108 of Customs Act, 1962. The facts of statements of such persons have been mentioned in the Show Cause Notice and the records of statements thereof have been attached to Show Cause Notice as RUDs. For sake of brevity contents of statements of such persons are not produced hereunder. The details of the persons whose statements were recorded are as under:

- Statement of Shri Deep Sitapara son of Shri Chandulal Sitapara was recorded on 22.12.2023 under Section 108 of the Custom Act, 1962.
- Statement of Shri Praveen Kumar, Senior Import Executive Documentation and operation, M/s Livro Shipping Pvt. Ltd., was recorded on 23.12.2023 under Section 108 of the Custom Act, 1962.
- Statement of Shri Patel Sachin Vinodrai son of Shri VinodRai Patel, Partner of M/s. Arcus Overseas, was recorded on 23.01.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Bhorania Nishank Chandulal son of Shri Chandulal Amarsi Bhorania, was recorded on 07.02.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Yuvraj Jadeja, son of Shri Kalubha Jadeja, Branch Manager of M/s. Livro Shipping Pvt. Ltd., agent of M/s. Anchorage Shipping Line was recorded on 14.02.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Gautam Chandru Lakhwani, son of Shri Chandru, Regional Manager of M/s. Livro Shipping Pvt. Ltd., agent of M/s. Anchorage Shipping Line was recorded on 17.02.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Chandran Gangadharan Nair, Son of Late Shri Gangadharan Nair, G-Card holder of M/s Tulsidas Khimji Pvt. Ltd., was recorded on 21.02.2024 under section of 108 of Customs Act, 1962.
- Statement of Shri Maheep Pratap Shahi (DOB: 08/07/1991), Son of Shri Rana Pratap Shahi, G-Card holder of M/s Eiffel Logistics Pvt. Ltd., was recorded on 14.03.2024 under Section 108 of the Customs Act, 1962.
- Statement of Shri Deep Sitapara son of Shri Chandulal Sitapara, Aged 30 years, Partner of M/s. Arcus Overseas, Maruti Chamber, was recorded on 16.03.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Mitesh Keshavji Malstar Son of Shri Malasatar Keshavji, Aged 28 years (D.O.B- 03.04.1996), Managing Director of M/s. Blackfinn Shipping and Logistics, Kuchch was recorded on 01.04.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Atulbhai Shah, Son of Late shri Jaswant Lal Shah, Properitor of M/s J K Tradelink, was recorded on 04.04.2024 under section 108 of Customs Act 1962.
- Statement of Shri Sherashiya Divy Rameshbhai, son of Shri Rameshbhai Sherasiya, Marketing Manager of M/s. Arcus Overseas, was recorded on 12.04.2023 under Section 108 of the Custom Act, 1962.
- Statement of Shri Deep Sitapara son of Shri Chandulal Sitapra, aged 30 years, Partner of M/s. Arcus Overseas, was recorded on 17.04.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Bhagirath Jayantilal Varmora Son of Shri Jayantilal Ranchhodhbhai Varmora, Partner of M/s. M G Micron, and was recorded on 18.04.2024 under Section 108 of the Custom Act, 1962.
- Statement of Shri Harsh Amrutbhai Kaila, S/o Amrutbhai Maganbhai Kaila, Partner of M/s Arcus Overseas and was recorded on 29.10.2024 under Section 108 of the Customs Act, 1962.

**05.** Further, acting upon the information gathered during preliminary investigation, search was conducted at the premises of the Container Line Agent namely M/s Livro Shipping Pvt. Ltd. situated at DBZ South 137-A, First Floor, AU Small Finance building, Opp. Punjab Radiators, Gandhidham-Kutch under Panchnama dated 23.12.2023 (**RUD-No.-4**). During search, some copies of relevant documents have been resumed for investigation purpose.

**06.** Summons had been issued to Smt. Ketu Divyabhai Sharasiya, Partner of M/s Arcus Overseas, Morbi on 22.12.2023, 29.12.2023 for recording her statement, but she did not appear. However, vide her letter dated 16.01.2024 in reference of summons dated 22.12.2023 & 29.12.2023 (**RUD No.-7**) she stated that she was not an active member of M/s Arcus Overseas and Shri Deep Chandulal Sitapara was responsible for all work of M/s Arcus Overseas, Morbi.

**07.** Futher, the import consignment covered under Bill of Entry No. 9210015 dated 13.12.2023 was put on hold by the DRI and examination of the goods was carried out by DRI Officers under

Panchnama dated 28.12.2023 at M/s. Mundhra CFS, Mundra port, Mundra (**RUD No.-09**). The details of the import consignment is as follows-

Bill of Entry No. and date	Name of Importer	Container No.	Declared Descriptions	Found during examination
9210015 dated 13.12.2023	M/s Arcus Overseas, Survey No. 81/2, Plot no. 4P, Shop No.-14, first floor, Maruti chamber, Morbi	CINU365737C, MSCU6363524, TGHU0422024,WED U6806737, WSCU682 0575	Natural Magnesium Carbonate	Lumps of Natural Magnesium carbonate

**08.** The goods of above said 05 containers covered under B/E No. 9210015 dated 13.12.2023 were seized under seizure memo dated 28.12.2023 under section 110 of Customs Act, 1962, as the subject import consignment appeared to be originated from Pakistan whereas the same appeared to have been mis-declared as being originated from Turkmenistan.

**09.** Whereas, summons had been issued to Smt. Dimple Dharmit Bhorania, Partner of M/s Arcus Overseas, Morbi on 26.12.2023, 08.01.2024 for recording her statement, but she did not appear. However, vide her letter dated 23.01.2024 in reference to the said summons dated 26.01.2023 & 08.01.2024 (**RUD No.-10**), she informed that she was not an active member of M/s Arcus Overseas and Shri Deep Chandula Sitapara was responsible for all work of M/s Arcus Overseas, Morbi.

**10.** As per Notification No. 05/2019-Cus dated 16.02.2019 (**RUD No.- 23**), all the goods originated in Islamic Republic of Pakistan or exported from Islamic Republic of Pakistan, were attracting Basic Customs Duty @200%. Investigation revealed that to evade 200% customs duty, M/s Arcus Overseas had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5% with respect to goods originated in or exported from Pakistan, M/s Arcus Overseas in connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan-India to Pakistan-UAE and UAE-India.

**Notification No. 05/2019-Cus dated 16.02.2019-**

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,  
SECTION 3, SUB- SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE

## Notification No.05/2019-Customs

New Delhi, the 16<sup>th</sup> February, 2019

G.S.R. .... (E) — WHEREAS, the Central Government is satisfied that the import duty leviable on 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), should be increased and that circumstances exist which render it necessary to take immediate action.

NOW, therefore, in exercise of the powers conferred by sub-section (1) of section 8A of the Customs Tariff Act, the Central Government, hereby directs that the First Schedule to the Customs Tariff Act, shall be amended in the following manner, namely:-

In the First Schedule to the Customs Tariff Act, in Section XXI, in Chapter 98, after tariff item 9805 90 00 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)
9806 00 00	All goods originating in or exported from the Islamic Republic of Pakistan	-	200 %	-

[F.No.354/40/2019 -TRU]

(Ganray Singh)  
Deputy Secretary to the Government of India

**11.** Upon reviewing the printouts from Shri Deep Sitapara's mobile phone, statements from him and his partners and the WhatsApp group chats associated with the importer, it has been confirmed that the importer has imported a total of 36 consignments of Natural Magnesium Carbonate/Magnesite Lumps. These consignments originated from Pakistan and were shipped to Mundra via the UAE, with variations in handling that included both cross-stuffing and non-cross-stuffing.

During statement of Shri Deep Chandulal Sitapara, it is revealed that all documentation and related activities for the containers imported by M/s. Arcus Overseas., Morbi covered under above said 36 import consignments of Natural Magnesium/Raw Magnesium were managed by Shri Maulik Atul Bhai Shah in Dubai. Further, corroborative evidence was gathered during the investigation, revealing various methods employed by the importers for the importation of subject goods originating from Pakistan. The approaches adopted by the importer during this process are outlined below:-

**(A).** It is observed that the goods that UAE based suppliers who were supplying goods to M/s Arcus Overseas were purchasing these goods from Pakistan based suppliers/shippers. The goods were loaded in containers from Pakistan and sent to Jebel Ali, Port, UAE. From there these goods in same containers were loaded on a different vessel from UAE to Mundra with country of origin declared as Turkmenistan/Turkey.

The details in respect of 02 B/Es which were brought into India through this modus are as under-

Sr. No.	B/E	Date	Name of Importer	Quantity	Unit	Overseas supplier
1	9107961	07.12.2023	ARCUS OVERSEAS	280	MT	OSEVEH TRADELINK FZ-LLC
2	9210015	13.12.2023	ARCUS OVERSEAS	140	MT	OSEVEH TRADELINK FZ-LLC

The modus operandi pertaining to above B/Es is described as under-

(i) For BE No. 9107961 Dt 07.12.2023:

BL No. ASL/KHI/JEA-1095/23 dated 27.11.2023 and Invoice No.SMS-0004 Dated-18.10.2023 (**RUD No. 24**) taken from the mobile phone/email of Shri Deep Chandulal Sitapara, Partner of M/s Arcus Overseas, evidencing supply of these goods to OSEVEH TRADELINK FZ-LLC from Pakistan are as mentioned below:

## ATTACH SHEET

B/L NO: ASL/RHT/JEA-1095/23

## MARKS &amp; CONTAINER NO. DESCRIPTION

PERIOD: PREPAID

14 DAYS FROM THIS AT DESTINATION.

CONTAINER NO	SEAL NO	PACKAGED (WEIGHT)	CR. NO/TYPE	PP. NO/TYPE
MECU0048724/20/00	00108	1 BULK	28000.00	28000.00
MECU0048722/20/00	001023	1 BULK	28000.00	28000.00
CINU0135583/20/00	00140	1 BULK	28000.00	28000.00
ECMU1601046/20/00	00106	1 BULK	28000.00	28000.00
ECMU0048624/20/00	00090	1 BULK	28000.00	28000.00
CINU1601046/20/00	00142	1 BULK	28000.00	28000.00
TRLU3008110/20/00	00104	1 BULK	28000.00	28000.00
WEDU2965073/20/00	00144	1 BULK	28000.00	28000.00

HCH - HUBCO TARIFF

2 OF 2

ANCHORAGE SHIPPING LINES PVT LTD



## PACKING LIST

SUPPLIER/EXPORTER/MANUFACTURER		INVOICE NO./DATE	INVOICE DATE
SOHAIL MINERALS SUPPLIERS, HAROON BAHRIA CO-OPERATIVE HOUSING SOCIETY, HALDA TOWN, HUB RIVER ROAD, KARACHI		NMS-0004 CONTRACT NUMBER	18-10-2023 CONTRACT DATE
BUYER/IMPORTER/CONSIGNEE		BETADS FINANCIAL INSTRUMENT NO: FBL-EXP-127463- 20112023	
PRE-CARRIAGE	PLACE OF RECEIPT	DELIVERY TERMS & PAYMENTS	DELIVERY TERMS
	KARACHI, PAKISTAN	100% ADVANCE PAYMENT	FOB
VESSEL/VOYAGE NO.	PORT OF LOADING	PORT OF DISCHARGE	FINAL DESTINATION
S-EXPRESS ALIWAH- 404	KARACHI, PAKISTAN	JEDD ALIWAH	JEDD ALIWAH
ITEMS	DESCRIPTION	QTY (TON)	
1	MAGNESITE LUMPS	280.00	
CONTAINER NO's Net Weight Gross Weight Pkgs			
CINU0135583	28000.00	28000.00	BULK
CINU1601046	28000.00	28000.00	BULK
CSUU2171081	28000.00	28000.00	BULK
ECMU2168812	28000.00	28000.00	BULK
MSCU3528472	28000.00	28000.00	BULK
MSCU3552381	28000.00	28000.00	BULK
PNLU0008824	28000.00	28000.00	BULK
TRLU3008110	28000.00	28000.00	BULK
WEDU2965073	28000.00	28000.00	BULK
WSCU6049724	28000.00	28000.00	BULK

## Description:

We declare that our source shows the actual price of the goods described and that all particulars are true and correct.

SOHAIL MINERALS SUPPLIERS

Authorized Signatory:

P.O. BOX: Street # 62 Sector # 03 HEIGHTS  
KARACHI CITY HUB RIVER ROAD KARACHI

+92-334-1690000

sohailminerals@hinet.net.pk

The container tracking records available on inquiry section of [www.kictl.com](http://www.kictl.com) of above Containers received by UAE based supplier M/s Oseveh Tradelink FZ-LLC, UAE were examined and it was found the tracking also confirmed that these goods were loaded from Pakistan to UAE. The tracking of these containers covered under 9107961 Dt 07.12.2023 is downloaded from said website. (RUD No.-25 )

These same containers were supplied by M/s OSEVEH TRADELINK FZ-LLC to M/s Arcus Overseas and the later had filed B/E No. 9107961 dated 07.12.2023 for import of these goods.

Summary of the movement of these goods from Pakistan to India is summarised below:

Pakistan based supplier	BL No. and Loading port	Dubai based Receiver from Pakistan/Supplier to M/s Arcus Overseas	Containers details as per BL No. ASL/KHI/JEA-1095/23 dated 27.11.2023 and Invoice No. 0004 dated 18.10.2022	Brief on movement of goods from Pakistan to India	B/E no. date and Container No. filed in India by M/s Arcus Overseas
Sohail Minerals suppliers, Haroon Bharia co-operating housing society, Baladia Town, Hub River road, Karachi, Pakistan	ASL/KHI/JEA-1095/23, dated 27.11.2023 (RUD No.-26), Loading port- Karachi, Pakistan	OSEVEH TRADELINK FZ-LLC, FAMC 2921, Compass Building, Al Shohada Road, Khannah, UAE	CINU0135583 CINU1601048 CSUU2171081 ECMU2160812 MSCU3528472 MSCU3552381 PONU0008624 TRLU3008110 WEDU2965073 WSCU6049724	Sohail Minerals suppliers, Pakistan had sold and stuffed the Magnesite Lumps vide invoice no. SMS No. 0004 dated 18.10.2023 to OSEVEH TRADELINK FZ-LLC and loaded at Karachi Port, Pakistan for discharge port UAE vide BL No. ASL/KHI/JEA-1095/23 dated 27.11.2023. Further these containers arrived at UAE and the same loaded containers were shipped on another vessel from UAE to Mundra. Further these containers arrived at Mundra and M/s Arcus Overseas had filed the B/E no. 9107961 dated 07.12.2023 for these containers of NATURAL MAGNESIUM CARBONATE showing purchase from OSEVEH TRADELINK FZ-LLC	9107961 dated 07-12-2023 CINU0135583 CINU1601048 CSUU2171081 ECMU2160812 MSCU3528472 MSCU3552381 PONU0008624 TRLU3008110 WEDU2965073 WSCU6049724

(ii) For BE No. 9210015 dated 13-12-2023:

M/s Arcus Overseas had filed BE No. 9210015 dated 13-12-2023 for import of "Magnesium Carbonate/Magnesite Lumps" in Container Nos. WSCU6820575, TGHU0422024, CINU3657370, MSCU6363524, WEDU6806737. As per tracking of these containers inquiry section of [www.kictl.com](http://www.kictl.com), it is observed that these Containers, were loaded on vessel from Pakistan on 29.11.2023 and 30.11.2023 and for discharge at UAE on 04.12.2023 (RUD No. 27). These Containers were having goods "Magnesite Lumps" as per above tracking details. The same loaded containers were shipped on another vessel from UAE to Mundra and M/s Arcus Overseas had filed the B/E no. 9210015 dated 13.12.2023 for these containers of NATURAL MAGNESIUM CARBONATE showing purchase from OSEVEH TRADELINK FZ-LLC.

Tracking screenshot of one of these containers viz. CINU3657370 is reproduced as under:



Owner	ACG	BL/Shipping Bill No.	KPEXSB90132291123
Container No.	CINU3657370	Container Size/Type	22/G1
Category	EXPORT	Status	XF
Vessel Voyage	OLYMPIA/068	VIR No	KAPW-0305-27112023
ETA	03-DEC-23 10:06:00 AM	ETD	04-DEC-23 08:24:00 PM
Discharge Time	N/A	Load Time	03-DEC-23 07:43:16 PM
DO Issuance Date	N/A	DO Expiry Date	N/A
GateIn Time	29-NOV-23 09:27:02 PM	GateOut Time	N/A
Origin	KARACHI	Destination	JEBEL ALI
Custom Seal No.	N/A	Line Seal No.	00117
Security Seal No.		Other Seal No.	N/A
Custom Status	N/A	Current Position	Loaded on Vessel
Commodity	MAGNESITE LUMPS	Weight	30220
Weightment	Not Done	Scanning	Not Done
Present Holds	N/A		

**(II)** Whereas, Containers covered under 34 B/Es (Mentioned at above said Table - 1 and Table-2), the importer and other key persons involved in this conspiracy were attempting to camouflage the actual country of origin of the subject goods by way of changing the route of transportation in documents and changing containers (**Cross stuffing**) at Jebel Ali Port, Dubai.

Further investigation revealed that the goods were purchased from Pakistan by UAE based suppliers and the goods were stuffed in containers at Pakistan and shipped for UAE. At UAE, goods were reloaded to another container (cross stuffing) and then shipped to Mundra through a different vessel and the same were declared as having originated in Turkmenistan/Turkey. For this purpose, they are preparing two sets of documents i.e. one for Pakistan to UAE and another for UAE to India having different details of suppliers to show the latter as a separate transaction from Dubai to India with name of UAE based suppliers viz. M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s

VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE and mis-declared the country of origin in documents. The entire arrangement was being made by the key person Shri Maulik Atulbhai Shah. The below evidences confirmed that Pakistan originated goods shipped from Pakistan port which arrived at Mundra port via UAE by way of **cross stuffing** at UAE. The details of 34 B/Es are as under-

Sr.No.	BE NUMBER	BEDATE	NAME OF THE IMPORTER	QUANTITY	UQC	SUPPLIER NAME (Dubai Based)
1	7102285	29/07/2023	ARCUS OVERSEAS	308	MTS	OSEVEH TRADELINK FZ-LLC
2	4048125	05-01-2023	ARCUS OVERSEAS	281.2	MTS	ENERGYYA PETROCHEM FZE
3	4048126	05-01-2023	ARCUS OVERSEAS	420	MTS	ENERGYYA PETROCHEM FZE
4	8597914	03-11-2023	ARCUS OVERSEAS	278500	KGS	OSEVEH TRADELINK FZ-LLC
5	7504414	24/08/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
6	4563883	09-02-2023	ARCUS OVERSEAS	309.2	MTS	ENERGYYA PETROCHEM FZE
7	6129492	26/05/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
8	6405142	14/06/2023	ARCUS OVERSEAS	196000	KGS	OSEVEH TRADELINK FZ-LLC
9	4202737	16/01/2023	ARCUS OVERSEAS	281.16	MTS	ENERGYYA PETROCHEM FZE
10	6702155	04-07-2023	ARCUS OVERSEAS	560	MTS	OSEVEH TRADELINK FZ-LLC
11	6702604	04-07-2023	ARCUS OVERSEAS	168000	KGS	OSEVEH TRADELINK FZ-LLC
12	7021195	24/07/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
13	8488350	27/10/2023	ARCUS OVERSEAS	278500	KGS	OSEVEH TRADELINK FZ-LLC
14	4243174	19/01/2023	ARCUS OVERSEAS	532	MTS	ENERGYYA PETROCHEM FZE
15	8843750	20/11/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
16	5630055	22/04/2023	ARCUS OVERSEAS	415	MTS	ENERGYYA PETROCHEM FZE
17	6960857	20/07/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
18	5809974	05-05-2023	ARCUS OVERSEAS	140	MTS	OSEVEH TRADELINK FZ-LLC
19	3720006	13/12/2022	ARCUS OVERSEAS	420	MTS	ENERGYYA PETROCHEM FZE
20	9714036	25/07/2022	ARCUS OVERSEAS	560	MTS	K B I RAW MATERIALS TRADING L.L.C.
21	3024474	25/10/2022	ARCUS OVERSEAS	140	MTS	VERITAS ENERGY LLC
22	3213182	08-11-2022	ARCUS OVERSEAS	420	MTS	ENERGYYA PETROCHEM FZE
23	3296511	14/11/2022	ARCUS OVERSEAS	280	MTS	ENERGYYA PETROCHEM FZE
24	2099435	21/08/2022	ARCUS OVERSEAS	616	MTS	K B I RAW MATERIALS TRADING L.L.C.
25	2216606	29/08/2022	ARCUS OVERSEAS	28	MTS	K B I RAW MATERIALS TRADING L.L.C.
26	2091060	20/08/2022	ARCUS OVERSEAS	280	MTS	VERITAS ENERGY LLC
27	3476761	26/11/2022	ARCUS OVERSEAS	280	MTS	ENERGYYA PETROCHEM FZE
28	3517776	29/11/2022	ARCUS OVERSEAS	280.06	MTS	ENERGYYA PETROCHEM FZE
29	3418894	22/11/2022	ARCUS OVERSEAS	280	MTS	ENERGYYA PETROCHEM FZE
30	3418901	22/11/2022	ARCUS OVERSEAS	560	MTS	ENERGYYA PETROCHEM FZE
31	8903194	31/05/2022	ARCUS TRDX	56	MTS	WORLD BUSINESS TRADING FZC
32	9099225	14/06/2022	ARCUS TRDX	420	MTS	K B I RAW MATERIALS TRADING L.L.C.
33	9216544	21/06/2022	ARCUS TRDX	550	MTS	RELIANCE IMPEX GENERAL TRADING LLC
34	9316125	28/06/2022	ARCUS TRDX	137.5	MTS	RELIANCE IMPEX GENERAL TRADING LLC

The details of B/Es with corroborative evidences are as under-

**(i) For BE No. 4048125 dated 05.01.2023**

The stoners, suit no. 1101, Aero regent park, Plot no.- D1, Block 'F', North Nazimabad, Karachi, Pakistan, shipped 10 Containers (281.2 MTs) of "Natural Magnesium Carbonate" to Energyya Petrochem FZE, UAE through Bill of Lading Number- BL No. TAI/CGS/JEA/008-22 DATED 11.12.2022. The cross stuffing invoice no. JWSF10000006/06.01.2023 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. ASCLJEAUN2301718 indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another vessel. The containers

mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. 4048125 dated 05.01.2023 is filed by M/s Arcus Overseas for clearance.

The correlation has been summarised as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI (IN RESPECT OF Pakistan Based Supplier) BL NO. TAI/CGS/JEA/008-22 DATED 11.12.2022 (RUD No.-28 )				Cross Stuffing Invoice of JWS shipping services, UAE/date and job ref./date JWSF1000006/06.01.2023 and Job ref. JWSBKG000024/2023, (RUD No.- 29)			Containers imported vide BE No. 4048125 dated 05.01.23 by M/s Arcus Overseas
Name of Supplier/shipper and load port	No. of Containers	quantity	Consignee/Notify party as per said BL and Mobile No.	Bill of Lading No. and port of loading of goods	Shipper	Containers Total:10	
The Stoners, Karachi Pakistan, Load port- Karachi ,Pakistan	10 containers	281.2 MTs	Energyya Petrochem FZE, UAE, Mob no-9327517443	TAI/CGS/JEA /008-22 DATED 11.12.2022 Port of loading -Karachi, Pakistan	Energy ya Petroch em FZE, UAE,	ASLU200236 3 ASLU500766 7 BSIU2338247 BSIU290981 3 BSIU299994 6 CNIU122043 6 CRSU1175951 CSCU3032440 TRDU7769100 TRDU776910C	ASLU2002363 ASLU5007667 BSIU2338247 BSIU2909813 BSIU2999946 CNIU1220436 CRSU1175951 CSCU3032440 TRDU7769100 TRDU776910C

(ii) For BE No. 4202737 dated 16.01.2023

The stoners, suit no. 1101, Aero regent park, Plot no.- D1, Block 'F', North Nazimabad, Karachi, Pakistan, shipped 10 Containers of "Natural Magnesium Carbonate" to Energyya Petrochem FZE, UAE through Bill of Lading Number- TAI/CGS/JEA/010-22 dated 24.12.2022. The cross stuffing invoice no. JWSF10000058/19.01.2023 dt. 06.01.2023 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. **ASCLJEAAMUN2301760** indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another vessel. The containers mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. **4202737 dated 16.01.2023** is filed by M/s Arcus Overseas for clearance.

The correlation has been summarized as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI ( IN RESPECT OF Pakistan Based Supplier) BL NO. TAI/CGS/JEA/010-22 DATED 24.12.2022 RUD No.- 30)				Cross Stuffing Invoice of JWS shipping services, UAE JWSF10000058/19.01.2023 and Job ref. JWSBKG000012/2023, (RUD No.-31)			Containers imported vide BE No. 4202737 dated 16.01.2023 by M/s Arcus Overseas
Name of Supplier/shipper and load port	Destination agent address	No. of Containers and quantity	Consignee/Notify party as per said BL and Mobile No.	Bill of Lading No. and port of loading of goods	Shipper and customer of JWS shipping services	Containers Total:10	
The Stoners, Karachi Pakistan, Load port- Karachi ,Pakistan	JWS SHIPPING SERVICES LLC, UAE	10 containers and 281.6 MTs	Energyya Petrochem FZE, UAE, Mob no-9327517443	TAI/CGS/JEA /010-22 DATED 24.12.2022 Port of loading -Karachi, Pakistan	Energyya Petrochem FZE, UAE, Customer- M/s Arcus Overseas	ASLU3676112 CRSU1290019 CSCU3027779 CSCU3028585 CSCU3031357 TCLU2359430 TCLU2472745 TRDU7719346 TRDU7769795	ASLU3676112 CRSU1290019 CSCU3027779 CSCU3028585 CSCU3031357 TCLU2359430 TCLU2472745 TRDU7719346 TRDU7769795

## (iii) For BE No. 5809974 dated 05.05.2023

OSEVEH TRADELINK FZ-LLC, FAMC 2921, Compass Building, Al Shohada Road, Khamah, UAE purchased the Pakistani originated natural Magnesium Carbonate from Pakistan based suppliers. The same was shipped to Karachi City Port, Pakistan where these goods were cross stuffed in different containers. The invoice for cross stuffing was raised by JWS shipping services LLP, UAE. The client mentioned in the cross stuffing invoice is Energyya Petrochem FZE, UAE. After cross stuffing, these containers were shipped to Mundra port through another vessel. and M/s Arcus Overseas had filed the B/E no. 5809974 dated 05.05.2023 for these containers of NATURAL MAGNESIUM CARBONATE.

Cross Stuffing Invoice of JWS shipping services, UAE JWSF1000920/2023 dated 19.05.2023 and Job ref. JWSBKG000713/2023 (RUD No.-32)				Containers imported vide BE No. 5809974 dated 05.05.2023 by M/s Arcus Overseas
		Port of Discharge	Containers Total: 05	Containers Total: 05
Energyya Petrochem UAE	FZE, Karachi City	Mundra	EISU3783487 GLDU543873 1 TCKU1936696 TGHU227938 1 UETU2006864	EISU3783487 GLDU5438731 TCKU1936696 TGHU2279381 UETU2006864

## (iv) For BE No. 4048126 dated 05.01.2023

Pakistan Integrated Stones Corporation, 608, Zohra Square, M.A. Jinnah Road, Karachi, Pakistan, shipped 15 Containers of "Natural Magnesium Carbonate" to Energyya Petrochem FZE, UAE through Bill of Lading Number- TAICGS/JEA/009-22 dated 16.12.2022. The cross stuffing invoice no. JWSF10000005/06.01.2023Dt 06.01.2023 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. ASCLJEMUN2301719 indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another vessel. The containers mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. 4048126 dated 05.01.2023 is filed by M/s Arcus Overseas for clearance.

BILL OF LADING FROM PAKISTAN TO JABEL ALI (In RESPECT OF Pakistan Based Supplier) BL NO. TAICGS/JEA/009-22 dated 16.12.2022 (RUD No.- 33)				Cross Stuffing Invoice of JWS shipping services, UAE/date and job ref./date JWSF10000006/06.01.2023 and Job ref. JWSBKG000024/2023, (RUD No.-34)	Containers imported vide BE No. 4048126 dated 05.01.2023 by M/s Arcus Overseas	
Name of Supplier /shipper and load port	Destina tion agent	No. of Contai ners and quantit y	Consignee /Notify party as per said BL and Mobile No.	Bill of Lading No. and port of loading of goods	Shippe r	Containers Total:10

Pakistan Integrated Stones Corporation, Karachi, Pakistan	JWS shipping services, UAE	15 containe rs and 420 MTs	Energyya Petroche m FZE, UAE,	TAI/CGS/J EA/009-22 DATED 16.12.2022 Port of loading Karachi, Pakistan	Energyy a Petroch em FZE, UAE,	AIYU22276 69 ASLU216784 ASLU3301369 ASLU5011029 ASLU5025104 BSIU2149006 BSIU2377006 CSCU3028754 CSCU3032672 OOLU3697508 TCKU1607237 TLLU2664520 TRHU2597580 VSBU2069902 VSBU2071849	AIYU2227669 ASLU2167846 ASLU3301369 ASLU5011029 ASLU5025104 BSIU2149006 BSIU2377006 CSCU3028754 CSCU3032672 OOLU3697508 TCKU1607237 TLLU2664520 TRHU2597580 VSBU2069902 VSBU2071849
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(v) For BE No. 3418901 dated 22.11.2022

Agro Eximp, Progressive plaza, suite 411, 4th floor, Beaumont road, Karachi, Pakistan, shipped 20 Containers (560 MTs) of "Natural Magnesium Carbonate" to Energyya Petrochem FZE, UAE through Bill of Lading Number- TAI/CGS/JEA/004-22 dated 27.10.2022. The cross stuffing invoice no. JWSFI001814/2022Dt15.11.2022 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. ASCLJEA MUN2201488 indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another vessel. The containers mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. 3418901 dated 22.11.2022 is filed by M/s Arcus Overseas for clearance.

The correlation has been summarized as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI (IN RESPECT OF Pakistan Based Supplier) BL. NO. TAI/CGS/JEA/004-22 dated 27.10.2022 (RUD No.-35 )				Cross Stuffing Invoice of JWS shipping services, UAE JWSF1001814/15.11.2022 and Job ref. JWSBKG001618/2022 (RUD No.-36)			Containers imported vide BE No. 3418901 dated 22.11.2022 (for 20 containers) by M/s Arcus Overseas
Name of Supplier/shipper and load port	Destination agent address	No. of Containers and quantity	Consignee/Notify party as per said BL	Bill of Lading No. and port of loading of goods	Shipper and customer of JWS shipping services	Containers Total:40	
Agro Eximp, Karachi Pakistan, Load port-Karachi ,Pakistan	JWS SHIPPING SERVICES LLC, UAE	20 containers and 560 MTs	Energyya Petrochem FZE, UAE, 24.10.2022, Port of loading -Karachi ,Pakistan	TAI/CGS /JEA/004-22 dated 22 , Port of loading -Karachi ,Pakistan	Energyya Petrochem FZE, UAE, Customer - M/s Arcus Overseas	ASLU1971628 ASLU2015165 ASLU5026203 ASLU7935823 CRSU1258531 CRSU1358124 CRXU2188528 CRXU3457426 CSCU3026854 CSCU3026999	ASLU1971628 ASLU2015165 ASLU5026203 ASLU7935823 CRSU1258531 CRSU1358124 CRXU2188528 CRXU3457426 CSCU3026854 CSCU3026999

					CSCU3027681 CSCU3028559 FCIU3183800 PCIU1520100 PCIU2975063 TCKU1643770 TCKU2338678 TGHU2690540 VSBU2035841 VSTU2028137 and other 20 containers	CSCU3027681 CSCU3028559 FCIU3183800 PCIU1520100 PCIU2975063 TCKU1643770 TCKU2338678 TGHU2690540 VSBU2035841 VSTU2028137
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**(vi) For BE No. 3517776 dated 29.11.2022**

The stoners, suit no. 1101, Aero regent park, Plot no.- D1, Block 'F', North Nazimabad, Karachi, Pakistan, shipped 10 (280.06 MTs) Containers of "Natural Magnesium Carbonate" to Veritas Energy LLC, UAE through Bill of Lading Number- TAI/CGS/JEA/005-22 dated 06.11.2022. The cross stuffing invoice no. JWSFI001923/2022 Dt 25.11.2022 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. ASCLJEAMUN2201523 indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another vessel. The containers mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. **3517776** dated 29.11.2022 is filed by M/s Arcus Overseas for clearance.

The correlation has been summarized as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI ( IN RESPECT OF Pakistan Based Supplier) BL NO. TAI/CGS/JEA/005-22 dated 06.11.2022 (RUD No.-37 )				Cross Stuffing Invoice of JWS shipping services, UAE JWSFI001923/2022 dated 25.11.2022 and Job ref. JWSBKG001667/2022, (RUD No.-38)			Containers imported vide BE No. 3517776 dated 29.11.2022 by M/s Arcus Overseas
Name of Supplier/shipper and load port	Destination agent address	No. of Containers and quantity	Consignee/Notify party as per said BL and Mobile No.	Bill of Lading No. and port of loading of goods	Shipper and customer of JWS shipping services	Containers Total:10	
The Stoners, Karachi Pakistan, Load port- Karachi ,Pakistan	JWS SHIPPING SERVICE LLC, UAE	10 containers and 280.6 MTs	Veritas Energy LLC, UAE, Mob no.- 9327517443	TAI/CGS/JEA/005-22 dated 06.11.2022 Port of loading - Karachi, Pakistan	Energyya Petrochem FZE, UAE, Customer- M/s <b>Arcus Overseas</b>	ASLU2276913 ASLU5007409 ASLU5009309 ASLU5009335 ASLU5015723 BSIU3168551 BSIU3174364 CSCU3026514 TDRU2992252	ASLU2276913 ASLU5007409 ASLU5009309 ASLU5009335 ASLU5015723 BSIU3168551 BSIU3174364 CSCU3026514 TDRU2992252

**(vii) For BE No. 3476761 dated 26.11.2022**

Eshal Industries, office no. 413, 4<sup>th</sup> floor, anum estate building, shahrah e faisal, Karachi, Pakistan, shipped 10 containers (280 MTs) Containers of "Natural Magnesium Carbonate" to Energyya Petrochem FZE, UAE through Bill of Lading Number- TAI/CGS/JEA/006-22 dated 06.11.2022. The cross stuffing invoice no. JWSFI001924/2022 dated 25.11.2022 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. ACL/KHI/JEA-8784/22 // ASCLJEAMUN2201522 indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another

vessel. The containers mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. **3476761 dated 26.11.2022** is filed by M/s Arcus Overseas for clearance.

The correlation has been summarized as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI (IN RESPECT OF Pakistan Based Supplier) BL NO. TAI/CGS/JEA/006-22 dated 06.11.2022 (RUD No.- 39)				Cross Stuffing Invoice of JWS shipping services, UAE JWSFI001924/2022 dated 25.11.2022 and Job ref. JWSBKG001668/2022, (RUD No.-40)			Containers imported vide BE No. 3476761 dated 26.11.2022 (for 10 containers) by M/s Arcus Overseas
Name of Supplier/shipper and load port	Destination agent address	No. of Containers and quantity	Consignee/Notify party as per said BL and Mobile No.	Bill of Lading No. and port of loading of goods	Shipper and customer of JWS shipping services	Containers Total:20	
Eshal Industries, Karachi Pakistan, Load port-Karachi, Pakistan	JWS SHIPPING SERVICES LLC, UAE	10 containers and 280 MTs	Energyya Petrochem FZE, UAE Mob no.- 9327517443	TAI/CGS /JEA/006-22 dated 06.11.2022 Port of loading - Karachi, Pakistan	Energyya Petrochem FZE, UAE, Customer - M/s Arcus Overseas	AIYU2117867 ASLU5000488 ASLU5003759 ASLU5004354 ASLU5007610 ASLU5008072 ASLU5008869 ASLU5008880 ASLU5008961 ASLU5015256 and 10 other containers	AIYU2117867 ASLU5000488 ASLU5003759 ASLU5004354 ASLU5007610 ASLU5008072 ASLU5008869 ASLU5008880 ASLU5008961 ASLU5015256

**(viii) For BE No. 3418901 dated 22.11.2022**

Agro Eximp, Progressive plaza, suite 411,4th floor, Beaumont road,Karachi, Pakistan, shipped 15 Containers (420 MTs) of "Natural Magnesium Carbonate" to Energyya Petrochem FZE, UAE through Bill of Lading Number- TAI/CGS/JEA/001-22 dated 24.10.2022. The cross stuffing invoice no. JWSFI001814/2022Dt 05.10.2022 raised by JWS Shipping Services LLP has reference of this Bill of lading. It further has mention of Master Bill of Lading (MBL) No. TAI/CGS/JEA/001-22 /222472411 indicating that goods are destined to Mundra Port. In the cross stuffing invoice, freight charges for movement from KHI to JEA and JEA to MUN has been mentioned alongwith cross stuffing charges. This indicates that at UAE the goods that have arrived from Pakistan are loaded in other containers through cross stuffing, and these containers are further shipped for Mundra through another vessel. The containers mentioned in the cross stuffing charges arrive at Mundra and Bill of Entry No. 3213182 dated 08.11.2022 is filed by M/s Arcus Overseas for clearance.

The correlation has been summarized as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI (IN RESPECT OF Pakistan Based Supplier) BL NO. TAI/CGS/JEA/001-22 dated 24.10.2022(RUD No.-41)				Cross Stuffing Invoice of JWS shipping services, UAE JWSFI001764/2022 dated 08.11.2022 and Job ref. JWSBKG001630/2022, (RUD No.-42)			Containers imported vide BE No. 3213182 dated 08.11.2022 (for 15 containers) by M/s Arcus Overseas
Name of Supplier/shipper and load port	Destination agent address	No. of Containers and quantity	Consignee/Notify party as per said BL	Bill of Lading No. and port of loading of goods	Shipper /party name	Containers Total:30	

Agro Eximp, Karachi Pakistan, Load port-Karachi, Pakistan	JWS SHIPPING SERVICES LLC, UAE	15 containers and 420 MTs	Energyya Petrochem FZE, UAE,	TAI/CGS/JEA/001-22 dated 24.10.2022, Port of loading - Karachi, Pakistan	Energyya Petrochem FZE, UAE,	CLHU3865041 HASU1245982 HASU1378331 HASU1521421 MRSU0116595 MRSU0240034 MSKU3099079 MSKU3366684 MSKU7965464 TCKU1097581 TCKU1148539 TEMU3221762 TEMU3556215 TEMU3921339 TLLU2301083 and other 15 containers	CLHU3865041 HASU1245982 HASU1378331 HASU1521421 MRSU0116595 MRSU0240034 MSKU3099079 MSKU3366684 MSKU7965464 TCKU1097581 TCKU1148539 TEMU3221762 TEMU3556215 TEMU3921339 TLLU2301083
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**(ix) For BE No. 3418894 dated 22.11.2022**

Energyya Petrochem FZE, UAE purchased the Pakistan originated natural Magnesium Carbonate from Pakistan based suppliers. The same was shipped from Karachi City Port, Pakistan to Jabel Ali Port, UAE through JWS shipping services LLP, UAE. At UAE, the goods were loaded in other containers through cross stuffing and bill/invoices generated for cross stuffing by JWS Shipping Services LLP. Thereafter these containers were further shipped to Mundra through another vessel. The party name mentioned in the cross stuffing invoice is Energyya Petrochem FZE, UAE. In the cross stuffing invoice, Ocean freight for import and export has been mentioned alongwith cross stuffing charges. In the cross stuffing invoice, the Consignee name is mentioned as Arcus overseas and the HBL Bill of Lading No. is mentioned as ACL/KHI/JEA-8274/22 / ASCLJEAMUN2201487 indicating onward movement of goods to Mundra and to Arcus overseas in pre planned manner. Thereafter, these containers arrived at Mundra and M/s Arcus Overseas had filed the B/E no. 3418894 dated 22.11.2022 for these containers of NATURAL MAGNESIUM CARBONATE.

Cross Stuffing Invoice of JWS shipping services, UAE JWSFI001813/2022 and Job ref. JWSBKG001617/2022 RUD No.- 43)						Containers imported vide BE No. 3418894 dated 22.11.2022 by M/s Arcus Overseas
Party Name	MBL No.	Consignee Name	Port of Loading	Port of Discharge	Containers Total: 10	Containers Total: 10
Energyya Petrochem FZE, UAE	ACL/KHI/JEA-8274/22 / ASCLJEAMUN2201487	Arcus Overseas	Karachi City	Mundra	ASLU5001247 ASLU5013309 ASLU5017710 ASLU5018527 CRSU1043636 CRSU1247460 IPXU2114208 TCLU3880886 TRHU1761636 XINU1427338	ASLU5001247 ASLU5013309 ASLU5017710 ASLU5018527 CRSU1043636 CRSU1247460 IPXU2114208 TCLU3880886 TRHU1761636 XINU1427338

**(x) For BE No. 4563883 dated 02.09.2023**

Energyya Petrochem FZE, UAE purchased the Pakistan originated natural Magnesium Carbonate from Pakistan based suppliers. The same was shipped from Karachi City Port, Pakistan to Jabel Ali Port, UAE through JWS shipping services LLP, UAE. At UAE, the goods were loaded in other containers through cross stuffing and bill/invoices generated for cross

stuffing by JWS Shipping Services LLP. Thereafter these containers were further shipped to Mundra through another vessel. The party name mentioned in the cross stuffing invoice is Energyya Petrochem FZE, UAE. In the cross stuffing invoice, Ocean freight for import and export has been mentioned alongwith cross stuffing charges. In the cross stuffing invoice, the Consignee name is mentioned as Arcus overseas and the Bill of Lading No. is mentioned as ASCLJEA MUN2301902 indicating onward movement of goods to Mundra and to Arcus overseas in pre planned manner. Thereafter, these containers arrived at Mundra and M/s Arcus Overseas had filed the B/E no. 4563883 dated 02.09.2023 for these containers of NATURAL MAGNESIUM CARBONATE.

Cross Stuffing Invoice of JWS shipping services, UAE JWSF10000349/2023 and Job ref. JWSBKG000146/2023 (RUD No.- 44)						Containers imported vide BE No. 4563883 dated 02.09.2023 by M/s Arcus Overseas
Party Name	MBL No.	Consignee Name	Port of Loading	Port of Discharge	Containers Total: 11	Containers Total: 11
Energyya Petrochem FZE, UAE	ASCLJEA MUN2301902	Arcus Overseas	Karachi City	Mundra	ASLU2516212 ASLU5002496 ASLU5023056 ASLU5027719 CAXU6251012 CAXU6611762 CRXU3339568 CSCU3027172 DFSU2898206 PCIU1488728 TRHU1640383	ASLU2516212 ASLU5002496 ASLU5023056 ASLU5027719 CAXU6251012 CAXU6611762 CRXU3339568 CSCU3027172 DFSU2898206 PCIU1488728 TRHU1640383

(xi) For BE 3720006 dated 13.12.2022

Energyya Petrochem FZE, UAE purchased the Pakistan originated natural Magnesium Carbonate from Pakistan based suppliers. The same was shipped from Karachi City Port, Pakistan to Jabel Ali Port, UAE through JWS shipping services LLP, UAE. At UAE, the goods were loaded in other containers through cross stuffing and bill/invoices generated for cross stuffing of 30 Containers by JWS Shipping Services LLP. Thereafter these containers were further shipped to Mundra through another vessel. The party name mentioned in the cross stuffing invoice is Energyya Petrochem FZE, UAE. In the cross stuffing invoice, Ocean freight for import and export has been mentioned alongwith cross stuffing charges. In the cross stuffing invoice, the Consignee name is mentioned as Arcus overseas and the House Bill of Lading and MBL are mentioned as TAI/CGS/JEA/007-22 and JEA2212012097 respectively, indicating onward movement of goods to Arcus overseas in pre planned manner. Thereafter, these containers arrived at Mundra and M/s Arcus Overseas had filed the BE No. 3720006 dated 13.12.2022 for 15 containers of NATURAL MAGNESIUM CARBONATE.

Cross Stuffing Invoice of JWS shipping services, UAE JWSF1002193/2022 and Job ref. JWSBKG001735/2022 Dt 26.12.2022 (RUD No.- 45)						Containers imported vide BE 3720006 dated 13.12.2022 by M/s Arcus Overseas
Party Name	MBL No.	Consignee Name	Port of Loading	Port of Discharge	Containers matching with those in BE No. 4563883 dtd 02.09.2023 Total: 15	Containers Total: 15
Energyya Petrochem FZE, UAE	JEA2212012097	Arcus Overseas	Karachi	Mundra	BSIU2933086 BSIU2962839 BSIU3023898 CAIU2177717 CAIU3677276 SAXU2005280 VSBU2026367 VSBU2029263 VSBU2030135 VSBU2032246 VSBU2047035 VSBU2050189 VSBU2053130	BSIU2933086 BSIU2962839 BSIU3023898 CAIU2177717 CAIU3677276 SAXU2005280 VSBU2026367 VSBU2029263 VSBU2030135 VSBU2032246 VSBU2047035 VSBU2050189 VSBU2053130

					VSBU2055452 VSBU2077596	VSBU2055452 VSBU2077596
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## (xii) For BE No. 4243174 dated 19.01.2023

Energya Petrochem FZE, UAE purchased Total 560 MTS. (as per Invoice No. BTC-MAG001-22 for 560 MTS in r/o 20 Containers) Bailey Trading Co. Pvt. Ltd, Karachi Pakistan. Out of these total 532 MT Magnesite Lumps were shipped in 19 Containers as per BL No. TAI/CGS/JEA/011-22 dated 24.11.2022) to UAE. It is seen that M/s Arcus Overseas had filed the B/E no. 4243174 dated 19.01.2023 for import of 19 containers of total 532 MT NATURAL MAGNESIUM CARBONATE in India. Although the Container Nos. which arrive in India are different from those mentioned in BL No. TAI/CGS/JEA/011-22 dated 24.11.2022, because of practice of cross stuffing adopted by Shri Maulik Shah in UAE. The exact correlation between weight of the consignment and number of containers clearly indicate that it was the same consignment that was imported from Pakistan under BL No. TAI/CGS/JEA/011-22 dated 24.11.2022.

Documents/Shipper Name	No. of Containers and Quantity loaded at Karachi, Pakistan	Notify Party in BL/Buyer in Invoice No. BTC-MAG001-22 raised by Bailey Trading Co. Pvt. Ltd, Karachi, Pakistan	BL No. and container line	No. of Containers and Weight of Magnesite Lumps as per BL TAI/CGS/JEA/011-22 dated 24.11.2022	No. of Containers and Weight of Magnesite Lumps in BE No. 4243174 dated 19.01.2023
1. BL No. TAI/CGS/JEA/011-22 dated 24.11.2022 (RUD No. 46)	19 Containers, Total NET Wt. 532 MT of Magnesite (MGO Lumps). However, Invoice of Bailey Trading Co. pvt. Ltd. generated the invoice no. BTC-MAG001-22 (RUD No. - 47) Shipper: Bailey Trading Co. Pvt. Ltd., Office M-1, 94C, Jami Comm, S1, 11, Phase VIII, DHA, Karachi, Pakistan.	Energya Petrochem FZE, Jabel Ali Free Zone Dubai	TAI/CGS/JEA/011-22 dated 24.11.2022/ Taiga Shipping and logistics Pte Ltd.	532 MT 19 Containers	532 MT 19 Containers
2. PICT Export Invoice 2-2022-156531 Dt 29.12.2022					
3. Invoice of Bailey Trading Co. pvt. Ltd. generated the invoice no. BTC-MAG001-22 (RUD No. - 47) Shipper: Bailey Trading Co. Pvt. Ltd., Office M-1, 94C, Jami Comm, S1, 11, Phase VIII, DHA, Karachi, Pakistan.					

**12.** During the investigation, it is evident that key person i.e. Shri Maulik Atulbhai Shah purchased the subject goods from various suppliers in Pakistan i.e The Stoners, North Nazimabad, Karachi, Pakistan, MIB Industries, Pakistan, Saifee Expo, Karachi Pakistan etc. Shri Maulik Atulbhai Shah imported these goods in substantial quantities, and after cross-stuffing in UAE, these goods were shipped to Mundra Port with fabricated documents. The documentation either continued to reference Veritas Energy LLC (who initially sourced the goods from Pakistan) or falsely cited other entities, including OSEVEH TRADELINK FZ-LLC, ENERGYA PETROCHEM FZE, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, and WORLD BUSINESS TRADING FZC, UAE, for the sole purpose of documentation in which mentioned the country of origin was incorrectly stated as Turkmenistan or Turkey.

**12.1** Several evidences have been recovered during investigation which show how Shri Maulik Shah in connivance with Deep Sitapara and Nishank Bhorania sourced Magnesite Lumps/Magnesium Carbonate from Pakistan into UAE in the name of firms mentioned above. The documents extracted from Shri Deep Sitapara/ Shri Harsh Kaila's Mobile phone and details evidencing the same are as under

RUD No.	Email dated and time/Invoice No.	Sender/ Pakistani supplier	Details of persons/firms in documents	Brief of the documents
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(RUD No.- 48)	1. Email Dt 07 sept. 2022, 14.41 Hrs 2. National tax no. 2020081-1 Certificate 3. Proforma invoice 220907-PI-VEL(ms)	Ahmed anwar amin ,General Manager of The Stoners, suit no. 1101, Aero regent park, Plot no.- D1, Block 'F' ,North Nazimabad ,Karachi, Pakistan	Recipients of Email are: Nishank Bhorania, Deepsitapara, Ravi (Maulik Atulbhai Shah) Consignee in invoice is "Veritas Energy LLC, UAE" Contact Person in invoice is "Shri Maulik Shah, +91 9327517443"	The pakistani person Shri Ahmed anwar amin sends proforma invoice of the stoners and attached with profile (National tax no. 2020081-1 issued by Central Board of Revenue, Government of Pakistan) of the company for information.  Veritas Energy LLC, Dubai purchased 700 MTs (the Natural Magnesium carbonate (Magnesite) lumps from Pakistani supplier i.e The stoners.
(RUD No.- 49)	Invoice no.- 786-MIB-36/2022 dated 02.07.2022	MIB Industries, Office no.- 517, SB-1, Raza excellency, Block-07, Karachi ,Pakistan	Consignee in invoice is "Veritas Energy LLC, UAE" Contact Person in invoice is "Shri Maulik Shah, +91 9327517443"	Veritas Energy LLC, Dubai purchased 840 MTs (30 Containers) Raw Magnesite lumps from Pakistani supplier i.e MIB Industries.
(RUD No.- 50)	Invoice no.- 786-MIB-36/2022 dated 18.07.2022	MIB Industries, Office no.- 517, SB-1, Raza excellency, Block-07, Karachi ,Pakistan	Consignee in invoice is "Veritas Energy LLC, UAE" Contact Person in invoice is "Shri Maulik Shah, +91 9327517443"	Veritas Energy LLC, Dubai purchased 420 MTs (15 Containers) Raw Magnesite lumps from Pakistani supplier i.e MIB Industries.
(RUD No.- 51)	Invoice No.-51525456 dated 10.04.2022	Saifee expo, Gadap Town, Karachi Pakistan	Consignee in invoice is "Veritas energy LLC, UAE"	Dubai based buyers/supplier i.e Veritas Energy LLC, Dubai purchased 700 MTs Raw Magnesite Carbonate lumps from Pakistani supplier i.e MIB Industries.
(RUD No - 52)	Invoice No. GTC-786-83-2023 dated 13.03.2023	Global Trading Company, Office No. 101, 1 <sup>st</sup> Floor, Hussain Trade Centre, Karachi ,Pakistan	Consignee in invoice is "Energyya Petrochem FZE, Dubai, UAE"	Energyya Petrochem FZE, Dubai purchased 65 MTs Raw Magnesite Carbonate lumps from Pakistani supplier i.e MIB Industries.
(RUD No - 53)	Invoice No. - AE/EXP/MAG/03/21-22	AgroEximp, Suit 411, 4 <sup>th</sup> Floor, Progressive Plaza ,Karachi ,Pakistan	Consignee in invoice is "Veritas energy LLC, UAE" Contact Person in invoice is "Shri Mauluk Shah"	Veritas Energy LLC, UAE purchased 540 MTs Raw Magnesite Carbonate lumps from Pakistani supplier i.e MIB Industries.
(RUD No - 54)	Invoice No. - AE/EXP/MAG/02/21-22	AgroEximp, Suit 411, 4 <sup>th</sup> Floor, Progressive Plaza ,Karachi ,Pakistan	Consignee in invoice is "Veritas energy LLC, UAE"	Veritas Energy LLC, UAE purchased 270 MTs Raw Magnesite Carbonate lumps from Pakistani supplier i.e MIB Industries.
(RUD No - 55)	Invoice No. GTC-786-82-2023 dated 10.02.2023	Global Trading Company, Office No. 101, 1 <sup>st</sup> Floor, Hussain Trade Centre, Karachi ,Pakistan	Consignee in invoice is "Energyya Petrochem FZE, Dubai, UAE"	Energyya Petrochem FZE, Dubai purchased 420 MTs Raw Magnesite Carbonate lumps from Pakistani supplier i.e MIB Industries.
(RUD No - 56)	Invoice No. ENE-UAE 63-01112022/2022-A, Place of issue-Pakistan, Date-01/11/2022	Eshel Industries, Office No. 413, shahrah e faisal, Karachi, Pakistan	Consignee in invoice is "Energyya Petrochem FZE, Dubai, UAE"	Energyya Petrochem FZE, Dubai purchased 280 MTs Raw Magnesite Carbonate lumps from Pakistani supplier i.e Eshel Industries.
(RUD No - 57 )	1. Email Dt 02.07.2022 at 17.14 hrs from Shri Waheed (Pakistani supplier) to Ravi(shri Maulik Atulbhai shah) with copy marked to shri Deep sitapara,Nishank etc enclosing invoice PI-MIB-36.  2. Funds Transfer e-receipt document  3. E-mail dated 19.07.2022 at 18.31Hrs of Ravi Shah (another name of Maulik Atulbhai Shah) to Shri Waheed (email- <a href="mailto:chwaheed255@gmail.com">chwaheed255@gmail.com</a> )	MIB Industries Importer and exporter, Pakistan	Consignee in invoice is "Veritas energy LLC, UAE"	Shri ahmed (Email: <a href="mailto:chwaheed255@gmail.com">chwaheed255@gmail.com</a> ), from Pakistan sends an Email on 02.07.2022 at 17.14 hrs to concern persons i.e Shri Maulik Shah, Deep sitapara, Shri Bhagirath, Nishank Bhorania , etc. for processing the payment (as per discussed with PI MIB-36 -enclosure).  Ravi Shah (another name of Maulik Atulbhai Shah) sent a message through E-mail dated 19.07.2022 at 18.31Hrs to Pakistani person Shri Waheed ( <a href="mailto:chwaheed255@gmail.com">chwaheed255@gmail.com</a> ) with request to him that once he received payment (payment reference no. 033DBFC222001049) then confirm it and also requested that to send pictures at the time of loading. Also attached Invoice no. 786-MIB-36/2022 dated-20.07.2022. Further, Ravi(shri Maulik Atulbhai Shah) send a message

	<p>chwaheed255@gmail.com)</p> <p>4. Invoice &amp; Packing list no.-786-MIB-36/2022 dated-20.07.2022,</p> <p>3. BL No. - LDBKHIJEA22070010 dated 27.07.2022</p> <p>5. Certificate of origin Reference no- 786-MIB-36/2022 issued by Karachi Chamber of Commerce &amp; Industries (No.535819)</p> <p>6. Email Dt 19.07.2022 at 18.56 hrs from Ravi(shri Maulik Atulhai shah) to Shri Waheed (Pakistani supplier) with copy marked to shri Deep sitapara,Nishank etc</p> <p>7. Email dated 16.08.2022 at 15.11 Hrs from Deep Sitapara to, to Shri Divya Sherasiya, Shri Harsh kaila, Shri Nishank,</p>		<p>on 19.07.2022 at 18.56 hrs to waheed (Pakistani supplier) and copy to shri Deep sitapara,Nishank etc. under which he instructed to Pakistani supplier (waheed) that please clearly mentioned in terms of FOB means all local charges from Karachi side paid by supplier.</p> <p>Further, Deep Sitapar downloaded invoice&amp; packing list no. 786-MIB-36/2022 dated-20.07.2022, Copy of BL No. LDBKHIJEA22070010 from his whatsapp group and send the same documents through email of Deep sitapara (deep.arcusoverseas@gmail.com) dated 16.08.2022 at 15.11 Hrs, to Shri Divya Sherasiya, Shri Harsh kaila, Shri Nishank.</p>	<p>M/s Veritas Energy LLC, UAE purchased the Pakistan originated 280 MTs natural Magnesium Carbonate from Pakistan based suppliers i.e. MIB Industries Importer and exporter, Office no. 517, SB 1, Raja Excellency, Block -7, Karachi Pakistan and shipped from Pakistan Port and arrived at UAE.</p>
<b>(RUD No - 58)</b>	<p>1. Email Dt 21.11.2022 from Ahmed Javaid of Pakistan Integrated Stones (pisc00@hotmail.com) to Shri Nishank Bhorania, Deep Sitapara, Ravi Kumar (other name of Maulik Shah) etc. enclosing proforma invoice</p> <p>2. Proforma Invoice No. PISC-EPF-02-420 Dt 20.11.2022</p>	<p>Pakistan Integrated Stones Corporation, Pakistan</p>	<p>Consignee in invoice is "Energyya Petrochem FZE, Dubai, UAE"</p>	<p>Shri Ahmed Javaid of Pakistan Integrated Stones (pisc00@hotmail.com) sent an Email Dt 21.11.2022 to Shri Nishank Bhorania, Deep Sitapara, Ravi Kumar (other name of Maulik Shah) etc. enclosing proforma invoice and requesting for issuance of CRO.</p> <p>Proforma Invoice No. PISC-EPF-02-420 Dt 20.11.2022 mentions the supply of 560 MT of Raw Magnesite Lumps from Pakistan Integrated Stones Corporation, Pakistan to Energyya Petrochem FZE, Dubai, UAE.</p>

**13.** During investigation, documents extract from Shri Deep Sitapara Mobile/ email, Shri Harsh Kaila Mobile/email was examined and after scrutiny, it was found that the importer had imported all the consignments of subject goods from Year 2022 and year 2023 from Pakistan, in which 34 import consignments had imported by way of Cross stuffing at UAE. It is evident that **Cross stuffing** had been done at UAE and deal regarding cross stuffing were made on different whatsapp group "Energyya& Sahama" and "Energyya& Amir Bhai" by Shri Maulik Atulhai Shah, Deep Sitapara, Ahmed and Amir Mimon (Pakistani person), and other members. It is clear that the subject goods imported from Pakistan and arrived at Mundra via Dubai with cross stuffing at Dubai. The details of whatsappchatting on group are as under-

**(i) Whatsapp group "Energyya & Sahama"**

A Whatsapp group "Energyya& Sahama" had been created by Universal Meg (+917984537017) and ZK (+919714538403) (another name of Maulik Shah), Deep Sitapara (+919725871701), Ahmed (+923099555694), Harsh Kaila (+919687447646), Nishank Bhorania (+919979999243) and Divya Sherasiya (+919727265747) were the member of this group. Discussion regarding cross stuffing on this whatsapp group had been made by member of this group. The details are as under-

**(a) Details of Whatsapp group "Energyya & Sahama":**



There is clearcut communication in the group regarding import of Magnesium Carbonate from Pakistan, cross stuffing and then supply to India as mentioned in chats below.

Chat Reference	Date and time of chat	sender	Content of chat	Brief of chating
RUD-59	23.12.2022, at 12:10 (UTC+0)	ZK (as per statement of Shri Deep Sitapara, another name of Shri Maulik shah was ZK)	One attachment of Invoice (mentioned with 23 Dec.2022) generated by Pakistan Integrated stone Corporation for goods Natural Magnesium carbonate.	Z K (another name of Shri Maulik Shah) shared an invoice of Pakistan integrated stone Corporation for goods Natural Magnesium carbonate.
RUD-60	28.12.2022, at 05:01 (UTC+0)	ZK (Another name of Shri Maulik shah) send message to Ahmed ,Pakistani Person	Pl send me BL urgently	Z K demanded to Ahmed for providing the BL
	28.12.2022, at 06:41 (UTC+0)	Ahmed send a copy of BL	Attachment of copy of BL(scanned)	Ahmed send a copy (scanned) BL on group.
	29.12.2022, at 09:08 (UTC+0)	ZK send message to Ahmed, Pakistani Person	Urgently send original BL to our agent	ZK demanded to Ahmed for providing original BL to his agent.
(RUD No.- 61)	29.12.2022, at 09:08 (UTC+0)	ZK (Another name of Shri Maulik shah) send message to group members	We need to start cross stuffing	Z K shared a message that he needed to start cross stuffing
	29.12.2022, at 09:20 (UTC+0)	ZK tag to Nishank Bhorania and send a message	Kindly urgently talk to ahmed sir for BL	ZK requested to shri Nishank Bhorania for talking to Ahmed sir (Pakistani agent) for providing BL, due to start the cross stuffing.
(RUD No.- 62)	30.12.2022, at 05:46:46 (UTC+0)	ZK forwarded and shared two images on group	Shared two forwarded images of container stuffing	Z K shared two forwarded images of container stuffing for information to other group members.
	30.12.2022, at 09:20:50 (UTC+0)	ZK send a message on group for group members	Cross stuffing start	ZK informed to other group members that Cross stuffing started.

(ii) Whatsapp group "Energyya& Amir Bhai"

Another Whatsapp group "Energyya& Amir Bhai" had been created by Nishank Bhorania and ZK (+919714538403) (other name of Maulik Shah), Deep Sitapara (+919725871701), Amir Memon (+92322047593), Harsh Kaila (+919687447646), Nishank Bhorania (+919979999243), Divya Sherasiya (+919727265747), MG Microns (+919898589343), Amir Mimon(+923358130620) were the members of this group. Discussion regarding cross stuffing on this whatsapp group had been made by member of this group. The details are as under-

(a) Details of Whatsapp group "Energyya& Amir Bhai"

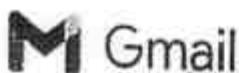
Extraction Report - Apple iPhone	
Chats (1)	1
ViberApp (1)	1
1100871447641000-whatshapp (1)	1
<p>From: 00000000000000000000000000000000 (whatshapp)</p> <p>Start Time: 12-10-2012 06:46:23Z (UTC-07:00)</p> <p>Last Activity: 12-04-2013 00:45:00Z (UTC-07:00)</p> <p>Number of attachments: 149</p> <p>Accounts: 0 (0%) 1 (1%) 2 (2%) 3 (3%) 4 (4%) 5 (5%) 6 (6%) 7 (7%) 8 (8%) 9 (9%) 10 (10%) 11 (11%) 12 (12%) 13 (13%) 14 (14%) 15 (15%) 16 (16%) 17 (17%) 18 (18%) 19 (19%) 20 (20%) 21 (21%) 22 (22%) 23 (23%) 24 (24%) 25 (25%) 26 (26%) 27 (27%) 28 (28%) 29 (29%) 30 (30%) 31 (31%) 32 (32%) 33 (33%) 34 (34%) 35 (35%) 36 (36%) 37 (37%) 38 (38%) 39 (39%) 40 (40%) 41 (41%) 42 (42%) 43 (43%) 44 (44%) 45 (45%) 46 (46%) 47 (47%) 48 (48%) 49 (49%) 50 (50%) 51 (51%) 52 (52%) 53 (53%) 54 (54%) 55 (55%) 56 (56%) 57 (57%) 58 (58%) 59 (59%) 60 (60%) 61 (61%) 62 (62%) 63 (63%) 64 (64%) 65 (65%) 66 (66%) 67 (67%) 68 (68%) 69 (69%) 70 (70%) 71 (71%) 72 (72%) 73 (73%) 74 (74%) 75 (75%) 76 (76%) 77 (77%) 78 (78%) 79 (79%) 80 (80%) 81 (81%) 82 (82%) 83 (83%) 84 (84%) 85 (85%) 86 (86%) 87 (87%) 88 (88%) 89 (89%) 90 (90%) 91 (91%) 92 (92%) 93 (93%) 94 (94%) 95 (95%) 96 (96%) 97 (97%) 98 (98%) 99 (99%) 100 (100%) 101 (101%) 102 (102%) 103 (103%) 104 (104%) 105 (105%) 106 (106%) 107 (107%) 108 (108%) 109 (109%) 110 (110%) 111 (111%) 112 (112%) 113 (113%) 114 (114%) 115 (115%) 116 (116%) 117 (117%) 118 (118%) 119 (119%) 120 (120%) 121 (121%) 122 (122%) 123 (123%) 124 (124%) 125 (125%) 126 (126%) 127 (127%) 128 (128%) 129 (129%) 130 (130%) 131 (131%) 132 (132%) 133 (133%) 134 (134%) 135 (135%) 136 (136%) 137 (137%) 138 (138%) 139 (139%) 140 (140%) 141 (141%) 142 (142%) 143 (143%) 144 (144%) 145 (145%) 146 (146%) 147 (147%) 148 (148%) 149 (149%) 150 (150%) 151 (151%) 152 (152%) 153 (153%) 154 (154%) 155 (155%) 156 (156%) 157 (157%) 158 (158%) 159 (159%) 160 (160%) 161 (161%) 162 (162%) 163 (163%) 164 (164%) 165 (165%) 166 (166%) 167 (167%) 168 (168%) 169 (169%) 170 (170%) 171 (171%) 172 (172%) 173 (173%) 174 (174%) 175 (175%) 176 (176%) 177 (177%) 178 (178%) 179 (179%) 180 (180%) 181 (181%) 182 (182%) 183 (183%) 184 (184%) 185 (185%) 186 (186%) 187 (187%) 188 (188%) 189 (189%) 190 (190%) 191 (191%) 192 (192%) 193 (193%) 194 (194%) 195 (195%) 196 (196%) 197 (197%) 198 (198%) 199 (199%) 200 (200%) 201 (201%) 202 (202%) 203 (203%) 204 (204%) 205 (205%) 206 (206%) 207 (207%) 208 (208%) 209 (209%) 210 (210%) 211 (211%) 212 (212%) 213 (213%) 214 (214%) 215 (215%) 216 (216%) 217 (217%) 218 (218%) 219 (219%) 220 (220%) 221 (221%) 222 (222%) 223 (223%) 224 (224%) 225 (225%) 226 (226%) 227 (227%) 228 (228%) 229 (229%) 230 (230%) 231 (231%) 232 (232%) 233 (233%) 234 (234%) 235 (235%) 236 (236%) 237 (237%) 238 (238%) 239 (239%) 240 (240%) 241 (241%) 242 (242%) 243 (243%) 244 (244%) 245 (245%) 246 (246%) 247 (247%) 248 (248%) 249 (249%) 250 (250%) 251 (251%) 252 (252%) 253 (253%) 254 (254%) 255 (255%) 256 (256%) 257 (257%) 258 (258%) 259 (259%) 260 (260%) 261 (261%) 262 (262%) 263 (263%) 264 (264%) 265 (265%) 266 (266%) 267 (267%) 268 (268%) 269 (269%) 270 (270%) 271 (271%) 272 (272%) 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There is clear evidence of cross stuffing of goods imported by Maulik Shah in UAE from Pakistan based suppliers as mentioned in Chats below.

Chat Reference	Date and time of chat	sender	Content of chat	Brief of chatting
(RUD NO. 63)	07.01.2023 at 6:39 (UTC+0)	ZK (Another name of Shri Maulik shah) shared an image of stuffed container on whatsapp group.	<i>One image of stuffed container</i>	ZK shared an image of stuffed container for information to other group members.
	07.01.2023 at 6:47 (UTC+0)	A message received by Shri Ravi and same message forwarded by ZK on group.	<i>Ravi sir till now 3 containers cross stuffing has completed 4 th and 5 in going on</i>	Someone present at container cross stuffing place and he informed to Shri Ravi that 3 containers cross stuffing has completed and 4 <sup>th</sup> and 6 <sup>th</sup> are going on and this message received by ZK and again he forwarded to group for information to group members regarding cross stuffing. <b>(As per statement of Shri Atulbhai shah, (father of Shri Maulik shah) pet name of shri Maulik Shah was Shri Ravi Kumar)</b>

	07.01.2023 at 07:02 (UTC+0)	Amir Memon send a message	Good	Amir Memon (Pakistani supplier) replied good.
(RUD No.- 64)	07.01.2023 at 07:02 (UTC+0)	ZK tagged a message of Amir memon and send a message	<i>Aapke roj me he sir ji</i>	Replied "good" for cross stuffing by Aamir Memon and ZK tagged this message and stated that he was under Aamir memon (Pakistani supplier).
	07.01.2023 at 9:39 (UTC+0)	A received message forwarded by ZK.	<i>Cross stuffing stopped bcz of rain</i>	Someone present at container cross stuffing place and he informed to ZK that because of rain, containers cross stuffing stopped and the same message forwarded by ZK on group for information to group members regarding cross stuffing stopped due to rain.
(RUD No.- 65)	07.01.2023 at 9:39 (UTC+0)	Amir memon tagged the message of ZK and send a message	<i>Tagged message- "cross stuffing stopped bcz of rain", Its good ...enjoy.</i>	Aamir memon replied to ZK that its good and do enjoy after cross stuffing stopped due to rain.
	07.01.2023 at 9:41 (UTC+0)	A message send by ZK	<i>What enjoy sir....we have to finish our work</i>	ZK replied to Aamir memon in respect of enjoy that what do enjoy sir, we have to finish their work i.e cross stuffing.

(B) By manipulating the containers and/or changing seal numbers with a view to show the split route of transportation of subject goods for hiding the actual country of origin/export of subject goods and this activity were done by cross stuffing at UAE. The cross-stuffing charges have been made and informed through email and cross stuffing had been handled by key person i.e Ravi Shah (Shri Maulik Atulbhai Shah) at UAE. The printouts of the email conversation extracted from Shri Bhagirath Varmora (Partner of M/s MG Micron). The details are as under-



Bhagirath Varmora &lt;bhagirath.varmora@gmail.com&gt;

**Fwd: MGO Project Costing**

2 messages

**Nishank Bhorania** <nishankbhorania@gmail.com>  
 To: bhagirath.varmora@gmail.com

Sat, Jul 16, 2022 at 4:23 PM

----- Forwarded message -----

From: Ravi Shah <ravi@veritasenergy.co>  
 Date: Sat, 16 Jul 2022, 16:22  
 Subject: MGO Project Costing  
 To: <gohar@everbridgeshipping.com>, Gohar A <gohar@veritasenergy.co>  
 Cc: <shahmaulik263@gmail.com>, <nishankbhorania@gmail.com>

Dear Sir,

Please find final costing of MGO.

Cross Stuffing - USD 1080.00  
 Freight - USD 780  
 Turkmenistan Documents - USD 2 Per MT  
 From Jebel Ali to Mundra - USD 1 to 1.50

Kindly confirm the above costing to process the further process

Awaiting for your reply.

Thanks

--  
 Best Regards,

Ravi Shah  
**Veritas Energy LLC**  
 Suite # 309, Office Court, Oud Metha, Dubai, UAE  
 Tel. +971 4 329 1673, Mobile. +971 52 504 6788  
 Email: ravi@veritasenergy.co  
 Web Site. www.veritasenergy.co

**Nishank Bhorania** <nishankbhorania@gmail.com>

Sat, Jul 16, 2022 at 4:37 PM

To: Ravi Shah <ravi@veritasenergy.co>  
 Cc: gohar@everbridgeshipping.com, Gohar A <gohar@veritasenergy.co>, MAULIK SHAH  
 <shahmaulik263@gmail.com>, bhagirath.varmora@gmail.com

Dear brother.

Thanks for your mail confirming.  
 I had gone all through mail and COST charges.  
 I confirming the above mail for process further. And go ahead with our up coming project .  
 But there is questions regarding costing.  
 Kindly look into it after first shipment for costing down and the best brother.  
 Awaiting for the reply ....

Regards

NISHANK ....



On Sat, 16 Jul 2022, 16:22 Ravi Shah, &lt;ravi@veritasenergy.co&gt; wrote:

Dear Sir,

Please find final costing of MGO.

Cross Stuffing - USD 1080.00  
 Freight - USD 780

Finally, confirm the above settings to prevent the further problems occurring for your users.

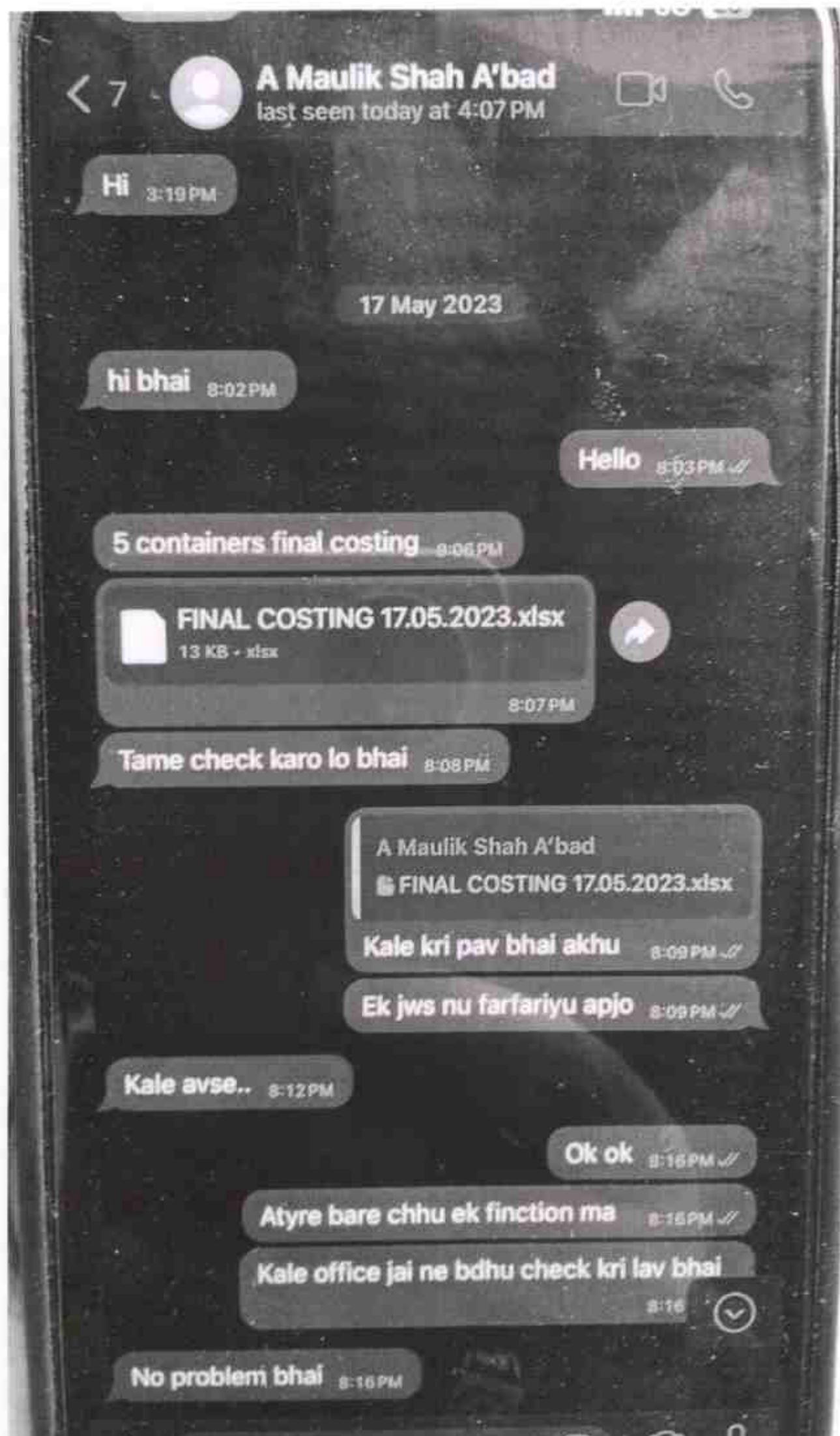
Therefore,

Best regards,

Philip Goss,  
Vertesi Systems LLC  
1000 N 20th Street, Suite 100, Phoenix, AZ 85016  
(602) 951-1777, Mobile: (480) 520-8848  
Email: [Philip@VertesiSystems.com](mailto:Philip@VertesiSystems.com)  
Web: [www.VertesiSystems.com](http://www.VertesiSystems.com)

Email dated	Sender	Contents of the email	Brief of contents
16.07.2022, at 4:22PM <b>(RUD No.- 66)</b>	Ravi Shah, Veritas Energy LLC,Suite#309, Office court, Dubai,UAE	<i>Dear sir, Please find final costing of MGO, Cross stuffing -USD 1080, Freight-USD 780, Turkmenistan Documents-2 Per MT, From Jabel Ali to Mundra- 1-1.50, Kindly confirm the above costing to process the further process, awaiting your reply, Thanks, best regards - Ravi Shah, Veritas Energy Shah, UAE</i>	Ravi Shah, (Another name of Shri MaulikAtulbhai Shah), Veritas Energy LLC, sent a quotation regarding final costing of MGO Importation from Pakistan to Mundra via UAE. All UAE cross stuffing charges and fake documents making charges for country of Origin would be Turkmenist. If importer will agree then Shri Maulik Shah start the cross stuffing process at UAE and further shipped for Mundra.
16.07.2022, at 4:23PM	Nishank Bhoraniaforwarded the message of Ravi shah (date 16.07.2024 at 4.22PM).	<i>Tagged message of Ravi shah (date 16.07.2024 at 4.22PM).</i>	...
16.07.2022, at 4:37PM	Nishank Bhorania tagged the message of Ravi Shah send a message to Ravi Shah	<i>Dear Brother, Thanks for your mail confirming. I had gone all through mail and COST charges. I confirming the above mail for process further and go ahead with our up coming project. But there is question regarding costing. Kindly look into it after first shipment for costing down and the best brother. Awaiting your reply. Regards,Nishank</i>	NishankBhorania send a message and accepted the procedure, informed by Ravi Shah but all charges of subject goods were in doubt condition and asked that if cost will slightly change then process of cross stuffing at UAE,was accepted.

(C) An excel sheet of final costing extracted from Mobile phone of Shree Deep Sitapara which was sent by Maulik Shah on 17.05.2023 and also Amir (Pakistani supplier) sent details of charges about goods exported from Pakistan to India via Jabel ali alongwith cross stuffing charges through Whatsup (**RUD No.-67**), in which Magnesite actual cost as well as cross stuffing cost at UAE were mentioned for importation of subject goods from Pakistan to Mundra via UAE. The details are as under



MATERIALS RECEIVED		MATERIALS ISSUED		TOTAL STOCK POSITION	
Per MT 8500				774400.00	
Transport cost from Karachi port to Godown and Godown to Karachi port per container				20000.00	
Labour charges				10000.00	
Customs Clearing charges/port charges				10000.00	
LOLO + BL charges per container				10000.00	
Bank charges				1000.00	
Total cost of 140 MTS				200000.00	
Total Yashir received in below amount in USD @ PKR , 18/04/2023				100000.00	
Excess amount with yashir sir in PKR				100000.00	
Excess amount with yashir sir in USD				100000.00	
Per Mt CFR Mundra in USD				100000.00	
FOB Karachi Value				100000.00	
Freight from Karachi to Jabel Ali (\$175/25)				100000.00	
Cross Stuffing cost (\$1080/28)				100000.00	
Freight from Jabel ali to Mundra				100000.00	
CFR cost Mundra				100000.00	
PKR commission per MT				100000.00	
JK Tradelink commission Per MT				100000.00	
Final cost CFR Mundra				100000.00	

2023-04-18  
2023-04-18  
2023-04-18

Brief of contents of excel sheet in which magnesite actual cost were mentioned-

Mentioned in excel sheet	Meaning of contents
Per MT 8500	Magnesite cost at Pakistan
Transport cost from Karachi port to Godown and Godown to Karachi port per container	Cost of Empty container from Karachi port to Godown and after stuffing of subject goods in container at Godown, further transportation cost from Godown to Karachi Port for loaded container.
Labour charges	Labour charges for loading in container at Godown
Customs Clearing charges/port charges	Cost for clearing charges from Pakistan customs and port charges
LOLO + BL charges per container	LoLo (Lift on/Lift off) charges and cost per container for making BL from Pakistan
Bank charges	Bank charges
Total cost of 140 MTS	Total cost for 140 MTS
Total Yashir received in below amount in USD @ PKR , 18/04/2023	Yashir (Pakistani supplier) received total cost of subject goods in USD which was to be Pakistani rupees with exchange rate on 18.04.2023.
Excess amount with yashir sir in PKR	Excess amount to pay to Yashir sir in Pakistani rupees.
Excess amount with yashir sir in USD	Excess amount to pay to Yashir sir in US Dollar.
Per Mt CFR Mundra in USD	Per MT Magnesite Lumps cost from Pakistan to Mundra in US Dollar
FOB Karachi Value	Freight on board value at Karachi port
Freight from Karachi to Jabel Ali (\$175/25)	Freight from Karachi to Jabel Ali Port (\$175/25)
Cross Stuffing cost (\$1080/28)	Cross stuffing cost at UAE (\$1080/28)
Freight from Jabel ali to Mundra	Freight from Jabel Ali to Mundra
CFR cost Mundra	CFR cost at Mundra
PKR commission per MT	Pakistani Rupees commission per MT
JK Tradelink commission Per MT	JK Tradelink (Handled by Shri Maulik Atul bhai shah) commission Per MT
Final cost CFR Mundra	Total cost from Pakistan to Mundra via UAE with cross stuffing charge or Final cost CFR at Mundra.

The screenshots of the above discussed sheet is as under-



WIDE WING SHIPPING AND FORWARDING LLC

AMIR PAKISTAN SHIPMENT  
CROSS STUFFING AND EXPORT PAKISTAN TO INDIA VIA JEBEL ALI

#### TERMS AND CONDITIONS

- 1 RATE VALID TO 30/5/2022
- 2 TRANSIT TIME 5 DAYS
- 3 IF ANY ADDITIONAL CHARGES INCURS FROM PORT CUSTOMS AND SHIPPING LINE WILL CHARGE YOU AS PER ACTUALS
- 4 RATES SUBJECT TO SPACE AVAILABILITY AND RECONFIRMATION AT TIME OF BOOKING
- 5 RATES EXCLUDE ALL TAXES AND DUTIES
- 6 RATES ARE SUBJECT TO DEMURRAGE / DETENTION / STORAGE / INSPECTION AT ACTUAL AND COSTS
- 7 RATE OFFERED ARE BASED ON DETAILS GIVEN AT THE TIME OF QUOTATION
- 8 IF BILL OF LADING IS NOT COLLECTED WITHIN 7 DAYS AFTER VESSEL ARRIVAL, B/L COLLECTED CHARGES WILL BE APPLICABLE AS PER LINE TARIFF

(C) During statement of Shri Deep Chandul Sitapara on 22.12.2023, he accepted that all 36 consignments of Natural Magnesite Carbonate/Natural Magnesium Carbonate were imported by him from Pakistan. He also accepted that Shri Maulik Atulbhai Shah informed him that the goods would be imported from Pakistan to UAE and in UAE the goods were **de-stuffed** from these containers and again stuffed in new containers and then these were transported through other vessel with new documents showing origin from Turkmenistan and Turkey and supplier from UAE, and he used to pay an amount of USD 45 per MT for **cross stuffing** of the goods to Shri Maulik Atulbhai Shah. Shri Deep Chandul Sitapara stated in his statement that Shri Maulik Atulbhai Shah had told him that **cross stuffing** of import goods at UAE was necessary to evade detection by Customs. As per statement of Shri Deep Chandul Sitapara, it is confirmed that the subject goods imported from Pakistan and arrived to Mundra via Dubai and at Dubai cross stuffing had been done in 34 import consignment of M/s Arcus overseas.

14. During investigation, it is found that M/s Arcus Overseas imported the subject goods from Pakistan by mis-declaring the country of origin and a **whatsapp group "Arcus"**, for local sale, was created by Harsh Kaila, Partner of M/s Arcus Overseas.



## Extraction Report - Apple iPhone

## Chats (1)

## WhatsApp (1)

919878876499@whatsapp.net (1)

#	Details	Detailed
1	<p>Group: "Arcus Overseas"</p> <p>Start Time: 15.04.2023 07:17:24 (UTC +0)</p> <p>Last Activity: 26.03.2023 10:38:42 (UTC +0)</p> <p>Number of attachments: 96.2</p> <p>Source: WhatsApp</p> <p>Account: 919878876499@whatsapp.net</p> <p>Groups: "919878876499@whatsapp.net" WhatsApp: 919878876499@whatsapp.net (919878876499@whatsapp.net) WhatsApp: 919878876499@whatsapp.net (919878876499@whatsapp.net)</p> <p>Body file: (last 1 hr)</p> <p>Participants:</p> <ul style="list-style-type: none"> <li>919878876499@whatsapp.net (Deep Sitapara (admin))</li> <li>919878876499@whatsapp.net (Harsh Kaila (owner) (admin))</li> <li>919878876499@whatsapp.net (919878876499@whatsapp.net (admin))</li> <li>919878876499@whatsapp.net (Deep Sitapara (admin))</li> <li>919878876499@whatsapp.net (Deep Sitapara (admin))</li> </ul> <p>Identifier: 919878876499-1051910244@144</p>	

The testing report from local laboratory of Morbi had been shared by the member of this group on this whatsapp group. Further, Harsh Kaila, partner of M/s Arcus Overseas had been sharing the test report to their buyers in which Harsh Kaila, himself describes the subject goods as being from Pakistan. Harsh Kaila stated during his statement that they used to sell imported goods to customers by telling them that actual origin of imported goods was Pakistan, because Pakistan originated Natural Magnesium Carbonate/Magnesite lumps/Raw Magnesium Carbonate was highly demanded in local market in Morbi.

Chats evidencing the same are summarized as under:

Chat Reference	Sender/ Date (time)	To	Chat message (In Gujarati language)	Brief of chat message
RUD No- 68	Harsh Kaila, 09.02.2023 (16.29 hrs.)/ 11.29 (UTC+0)	Group "Arcus"	An image	Harsh kaila shared a lab report of Micro tech Ceramic lab analysis report of Natural Magnesite Carbonate dated 09.02.2023 of imported goods from Pakistan.
	Nishank Jiju, 09.02.2023 (16.59 Hrs)/11.29 (UTC+0)	Group "Arcus"	Kem 4 taka jevo	Nishank Bhorania (Harsh kaila's Jiju) sent a message for harsh Kaila that why gave 4 Rs. For analysis report.
	Nishank Jiju/Nishank Bhorania, 09.02.2023 (17.00 hrs.) /11.30 (UTC+0)	Group "Arcus"	Kiyanthiaipotooh sample	Deep Sitapara asked to Harsh kaila that where have you received sample
	Harsh Kaila, 09.02.2023 (16.29 hrs.) (17.00 hrs.)	Group "Arcus"	Microtech	Harsh kaila told that he received from Microtech Lab.
	Nishank Jiju, 09.02.2023 (17.00 hrs.)	Group "Arcus"	Kiu POK sample	Deep sitapara asked to Harsh kaila that is sample of Pakistan originated goods.
RUD No- 69)	Harsh Kaila, 11.02.2023 (14.59 hrs.)	Group "Arcus"	An image	Harsh kaila shared a lab report of Micro tech Ceramic lab analysis report of Natural Magnesite Carbonate dated 09.02.2023 of imported goods from Pakistan.

	Nishank Jiju , 11.02.2023 (15.00 Hrs)/ 09.30 (UTC+0)	Group "Arcus"	Kaisa material hai	Nishank Bhorania (Harsh kaila's Jiju) sends a message and asked that how is the material.
	Deep sitapara 11.02.2023 (15.01 Hrs)	Group "Arcus"	POK	Shri Deep sitapara replied that the goods related to Pakistan originated.

**15.** Further, during investigation, it is revealed that Partners of M/s Arcus Overseas used to sell their Pakistan originated goods in the local market as Pakistani material to various customers. During statement, Shri Harsh Kaila also accepted in his statement that he used to sell the goods to customers in the local market of Morbi by calling them Pakistani material and these facts are also confirmed by the chat in Harsh Kaila's mobile. The printout of the whatsappchatting were taken out from Harsh Kaila's Mobile and chatting indicated that Harsh Kaila used to chat with his customers Shri Shyam Kaksaniya, Shri Sagar Baraiya, Monark Patel.

The details of the chat are given below-

Chat Reference	Sender/ Date (time )	To	Chat message (In Gujarati language)	Brief of chat message
RUD No-70	Harsh Kaila, 21.08.2023 (07.27 hrs. UTC+0)	Shyam Kaksaniya	Black wash powder, Also known as wash coat Origin -Pakistan	Harsh kaila told to shyamKaksaniya that his product black wash powder is also known as wash coat and our product is of imported goods from Pakistan origin.
	Shyam Kaksaniya, 21.08.2023 (07.27 hrs. UTC+0)	To Harsh Kaila	Aapneketa taka vadhuchs	Shyam kaksaniya further asked to Harsh kaila how is rate you kept. Of your product.
RUD No-71	Harsh Kaila, (22.20 hrs.)	Sagar Baraiya	Natural Magnesium carbonate(Black wash powder) 16.00/-	Harsh kaila told to Sagar Baraiya that his product black wash powder rate is 16.00/Kg
	Sagar Baraiya, (22.21 hrs.)	Harsh Kaila	POK che	Sagar Baraiya asked to shri Harsh kaila that is your product Pakistan originated.
	Harsh Kaila, (22.21 hrs.)	Sagar Baraiya	An image of test report,	Harsh Kaila share a test report.
	Harsh Kaila, (22.21 hrs.)	Sagar Baraiya	Ha aapde only POK nu J kamkri chi	Harsh kaila told to sagar Baraiya that he is doing work only of Pakistan originated goods.
RUD No-72	Harsh Kaila, 22.08.2023 (11.07, UTC +0)/16.37 hrs.	Monark Patel	Blackwash powder (Magnesium carbonate), origin -Pakistan.	Harsh kaila told to shyam Monark Patel that his product black wash powder (Magnesium carbonate) is of imported goods from Pakistani origin.

**16.** From investigation, it is evident that the key person Shri Maulik Shah, sitting in Dubai, in collusion with Indian importer Shri Deep Sitapara, has caused huge loss to customs duty by submitting fake documents to Indian Customs. Shri Maulik Shah formed a fake company in India in the name of M/s J K Tradelink. M/s J K tradelink, Ahmedabad's email ID jktradelink@gmail.com was used by Shri Maulik Shah for importing goods from Pakistan to Mundra via Dubai. Shri Maulik Shah used to buy subject goods from Pakistani suppliers in the name of various companies in UAE, get them stuffed in containers in the godown in Pakistan itself, get those containers loaded from the Pakistani port and then get them imported to UAE. Thereafter, the same subject goods were loaded in other containers in UAE through cross stuffing and then got them loaded on vessels coming to India and then got them delivered to India. The subject goods from Pakistan were ordered to UAE in the name of the company and then fake documents were prepared in the name of that company and the country of origin was mentioned Turkmenistan / Turkey in it and the same was sent to Shri Deep Sitapara. Shri Maulik Shah himself used to put his name in the name of the person buying subject goods from Pakistan. Sometimes, the invoice for the subject goods from Pakistan was made in the name of the UAE company and the name of the same company was used for Dubai to Mundra or sometimes the name of some other company was used in the fake documents for Dubai to

Mundra. Shri Maulik Shah used to take separate costs of container stuffing from godown in Pakistan to reach Dubai and then cross stuffing in Dubai and sending it to Mundra. The name of the Dubai based company/suppliers which Shri Maulik Shah used in the fake documents are M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE. Even Shri Maulik Shah used to take commission in the name of his fake company J K tradelink. The entire cost of all this was paid by Shri Deep Sitapara because he had to pay only 5% Indian customs duty instead of 200%. Shri Maulik Atulkumar Shah by changing his name and using different email IDs, used to handle all the consignments of M/s Arcus Overseas coming from Pakistan to Dubai and Dubai to Mundra while sitting in Dubai. During the investigation, it was found out that Shri Maulik Atulkumar Shah used different names, different email IDs and Mobile Number for different works. The different names, email IDs and Mobile number used by Shri Maulik Shah are as follows-

Names used by Shri Maulik Atulbhai Shah	Email IDs used by Shri Maulik Atulbhai Shah	Mobile Number
(1) Shri Ravi Kumar	(1) JK <a href="mailto:Tradelink@gmail.com">Tradelink@gmail.com</a>	(1) +919327517443
(2) Shri Ravi Shah	(2) <a href="mailto:info@jktradelink.in">info@jktradelink.in</a>	(2) 919714538403
(3) ZK	(3) <a href="mailto:export@jktradelink.in">export@jktradelink.in</a>	
(4) Maulik Shah	(4) <a href="mailto:ravia@veritasenergy.co">ravia@veritasenergy.co</a>	
(5) Maulik Atulkumar Shah	(5) <a href="mailto:Shahmaulik263@gmail.com">Shahmaulik263@gmail.com</a>	

The details submitted vide client declaration and undertaking letter to Ras Al Khaimah Economic zone, UAE (**RUD No.-73**) by Shri Maulik Atulbhai Shah on 05.01.2023 shows that he used the Mobile number 919714538403 in client declaration form to Rakez, UAE and the same mobile number used in whatsapp group "Energyya & Amir Bhai", Energyya and Shama" etc. with the name of "ZK". Further, his father stated during his statement that nick name of Shri Maulik Atulbhai Shah is Ravi Kumar. The documents related to client declaration and undertaking form submitted to Rakez, UAE by Maulik Atulbhai Shah/Maulik Atulkumar Shah which extracted from Harsh Kaila's Mobile are as under-

**17.** Further, it is evident that Shri Deep Chandulal Sitapara used different email IDs and Mobile number for Importation of subject goods from Pakistan to Mundra via Dubai. An excel sheet extracted from Shri Deep Chandulal Sitapara's Mobile, in which he maintained the B/E wise importation worksheet of subject goods imported from Pakistan. The email IDs and Mobile number used by Shri Deep Chandulal Sitapara are as follows-

Email IDs used by Shri Deep Chandulal Sitapara	Mobile Number
(1) <a href="mailto:deep.arcusoverseas@gmail.com">deep.arcusoverseas@gmail.com</a>	(1) 9725871701
(2) <a href="mailto:Arcus.overseas@gmail.com">Arcus.overseas@gmail.com</a>	(2) 9662716622
(3) <a href="mailto:dcsitapara003@gmail.com">dcsitapara003@gmail.com</a>	

**18.** The printout of an excel sheet (Import \_worksheet) is enclosed as **RUD No.74** which were extracted from Shri Deep Chandulal Sitapara's Mobile Phone alongwith the brief of the keywords used in Excel. From perusal of this sheet it is evident that Sri Deep Chandulal Sitapara has imported 7090 MT of goods under **22 Bills of Entry** from firms M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE. The Suppliers of these consignments have been mentioned as Aamir, Swat, Sahama, Eshal, Stoner, and Wahid. From investigation as described in forgoing paras it is crystal clear that these are Pakistan based suppliers and the goods imported in these consignments are Magnesite Lumps/ Magnesium carbonate.

Summons dated 26.12.2024, 03.01.2024, 19.01.2024, 09.05.2024 and 18.03.2024 (summons dated 18.03.2024 issued on pet name of Shri Maulik Atulbhai Shah i.e Ravi Kumar) (**RUD No. 75**) were issued to Key Person Shri Maulik Atulbhai Shah for recording the statement under section 108 of Customs Act, 1962, but he did not appear for recording of statement. He always submitted through email and by post that M/s J K Tradelink is a proprietorship firm solely owned and operated by his father Shri Atulbhai Jasvantlal Shah. He falsely denied his involvement in the import consignments of M/s Arcus Overseas and submitted that he is non-resident Indian and currently residing in UAE for several years. During statement of Shri Atulbhai Jasvantlal Shah, wherein he submitted that all the work related to firm M/s J K Tradelink was looked after only by Shri Maulik Atulbhai Shah, which indicates that Shri Maulik Atulbhai Shah was knowingly and deliberately involved in the conspiracy of mis-classification, mis-declaration and thereby evasion of Customs Duty in respect of subject goods covered under said 36 Bills of Entries.

**19. Arrested persons in the case-** On the basis of available evidence/records/details/documents in the present investigation following persons were arrested during investigation-

Sr. No.	Name of the person	Date of Arrest
01	Shri Deep Chandulal Sitapara	22.12.2023

20. The goods covered under B/E No. 9210015 dated 13.12.2023 imported by M/s Arcus Overseas was found to have been imported in violations of various provisions of the Customs Act, 1962 and other allied Acts. Therefore, having reason to believe that the said import consignments were placed under seizure by the DRI vide Seizure Memo dated 28.12.2023 at Mundhra CFS at Mundra Port under the Customs Act, 1962 (**RUD No. 76**).

During statement of Shri Deep Chandulal Sitapara dated 17.04.2024, one of the main partners of the firm M/s. Arcus Overseas, wherein he stated that they did not maintain any record which can provide the exact quantity of imported goods and locally procured goods

available in the detained goods of 177.500 MTs of Natural Magnesium carbonate in powder form. Shri Deep Sitapara in his statement has submitted that he is unable to produce any documents indicating separate quantity of imported and domestically procured goods Total 177.500 MTs of quantity of Natural Magnesium carbonate in powder form are in co-mingled state and was presently lying at the premise opposite to Plot no. 4, Survey no. 132/P. 8A NH, Near Shreeji Gold Ceramics, Lalpar, Morbi and pertains to M/s Arcus Overseas. It appears that M/s Arcus Overseas had imported these goods from Pakistan as evidenced in foregoing paras by way of mis-declaring the country of origin. Without giving any evidence, M/s Arcus overseas was portraying these as partially domestically procured. However, in view of clear evidence of import of these goods from Pakistan in the past by M/s Arcus Overseas, it appears that these goods lying at their premises were illegally imported from Pakistan. Accordingly, total 177.500 MTs of Natural Magnesium Carbonate was placed under seizure under the provision of section 110 of the customs Act, 1962 vide Seizure Memo dated 18.04.2024 (**RUD No.77**).

**21. Extension Period:** Since, the investigation in the present matter could not be completed within 06 months as per provisions of Section 124 of the Customs Act, 1962 due to unavoidable circumstances, the competent authority, had granted extension for issuance of Show Cause Notice in this matter vide Order dated 19.06.2024.

## **22 To sum up-**

**22.1** As per Notification No. 05/2019-Cus dated 16.02.2019, all the goods originated in Islamic Republic of Pakistan or exported from Islamic Republic of Pakistan, were attracting Basic Customs Duty @200%. Investigation revealed that to evade 200% customs duty, M/s Arcus Overseas had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5% with respect to goods originated in or exported from Pakistan, M/s Arcus Overseas in connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

During Investigation, on the basis of corroborative evidences gathered during investigation and statements of partners of M/s Arcus Overseas and various person, it is evident that M/s Arcus Overseas had imported all 36 consignments/Bills of entry of 'Natural Magnesite Carbonate/Natural Magnesium Carbonate in the year 2022 and 2023 from Pakistan and arrived at Mundra via UAE port and mis-declared and mis-classification had been done by the importer. It is found that there were many corroborative evidences shown that the subject goods were Pakistan originated and imported from Pakistan to Mundra via Dubai and at Dubai cross stuffing were done and all activity handled at UAE by Shri Maulik Atulbhai Shah. The subject goods were imported by M/s Arcus Overseas from Pakistan by two ways.

- (i) Containers loaded from Pakistan and the same loaded containers arrived into India via Dubai.
- (ii) Containers loaded from Pakistan and the same goods arrived into India through Cross stuffing at Dubai.

The above said two ways followed by importer appear to have been confirmed as per the corroborative evidences, which are as under-

**(A)** The importer and other key persons involved in this conspiracy were attempting to camouflage the actual country of origin of the subject goods by way of changing the route of transportation only in documents.

During investigation, from tracking of Containers covered under 02 B/Es No. 9210015 dated 13.12.2023 and 9107961 dated 07.12.2023 from [www.kictl.com](http://www.kictl.com) (Karachi international container terminal), Invoices of Pakistani suppliers i.e Sohail Minerals etc. recovered from Deep Sitapara's Mobile/ email, it is confirmed that the said containers covered under said two B/Es

were exported goods i.e Magnesite Lumps from Pakistan and the route of transportation from Pakistan to UAE and UAE to India without change of Containers at UAE.

**(B)** Whereas, containers covered under 34 B/Es (Mentioned at above said Table), The importer and other key persons involved in this conspiracy were attempting to camouflage the actual country of origin of the subject goods by way of changing the route of transportation in documents and changing containers (**Cross stuffing**) at Jebel Ali Port, Dubai. For this purpose, they are preparing two sets of documents i.e. one for Pakistan to Dubai and another for Dubai to India having different details of suppliers to show the latter as a separate sell/export from Dubai to India with name of UAE based suppliers M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE and mis-declared the country of origin in documents. The entire arrangement was being made by the key person Shri Maulik Atulbhai Shah. The below evidences confirmed that Pakistan originated goods shipped from Pakistan port which were arrived at Mundra via UAE by way of cross stuffing at UAE. The details are as under-

**(A)** Invoices of Pakistan based suppliers and Invoices of Dubai based suppliers like as Invoices no. JWSF10000006/06.01.2023 and Job ref. JWSBKG000024/2023, JWSF10000349/2023 and Job ref. JWSBKG000146/2023, JWSF1000920/2023 dated 19.05.2023 and Job ref. JWSBKG000713/2023, JWSF10000005/06.01.2023 and Job ref. JWSBKG000025/2023 and BL No. TAICGS/JEA/009-22 dated 16.12.2022 etc. issued by M/s JWS shipping services LLC, P.O Box No. 120554, Office #508, 5<sup>th</sup> floor, Montana Building, UAE, etc. and many more.

**(B)** Email conversation- Messages send by Pakistani suppliers vide different date to Shri Maulik Atulbhai Shah, Shri Deep Sitapara, Harsh Kaila, Nishank Bhorania, Bhagirath Varmora etc. related to loading/purchasing the subject goods from Pakistani Godown and loaded at Pakistani port and Shri Atulbhai Shah informed to Deep Sitapara related to cross stuffing done at Dubai.

**(C)** whatsappchat on whatsapp group i.e. Energyya & Sahama, Energyya & Amir Bhai etc.

**(D)** As per the confessional statement of partners of M/s Arcus Overseas and the related persons who confirmed that subject goods imported from Pakistan to India through cross stuffing done at dubai.

**22.2** During investigation, it is evident that the key person Shri Maulik Shah, sitting in Dubai, in collusion with Indian importer Shri Deep Sitapara, has caused huge loss to customs exchequer by submitting fake documents to Indian Customs. Shri Maulik Shah used to buy subject goods from Pakistani suppliers on the name of various companies in UAE, get them stuffed in containers in the godown in Pakistan itself, get those containers loaded from the Pakistani port and then get them imported to UAE. Thereafter, the same subject goods were loaded in other containers in UAE through cross stuffing and then got them loaded on vessels coming to India and then got them delivered to India. The subject goods from Pakistan were ordered to UAE in the name of the company and then fake documents were prepared in the name of that company and the country of origin was mentioned Turkmenistan / Turkey in it and the same was sent to Shri Deep Sitapara. Shri Maulik Shah himself used to put his name and mobile number in the name of the person buying subject goods from Pakistan. Sometimes, the invoice for the subject goods from Pakistan was made in the name of the UAE companies and the name of the same companies was used for Dubai to Mundra and sometimes the name of some other companies was used in the fake documents for Dubai to Mundra. Shri Maulik Shah used to take separate costs of container stuffing from godown in Pakistan to reach Dubai and then cross stuffing in Dubai and sending it to Mundra. The name of the Dubai based company/suppliers which Shri Maulik Shah used in the fake documents are M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE. Even Shri Maulik Shah used to take commission in the name of his fake company J K Tradelink. The entire cost of all this was paid by Shri Deep Sitapara to Shri Maulik Atulbhai Shah because Shri Deep Sitapara had to pay only 5% Indian customs

duty instead of 200%. Shri Maulik Atulkumar Shah, by changing his name and using different email IDs, used to handle all the consignments of M/s Arcus Overseas coming from Pakistan to Dubai and Dubai to Mundra while sitting in Dubai.

**22.3** They were ably aided by Shri Harsh Kaila, partner in Arcus Overseas and Shri Divya Sherasiya, Marketing Manager in Arcus Overseas. Both were parts of whatsapp groups "Energyya & Sahama" and "Energyya & Amir Bhai" in which detailed plan regarding import from Pakistan into UAE, cross stuffing in UAE and then export to India was made. Shri Harsh Kaila had also made a Whatsapp group "Arcus" in which he used to communicate with various buyers in India. In this group he promoted these goods as pertaining to Pakistan origin to garner sales contracts. The goods imported by them were sold to various firms. Shri Bhagirath Barmora, partner of MG Microns was an active conspirator. He was not only part of whatsapp groups "Energyya & Sahama" and "Energyya & Amir Bhai" in which detailed plan regarding import from Pakistan into UAE, cross stuffing in UAE and then export to India was made, but he also purchased the imported goods from M/s Arcus Overseas. Shri Maulik Shah used to copy email conversations to Shri Bhagirath Jayantilal Varmora on said email. Shri Maulik Shah informed him various charges on import goods such as Cross stuffing of Pakistani Goods at UAE, Charges for Preparation of documents of Turkmenistan origin etc.

**22.4** Together, through the above mentioned plan, these persons hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

### **23. MIS-DECLARATION AND MIS-CLASSIFICATION OF IMPORT GOODS: -**

**23.1** The importer had classified the subject goods imported by them vide above said 36 Bills of Entry under CTH 25199090 of Customs Tariff Act, 1975. Whereas, it emerges from the statements of Partner of M/s Arcus overseas, representatives of agents of Container Lines/, evidences such as of Bills of Lading., Certificate of Origin, Invoices from Karachi to Dubai for the subject goods, printouts of Container tracking records from the website of Karachi International Containers Terminal Limited and admmitted statements of buyer, whatsapp chats and other evidences extracted from the mobile phone data of the importer's authorized signatory and his confessional statements, it emerges that the Country of Origin of the subject goods covered under said 36 Bills of Entry filed at Mundra port was Pakistan.

**23.2.** Whereas, in terms of Notification No. 05/2019-Customs dated 16.02.2019, the tariff item 98060000 was inserted in Ch. 98 of the First Schedule to Customs Tariff Act, 1975 to impose Basic Customs Duty of 200% on all goods originating in or exported from Pakistan. Thus, the subject goods imported by the importer under said 36 Bills of Entry were mis-classified and mis-declared with respect to its appropriate description CTH and respective Country of Origin. Since the subject goods covered under said 36 Bills of Entry were originated in Pakistan, it appears that same are liable to be classified in the residual entry of the said heading at CTH 98060000 and the classification of subject goods shown by the importer under CTH 25199090 in import documents is deliberately wrong, having been done to defraud the exchequer, and is liable to be rejected.

### **24. CONFISCATION OF IMPORTED GOODS:-**

**24.1** It is apparent from the facts and evidences discussed supra that the subject import goods were mis-classified and mis-declared with respect to its description (CTH & Country of Origin) with intent to avoid the payment of BCD@200% and other duties as per provisions of Customs Act, 1962. By getting the subject goods cleared from the Customs by way of mis-declaration of Country of Origin and by mis-classification thereby managing to pay Customs Duty at a much lower rate of BCD@5%, the importer had evaded substantial Customs Duty. The importer have contravened the provisions of Section 46 of the Customs Act, 1962, in as much as they did not disclose the actual description of goods, and deliberately flouted the requirement of providing accurate and complete information of the origin/country or of providing authentic and valid supporting documents while filing the said 36 Bills of Entry, before the Customs authorities. Rather, the same was done with fraud, collusion, suppression

of facts and willful mis-statement with an intention to evade the Customs Duty on import of the subject goods. The act of fraud, collusion, suppression of facts and willful mis-statement, mis-declaration and evasion of Customs Duty on the part of the importer have rendered the said import consignments of **11,295.16 MT** subject goods ('Raw Magnesium carbonate lumps'/'Natural Magnesium Carbonate (Magnesite) lumps'/'Magnesium Carbonate lumps'/'Natural Magnesium Carbonate (Magnesite)'/ 'Raw Magnesite'), having declared total value of **Rs. 10,71,15,588/-** liable for confiscation under Sections 111(m) of the Customs Act, 1962 and are also liable to be treated as smuggled goods within the meaning of Section 2(39) of the Customs Act, 1962.

**24.2.** Further, the consignment covered under Bills of Entry No. 9210015 dated 13.12.2023 was imported by M/s. Arcus Overseas from Pakistan enroute through UAE. This consignment comprised of total 5\*20 ft containers of declared quantity 140 MTs of Natural Magnesium Carbonate and imported by M/s. Arcus Overseas and B/E filed by M/s Arcus Overseas at Mundra Port. During the statement dated 22.12.2023 of Shri Dhaval Bhatt while explaining tracking of containers from the website of M/s. Karachi International Container Terminal Ltd. ([www.kictl.com](http://www.kictl.com)) and data resumed from his mobile phone admitted that the said goods were originated in Pakistan and shipped to Mundra Port in the name of M/s. Arcus Overseas after splitting the route of transportation from Karachi to Dubai and Dubai to Mundra. It is clearly shown that M/s. Arcus Overseas in connivance with the suppliers talking about possible camouflage the documents in order to hide actual Country of origin. It was established that the said consignment was imported by M/s. Arcus Overseas actually from Pakistan but mis-declared the port of shipment as UAE to evade the applicable Customs duty.

As during examination of the goods, M/s. Arcus Overseas had provided the copies of B/E, invoice of the said consignment, the value of the goods is required to be taken on the basis of declared rate, description, supplier, and other material facts which were mentioned by the importer in Bill of Entry No. 9210015 dated 13.12.2023. The total value of 140 MTs goods declared by M/s. Arcus overseas in the said Bill of Entry was to **Rs. 11,594,99/-**.

In view of the above, it appears that the goods covered under BE No. 9210015 dated 13.12.2023 originated in Islamic Republic of Pakistan and imported by M/s. Arcus Overseas is required to be classified under CTH 98060000 w.e.f. 16.02.2019 in terms of Notification No. 05/2019-Customs dated 16.02.2019. Also, the said goods attract Basic Customs Duty @ 200% Adv.

During search on 21.12.2023 at the premises of M/s Arcus Overseas i.e. Morbi, it was observed that Total 177.50MTS of goods Natural Magnesium Carbonate in Powder form which had procured in the storage area, opposite to his place of business i.e. Plot no. 4, Survey No. 132/P,8A NH, Near Shreeji Gold Ceramics, Lalpar, Morbi. On being asked about stored total 177.500 MTs goods at his place of business during statement of Shri Deep Chandulal Sitapara on 17.04.2023, he stated that sometimes imported goods were stored in the said storage area after grinding of lumps form of Natural Magnesium Carbonate from local factory in Morbi, and in 177.500 MTS of Natural Magnesium Carbonate, it had been mixed lot of imported goods originated from Pakistan and locally purchased of goods. He stated that however, in 177.500MTS of Natural Magnesium Carbonate, maximum goods were of imported goods which are Pakistan originated and due to mixed lot of imported goods and locally purchased goods it was not possible to segregate the imported goods and locally purchased goods from 177.500MTS. However, he could not give any evidence in support of goods being local purchase goods and hence it appears that the entire 177.5 MTS of Natural Magnesium Carbonate, at the said premises has been imported by M/s Arcus Overseas in the past.

The price declared in the Bill of Entry No. 9210015 dated 13.12.2023 of Natural Magnesium Carbonate is Rs 8282.136/- per MTS (Quantity 140 MTS, Assessable Value Rs 1159499). As M/s. Arcus Overseas had not provided the price of said stored goods total 177.500MTs, hence the value of the goods is required to be taken on the basis of contemporaneous import and considered to be Rs 8282.136/- per MTS. In this respect the total value of stored goods 177.5 MTs at his place of business i.e. Plot no. 4, Survey No. 132/P,8A NH, Near Shreeji Gold Ceramics, Lalpar, Morbi comes to Rs. 14,70,079.14/-.

In view of the above, the importer have contravened the provisions of the Customs Act, 1962, in as much as they did not disclose the material facts about the goods and deliberately flouted the requirement of providing accurate and complete information of the origin/country or of providing authentic and valid supporting documents before the Customs authorities. Rather, the same was done with fraud, collusion, suppression of facts and willful mis-statement with an intention to evade the Customs Duty on import of the subject goods. The act of fraud, collusion, suppression of facts and willful mis-statement, mis-declaration and evasion of Customs Duty on the part of the importer have rendered the said import consignments of **177.500 MTs** subject goodshaving total value of **Rs. 14,70,079.14/-** liable for confiscation under Sections 120 read with 111 of the Customs Act, 1962 and are also liable to be treated as smuggled goods within the meaning of Section 2(39) of the Customs Act, 1962.

## 25. DEMAND OF DUTY :-

**25.1** Consequent to the aforesaid facts and evidences discussed in foregoing paras, it is apparent that the subject goods imported by the importer vide above said 36 Bills of Entry had originated in Pakistan. The importer had mis-declared the Country of Origin of such goods covered under the said Bills of Entry, as Turkey. The importer got cleared the import consignments on payment of Customs Duty at the rate of BCD@ 5%, whereas, in terms of Notification No. 05/2019-Customs dated 16.02.2019, the import goods is covered under residual entry of CTH 98060000 and attracts BCD@200%. However, on an increase in the rate of BCD from 5% to 200% w.e.f.16.02.2019, the importer knowingly and deliberately started suppressing the material facts of Country of Origin from the Department and mis-declared the same in the Bills of Entry with a clear intention to evade the differential Customs Duty. Had the DRI not initiated investigation into the matter, the importer would have succeeded in his manipulations and the evasion of duty could not have been unearthed. As the importer has deliberately evaded the Customs Duty by suppressing material facts, extended period of demand of duty as laid down under Section 28(4) of the Customs Act, 1962 is clearly attracted in the instant case. The quantum of Customs Duty evaded by the importer in the above discussed manner is required to be demanded and recovered from them. The calculation of the applicable Customs Duty and differential Duty is as per the **Annexure-A (RUD NO.78)** attached with this SCN and also summarized here under:-

**Table-3**

B/E No.	Date	Declared Assessable Value (Rs.)	BCD Payable @200% (Rs.)	SWS payable @10% (Rs.)	IGST Payable @28% (Rs.)	Total Customs Duty payable (Rs.)	Total Customs Duty paid (Rs.)	Differential Duty payable (Rs.)
8903194	31-05-2022	560840.9	1121681.74	112168.2	502513.42	1736363.33	60430.00	1675933.33
3720006	13-12-2022	4005157	8010313.5	801031.4	3588620.45	12399965.3	431556.00	11968409.30
9099225	14-06-2022	4234296	8468591.78	846859.2	3793929.12	13109380.1	456246.00	12653134.08
9216544	21-06-2022	5181498	10362996.74	1036300	4642622.54	16041919	558307.00	15483611.95
9316125	28-06-2022	1295375	2590749.18	259074.9	1160655.63	4010479.73	139577.00	3870902.73
9714036	25-07-2022	4986520	9973040	997304	4467921.92	15438265.9	537298.00	14900967.92
3024474	25-10-2022	1425377	2850754.2	285075.4	1277137.88	4412967.5	153585.00	4259382.50
3213182	08-11-2022	4093075	8186149.66	818615	3667395.05	12672159.7	441029.00	12231130.67
3296511	14-11-2022	2728717	5457433.1	545743.3	2444930.03	8448106.44	294020.00	8154086.44
2099435	21-08-2022	5415753	10831506.84	1083151	4852515.06	16767172.6	583548.00	16183624.59
2216606	29-08-2022	246170.6	492341.22	49234.12	220568.867	762144.209	26526.00	735618.21
2091060	20-08-2022	2735229	5470458	547045.8	2450765.18	8468268.98	294721.00	8173547.98
3476761	26-11-2022	2689642	5379283.7	537928.4	2409919.1	8327131.17	289809.00	8037322.17
3517776	29-11-2022	2690218	5380436.4	538043.6	2410435.51	8328915.55	289870.00	8039045.55
3418894	22-11-2022	2689642	5379283.7	537928.4	2409919.1	8327131.17	289809.00	8037322.17
3418901	22-11-2022	5379284	10758567.4	1075857	4819838.2	16654262.3	579617.00	16074645.34
4048125	05-01-2023	2732236	5464471.2	546447.1	2448083.1	8459001.42	294398.00	8164803.42
4048126	05-01-2023	4080864	8161727.96	816172.8	3656454.13	12634354.9	439713.00	12194641.88
4202737	16-01-2023	2736752	5473503.04	547350.3	2452129.36	8472982.71	294886.00	8178096.71
4243174	19-01-2023	5178375	10356749.24	1035675	4639823.66	16032247.8	557970.00	15474277.82
4563883	09-02-2023	2975527	5951053.56	595105.4	2666071.99	9212230.91	320613.00	8891617.91
5630055	22-04-2023	3733814	7467627.7	746762.8	3345497.21	11559887.7	402319.00	11157568.68
5809974	05-05-2023	1432874	2865747	286574.7	1283854.66	4436176.36	154392.00	4281784.36
6129492	26-05-2023	2890721	5781441.64	578144.2	2590085.85	8949671.66	311476.00	8638195.66
6405142	14-06-2023	2027875	4055750	405575	1816976	6278301	218503.00	6059798.00
6702155	04-07-2023	5559650	11119300.5	1111930	4981446.62	17212677.2	599053.00	16613624.17
6702604	04-07-2023	1667895	3335790.16	333579	1494433.99	5163803.17	179717.00	4984086.17

6960857	20-07-2023	2687518	5375036.46	537503.6	2408016.33	8320556.44	289581.00	8030975.44
7021195	24-07-2023	2675909	5351818.16	535181.8	2397614.54	8284614.51	288330.00	7996284.51
7102285	29-07-2023	2943500	5886999.96	588700	2637375.98	9113075.94	317163.00	8795912.94
7504414	24-08-2023	2704932	5409863.9	540986.4	2423619.03	8374469.32	291457.00	8083012.32
8488350	27-10-2023	2418609	4837217.9	483721.8	2167073.62	7488013.31	260605.00	7227408.31
8597914	03-11-2023	2491101	4982202.64	498220.3	2232026.78	7712449.69	268417.00	7444032.69
8843750	20-11-2023	2347101	4694202.28	469420.2	2103002.62	7266625.13	252901.00	7013724.13
9107961	07-12-2023	2314043	4628086.76	462808.7	2073382.87	7164278.3	249338.00	6914940.30
9210015	13-12-2023	1159499	2318998.5	231899.9	1038911.33	3589809.68	124937.00	3464872.68

**25.2.** In view of the above, it appears that the goods covered under 36 B/Es originated in Islamic Republic of Pakistan and imported by M/s. Arcus Overseas is required to be classified under CTH 98060000 w.e.f. 16.02.2019 in terms of Notification No. 05/2019-Customs dated 16.02.2019. Also the said goods attract Basic Customs Duty @ 200% Adv. Therefore, it appears that M/s. Arcus Overseas is required to pay the differential Basic Customs duty as under:

**Table-4**

B/E No.	Declared Assessable Value (Rs.)	BCD Payable @200% (Rs.)	SWS payable @10% (Rs.)	IGST Payable @28% (Rs.)	Total Customs Duty payable (Rs.)	Total Customs Duty paid (Rs.)	Differential Duty payable (Rs.)
36 B/E	107115588	214231175.7	21423118	95975567	331629860	11541717	320088143

**25.3** Thus, the total differential Customs duty amounting to Rs. 32,00,88,143/- (Thirty two Crore Eighty eight thousand One hundred forty Three Only) is also liable to be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA of the Customs Act, 1962.

**25.4** In view of the above, total Customs Duty of Rs. 32,00,88,143/- (Thirty two Crore eighty eight thousand one hundred forty three) on the import consignments mentioned in the above table No.4 at para No. 40.3 is liable to be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA of the Customs Act, 1962.

#### **ROLES AND PENALTIES:-**

#### **26. ROLE AND CULPABILITY OF IMPORTER M/S. ARCUS OVERSEAS, MORBI:-**

**26.1** The importer/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 111, or abets the doing or omission of such an act, is liable to penalty under **Section 112 (a)** of the Customs Act, 1962. In terms of Section **112(b)** of Customs Act, 1962, any person acquiring possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, and 120 (read with section 111) is also liable to penalty. In the instant case, the importer M/s. Arcus Overseas, Morbi mis-declared the country of origin of the import goods and thus evaded the duty and thereby rendered the import goods liable for confiscation. From the relevant documents recovered from Mobile/email and Whatsapp chat conversations of Shri Deep Chandulal Sitapara, Partner of the importer firm with the suppliers/consigners with respect to manipulate the origin of goods and actual country of export vis-à-vis the confessional statements Shri Deep Chandulal Sitapara and other evidences gathered during investigation, it is clear that the importer were knowingly and deliberately cleared the offending/smuggled import goods in connivance with the overseas suppliers/consigners. Thus, the importer M/s. Arcus Overseas was concerned in purchasing, selling and dealing with of subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962.

**26.2.** Since the applicable differential amount of duty to the tune of **Rs. 32,00,88,143/- (Thirty two Crore Eighty eight thousand One hundred forty three Only)** was evaded by the importer by way of fraud, collusion, suppression of facts and willful mis-statement, the importer M/s. Arcus Overseas, Morbi is liable to penalty under **Section 114A** of the Customs Act, 1962.

**26.3.** M/s. Deep Chandulal Sitapara, were requested during statement to provide related documents with respect to actual Country of Origin and Country of export of subject goods but they have not provided the same. By manipulating the containers and/or changing seal numbers with a view to splitting the route of transportation of subject goods for hiding the actual country of origin/export of subject goods, the importer has mis-led the Customs Authorities as well as the investigation. In absence of specific intelligence and extraction of data secreted in the mobile phone of Shri Deep Chandulal Sitapara partner of importer firm, the actual country of origin/export of subject goods could not have been unearthed and it might have been resulted in wrong assessment of import, thereby huge loss to Govt. exchequer.

**26.4** The importer M/s. **Arcus Overseas, Morbi** through its Partner Shri Deep Chandulal Sitapara knowingly and intentionally made/signed/used the import document (Bill of Entry etc.) and caused to make and use the documents such as Certificate of Origin and other related documents, which were false or incorrect in material particular Country of Origin, CTH etc., for the purposes of avoiding differential amount of Customs Duty, therefore they are also separately liable to penalty under **Section 114AA** of the Customs Act, 1962.

**26.5** Further, as per IEC records the address of the importer was Shop No. 14, First Floor, Survey No. 81/2, Plot NO. 4, Timbdi, Morbi, Gujarat-363642, whereas, they were using their left-out address in their import documents. Whereas, place of business was handled at new address, i.e. Plot no. 4, Survey No. 132/P,8A NH, Near Shreeji Gold Ceramics, Lalpar, Morbi. The second address had not been mentioned in the record of DGFT and as stated by Shri Deep Chandulal Sitapara during his statement, they had left that premises few years ago. Therefore, they were not doing their business activities from the place as mentioned in their import documents. The importer failed to intimate about the same to their Customs Brokers and to the competent authorities of Customs/DGFT. As per Para 2.15 of the hand book of procedure notified by the DGFT in terms of Para 1.03 of Foreign Trade Policy read with Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, every IEC holder shall be responsible for updating their profile details. Apparently, the importer herein has deliberately not updated their addresses in their part of their IEC in violation of the said procedure of hand Book of procedures. The importer has thereby also violated the provisions of Section 46 of the Customs Act, 1962. Hence, they have rendered themselves liable to penalty separately under **Section 117** of the Customs Act, 1962, for this contravention.

## **27. ROLE AND CULPABILITY OF SHRI DEEP CHANDULAL SITAPARA, PARTNER OF IMPORTER FIRM M/S. ARCUS OVERSEAS, MÓRBI: -**

**27.1.** Shri Deep Chandulal Sitapara Partner of the importer firm M/s. Arcus Overseas, Morbi was admittedly looking after all import related activities in the importer firm M/s. Arcus Overseas, Morbi and he himself used to place orders with overseas suppliers, negotiated the rates and finalized the deal for import of subject goods. Investigation revealed that to evade 200% customs duty, he had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5% with respect to goods originated in or exported from Pakistan, he in connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

Shri Deep Chandulal Sitapara had admittedly shown splitted route of transportation of subject goods to avoid interruption by any Govt. enforcement agencies in the well hatched conspiracy. By manipulating the containers and/or changing seal numbers with a view to show the split route of transportation of subject goods for hiding the actual country of

origin/export of subject goods, he has mis-led the Customs Authorities as well as the investigation. In absence of specific intelligence and extraction of data secreted in his mobile phone, the actual country of origin/export of subject goods could not be unearthed which may resulted in wrong assessment of import thereby loss to Govt. exchequer. Further, he had also removed the certain data from his mobile phone to mislead the investigation. Thus, these deliberate acts of commission and omission on the part of Shri Deep Chandul Sitapara were to defeat the investigation.

Investigation also revealed that the subject goods claimed to have been imported by the importer were actually of Pakistani Origin and the goods were exported from Pakistan by M/s. Pakistan Integrated Stone Corporation, M/s Sohail Mineral, M/s Swat Minerals, M/s Bailey Trading co., M/s The stoner Pakistan etc. However, the name of Pakistani supplier for all the consignment imported by the importer M/s. Arcus Overseas and documents submitted to Customs, Mundra are not available. As per documents submitted to customs by importer the overseas suppliers are M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE, it appeared that the Shipper/consignor i.e. M/s Sohail Mineral, M/s Swat Minerals, M/s Bailey Trading co., M/s The stoner Pakistan etc, Pakistan had shipped the goods (natural magnesium carbonate/Magnesium Lumps) to M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE and consequently the said goods had been imported by Shri Deep Sitapara by way of Cross stuffing at UAE and Cross stuffing were managed by Shri Maulik Atulbhai Shah on the instructions of Shri Deep Chandul Sitapara.

During investigation, Shri Deep Chandul Sitapara had admitted that he imported all 36 consignments/Bills of entry of 'Natural Magnesite Carbonate/Natural Magnesium Carbonate in the year 2022 and 2023 from Pakistan originated and mis-declared and mis-classification had been done by him. As per email conversation of Pakistani suppliers, it is revealed that Pakistani suppliers send invoices, packing list, etc. in respect of subject goods journey from Pakistan to UAE, Pakistan to Mundra to Shri Deep Sitapara' email address [deep.arcusoverseas@gmail.com](mailto:deep.arcusoverseas@gmail.com) also. According to Shri Deep Chandul Sitapara chat on whatsapp Group 'Arcus-Osveh Docs' that he had well known regarding cross stuffing at UAE etc. and also admitted in his statement that he used to pay an amount of USD 45 per MT for cross stuffing of the goods to Shri Maulik Atulbhai Shah and Shri Maulik Atulbhai Shah had told him that cross stuffing of import goods at UAE was necessary to evade detection by Customs. It is clear that Shri Deep Sitapara had mis-declared and mis-classified knowingly and deliberately.

Shri Deep Chandul Sitapara, on being asked during his statement about why had he mis-declared the country of origin of import goods as Turkmenistan and Turkey instead of actual Country of Origin, he stated that the applicable Basic Customs duty on the import consignments if Country of origin was declared as Pakistan was 200%, hence to evade this duty he had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5%. It is clear that Shri Deep Sitapara had mis-declared and mis-classified knowingly and deliberately. On being asked during statement of Shri Deep Sitapara, he stated that he contacted in Pakistan for getting the goods. Further he stated that on few occasions only, he had directly interacted with one Shri Amir Menon (Contact No. +923222047593), a supplier from Pakistan and he used to contact him through email and messages only. During statement of Shri Harsh Kaila, partner of M/s Arcus overseas, he stated that all consignments of subject goods imported by M/s Arcus overseas from Pakistan originated and all activity related to import had been handled by Shri Deep Chandul Sitapara.

During statement of Shri Deep Sitapara, he stated that he contacted Shri Pareshbhai Thakker (Mob. No. 9825226242) regarding importation of Natural Magnesium carbonate/Raw Magnesite Lumps and he discussed that the actual goods was originated in Pakistan, however he provide all the documents from UAE and COO would be of Turkmenistan but issued by Dubai Chamber of Commerce. However, Shri Paresh Thakker denied handling

the Customs Clearing work. It means Shri Deep Chandulal Sitapara knowingly and deliberately to evade 200% customs duty, he had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5%.

As evident from the data recovered from his mobile phone and Whatsapp chat conversations /email conversations held between Shri Deep Chandulal Sitapara and suppliers/consignees, based in Pakistan & Dubai, and Shri Maulik Atulbhai Shah they prepared documents manipulating the actual country of origin/export i.e. Pakistan. As narrated in foregoing paras, Shri Deep Chandulal Sitapara used to insist the other Pakistan/UAE based associates in the ploy through Whatsapp chat/calls to change the containers at Dubai, fabrication of documents etc. with intent to get cleared the subject goods from Customs Mundra under assessment for a much lower and improper rate of Customs Duty by way of mis-classifying and mis-declaring the CTH and country of origin of subject goods. Thus, Shri Deep Chandulal Sitapara had actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and his act rendered the subject goods liable for confiscation under Section 111(m) of Customs Act, 1962. He was knowingly and directly dealing with the subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962. By these acts of commission and omission on his part, Shri Deep Sitapara has rendered himself liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962. He had knowingly and intentionally made/signed/used the import document (Bill of Entry etc.) and caused to make and use the documents such as Certificate of Origin and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore he is also liable to penalty under **Section 114AA** of the Customs Act, 1962.

## 28. ROLE AND CULPABILITY OF SHRI MAULIK ATULBhai SHAH, AHMEDABAD (LIVE IN DUBAI):-

**28.1.** As per the import documents produced by the importer i.e. M/s. Arcus Overseas, Morbi Bills of Entry filed by them at Mundra port in relation to 36 Bills of Entry, they have declared the following companies/firms/entities as suppliers of the subject goods:-

Sr. No.	B/E No.	date	Name of Suppliers
1	8903194	31-05-2022	WORLD BUSINESS TRADING FZC
2	3720006	13-12-2022	ENERGYA PETROCHEM FZE
3	9099225	14-06-2022	K B I RAW MATERIALS TRADING L.L.C.
4	9216544	21-06-2022	RELIANCE IMPEX GENERAL TRADING LLC
5	9316125	28-06-2022	RELIANCE IMPEX GENERAL TRADING LLC
6	9714036	25-07-2022	K B I RAW MATERIALS TRADING L.L.C.
7	3024474	25-10-2022	VERITAS ENERGY LLC
8	3213182	08-11-2022	ENERGYA PETROCHEM FZE
9	3296511	14-11-2022	ENERGYA PETROCHEM FZE
10	2099435	21-08-2022	K B I RAW MATERIALS TRADING L.L.C.
11	2216606	29-08-2022	K B I RAW MATERIALS TRADING L.L.C.
12	2091060	20-08-2022	VERITAS ENERGY LLC
13	3476761	26-11-2022	ENERGYA PETROCHEM FZE
14	3517776	29-11-2022	ENERGYA PETROCHEM FZE
15	3418894	22-11-2022	ENERGYA PETROCHEM FZE
16	3418901	22-11-2022	ENERGYA PETROCHEM FZE
17	4048125	05-01-2023	ENERGYA PETROCHEM FZE
18	4048126	05-01-2023	ENERGYA PETROCHEM FZE
19	4202737	16-01-2023	ENERGYA PETROCHEM FZE
20	4243174	19-01-2023	ENERGYA PETROCHEM FZE
21	4563883	09-02-2023	ENERGYA PETROCHEM FZE
22	5630055	22-04-2023	ENERGYA PETROCHEM FZE
23	5809974	05-05-2023	OSEVEH TRADELINK FZ-LLC
24	6129492	26-05-2023	OSEVEH TRADELINK FZ-LLC
25	6405142	14-06-2023	OSEVEH TRADELINK FZ-LLC

26	6702155	04-07-2023	OSEVEH TRADELINK FZ-LLC
27	6702604	04-07-2023	OSEVEH TRADELINK FZ-LLC
28	6960857	20-07-2023	OSEVEH TRADELINK FZ-LLC
29	7021195	24-07-2023	OSEVEH TRADELINK FZ-LLC
30	7102285	29-07-2023	OSEVEH TRADELINK FZ-LLC
31	7504414	24-08-2023	OSEVEH TRADELINK FZ-LLC
32	8488350	27-10-2023	OSEVEH TRADELINK FZ-LLC
33	8597914	03-11-2023	OSEVEH TRADELINK FZ-LLC
34	8843750	20-11-2023	OSEVEH TRADELINK FZ-LLC
35	9107961	07-12-2023	OSEVEH TRADELINK FZ-LLC
36	9210015	13-12-2023	OSEVEH TRADELINK FZ-LLC

**28.2.** Investigation revealed that the subject goods claimed to have been imported by the importer were actually of Pakistani Origin and the goods were exported from Pakistan by M/s. Pakistan Integrated Stone corporation, M/s Sohail Mineral, M/s Swat Minerals, M/s Bailey Trading co., M/s The stoner Pakistan etc. However, the name of Pakistani supplier for all the consignment imported by the importer M/s. Arcus Overseas and documents submitted to Customs, Mundra are not available. As per documents submitted to customs by importer the overseas suppliers are M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE. As per invoice generated by Pakistani suppliers, buyer name Shri Maulik Atulbhai Shah was mentioned in said documents. It is also evident that Shri Maulik Atulbhai Shah also acted as key person in this case had supplied the subject goods to the importer and received payment thereof on behalf of Dubai based suppliers. It thus appears that the suppliers/consigners declared in the Bills of Entry and other supporting documents, were not the actual suppliers and only documents were prepared in their names. Therefore, the documents supplied and signed by the said declared exporters/suppliers are mis-representing the actual Country of Origin of the goods. All activity related to import from Pakistan to Mundra via Dubai and all documents were managed by Shri Maulik Atulbhai Shah at Dubai. As per invoices, Bill of Lading etc. of Pakistani Suppliers, available in whatsapp Group 'Arcus-Osveh Docs' of Shri Deep Sitapara's Mobile Phone, it appeared that the Shipper/consignor i.e. M/s Sohail Mineral, M/s Swat Minerals, M/s Bailey Trading co., M/s The stoner Pakistan etc, Pakistan had shipped the goods (natural magnesium carbonate/Magnesium Lumps) to M/s OSEVEH TRADELINK FZ-LLC, M/s ENERGYYA PETROCHEM FZE, M/s VERITAS ENERGY LLC, K B I RAW MATERIALS TRADING L.L.C., RELIANCE IMPEX GENERAL TRADING LLC, M/s WORLD BUSINESS TRADING FZC, UAE and consequently the said goods had been imported by Shri Deep Sitapara by way of Cross stuffing at UAE and Cross stuffing were managed by Shri Maulik Atulbhai Shah. During statement of Shri Deep sitapara, he admitted that Shri Maulik Atulbhai Shah had created whatsapp group 'Arcus-Osveh Docs' and Shri Maulik Atulbhai Shah regularly share export related documents/conversations in this group.

**28.3** The Bills of Lading & other evidences gathered by DRI for the route of subject goods from Karachi to Dubai contained the name of other suppliers in Pakistan as shipper which clearly established that the subject goods imported by the importer were originated in and exported from Pakistan. As regards the consignments for which the containers were changed at Jebel Ali Port, Dubai, a number of evidences have been gathered from the mobile phone (Whatsapp Chats and details/documents of actual origin and country of export of subject goods) of Shri Deep Chandulal Sitapara, Partner of the importer M/s. Arcus Overseas, Morbi. These evidences were corroborated and confirmed by Shri Deep Chandulal Sitapara in his statements recorded under Section 108 of Customs Act, 1962. Thus, the subject goods imported by the importer at Mundra Port and the Country of Origin of the same was mis-declared as 'Turkmenistan/Turkey' in the Bill of Entry and other related import documents which was filed at Mundra port. The plot of conspiracy was designed, processed and materialized by using WhatsApp Chats or calls/ email and all activity regarding importation of subject goods from Pakistan were managed by Shri Maulik Atulbhai Shah.

**28.4** From investigation, it appears that the fraudsters Shri Maulik Atulbhai Shah involved in this case used to manipulate the import documents with respect to Country of Origin of subject goods and other material particulars so as to submit the same with Customs Authorities at Customs House, Mundra by importer. From the WhatsApp chat conversations held by Shri Deep Sitapara with the overseas suppliers/key persons i.e Shri Maulik Atulbhai Shah, Ahmedabad (Lived at UAE), it is apparent that this key person used to send fabricated invoice, Bill of Lading, Certificate of Analysis, Certificate of Origin etc. and the said importer submit the such fabricated documents to Customs Mundra. During statement of Shri Deep Chandul Sitapara, he accepted that shri Maulik Atulbhai Shah had managed cross stuffing and further taken extra charges for cross stuffing at UAE. The confessional statement of Shri Deep Chandul Sitapara, Statement of Partners of M/s Arcus Overseas, Morbi, it is clear that the Shri Maulik Atulbhai Shah (key Person), in connivance with the declared consignor and consignee deliberately and wrongly shown splitted route of transportation of the shipment from Karachi, Pakistan to Dubai, UAE and then from Dubai, UAE to Mundra, India to suppress the actual country of origin of goods i.e. Pakistan.

**28.5** From the facts discussed in foregoing paras, it appears that the importer have imported subject goods which had originated in Pakistan and in connivance with key persons Shri Maulik Atulbhai Shah, the declared suppliers and other associates and mis-declared the Country of Origin of the same in the Bills of Entry /import documents in order to evade the differential Customs Duty.

**28.6** During investigation, it is revealed that Shri Maulik Atulbhai Shah had opened a firm M/s JK Tradelink (on the name of his father) for trading of Natural Magnesium carbonate through fake invoice generated. As per statement of Shri Atulbhai Shah (father of Shri Maulik Atulbhai Shah) accepted that he had no idea about firm M/s JK Tradelink and all had been managed by Shri Maulik Atulbhai Shah. From above discussed para regarding email conversation of Pakistani suppliers it is evident that send the email by Pakistani suppliers to Shri Deep Sitapara email address and also to M/s JK Tradelink (Shri Maulik Atulbhai Shah nick name Ravi Kumar) with attachment of documents related to export from Pakistan originated goods i.e Natural Magnesium Carbonate/Magnesium Carbonate Lumps. It appears that Shri Maulik Atulbhai Shah were managed all activity related to export the subject goods from Pakistan.

**28.7** In order to get their version and role in the matter, Summons dated 03.01.2024, 19.01.2024, 09.05.2024 and 18.03.2024 (summons dated 18.03.2024 issued on nick name of Shri Maulik Atulbhai Shah i.e Ravi Kumar) were issued to Key Person Shri Maulik Atulbhai Shah for recording the statement under section 108 of Customs Act, 1962, but he did not appeared for the same. He always submitted through email and by post that M/s J K Tradelink is a proprietorship firm solely owned and operated by his father Shri Atulbhai Jasvantlal Shah. He denied his involvement in the import consignments of M/s Arcus overseas and submitted that he is non resident Indian and currently residing in UAE for several years. During statement, statement of Shri Atulbhai Jasvantlal Shah had been recorded wherein he submitted that the work related to his firm M/s Shri Maulik Atulbhai shah which indicates that Shri Maulik Atul Bhai Shah were knowingly and deliberately involved in the conspiracy of mis-classification, mis-declaration and thereby evasion of Customs Duty in respect of subject goods covered under said 36 Bills of Entry. Thus, Shri Maulik Atulbhai Shah had actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and his act rendered the subject goods liable for confiscation under Section 111(m) of Customs Act, 1962. He was knowingly and deliberately dealing with the subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962. By these acts of commission and omission on his part, Shri Maulik Atulbhai Shah has rendered himself liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962. He had knowingly and intentionally made/signed/used the import document (Invoice, packing list etc.) and caused to make and use the documents such as Certificate of Origin and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore he is also liable to penalty under **Section 114AA** of the Customs Act, 1962.

**28.8.** The said Key person Shri Maulik Atulbhai Shah failed to represent for recording statement In order to get their version and role in the matter, Summons dated 03.01.2024, 19.01.2024, 09.05.2024 and 18.03.2024 (summons dated 18.03.2024 issued on nick name of Shri Maulik Atulbhai Shah i.e Ravi Kumar) were issued to Key Person Shri Maulik Atulbhai Shah for recording the statement under section 108 of Customs Act, 1962, but he was not appeared for the same. By indulging in manipulation of country of origin of subject goods, by way of wrongly showing splitted route of transportation and preparing documents having false particulars, Shri Maulik Atulbhai Shah have mis-led the Customs Authorities as well as the investigation. In absence of specific intelligence and extraction of data secreted in the mobile phone of Shri Deep Chandulal Sitapara, Partner of importer firm M/s. Arcus Overseas, the actual country of origin/export of subject goods could not have been unearthed which have resulted in wrong assessment of import thereby huge loss to Govt. exchequer. Thus, these deliberate acts of commission and omission on the part of these purported suppliers were to defeat the investigation and are in contravention of the provisions of Section 108 of the Customs Act, 1962. Accordingly, Shri Maulik Atulbhai Shah have rendered separately liable to penalty under **Section 117** of Customs Act, 1962 too.

**29. ROLE AND CULPABILITY OF SHRI HARSH KAILA, PARTNER OF M/S ARCUS OVERSEAS, MORBI:-**

**29.1** During investigation, it is evident that Shri Harsh Kaila is an active partner of M/s Arcus Overseas, Morbi. Investigation revealed that to evade 200% customs duty/s Arcus Overseas had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5% with respect to goods originated in or exported from Pakistan, Shri Harsh Kaila, Partner of M/s Arcus Overseas in connivance with suppliers / consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan-India to Pakistan-UAE and UAE-India.

During investigation, Shri Harsh Kaila had admitted that he imported all 36 consignments/Bills of entry of 'Natural Magnesite Carbonate/Natural Magnesium Carbonate in the year 2022 and 2023 from Pakistan originated and mis-declared and mis-classification had been done by M/s Arcus Overseas. By manipulating the containers and/or changing seal numbers with a view to splitting the route of transportation of subject goods for hiding the actual country of origin/export of subject goods, Shri Harsh Kaila has mis-led the Customs Authorities as well as the investigation. Shri Harsh Kaila is active member of whatsapp group 'Arcus-Osveh Docs', in which information had been provided by Pakistani suppliers regarding Pakistan originated subject goods. Shri Harsh Kaila chat on whatsapp Group 'Arcus-Osveh Docs' he had well known regarding all activity of export the subject goods from pakistan and arrived to Mundra via UAE etc. He was also an active member of whatsapp groups "Energyya & Sahama" and "Energyya & Amir Bhai" in which he was in contact with Pakistan based suppliers, and Shri Atulbhai Patel etc. He was party to discussions on import of these goods from Pakistan, Cross stuffing in UAE and then exporting to India.

Shri Harsh Kaila had also created a whatsapp group "Arcus" in which he used to talk to various buyers of Magnesium Carbonate. In the said whatsapp group he used to promote the goods by mentioning that they pertain from Pakistan. This clearly is evidence that he was fully aware that goods pertain to Pakistan and he also used the Pakistan origin of the goods to promote the sale of these goods.

Thus, Shri Harsh Kaila had actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and his act rendered the subject goods liable for confiscation under Section 111(m) of Customs Act, 1962. He was knowingly and directly dealing with the subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962. By these acts of commission and omission on his part, Shri Harsh Kaila, Partner of M/s Arcus Overseas has rendered himself liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962. He had knowingly and intentionally made/signed/used the import document (Bill of Entry etc.) and caused to make and use the documents such as

Certificate of Origin and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore he is also liable to penalty under **Section 114AA** of the Customs Act, 1962.

**30. ROLE AND CULPABILITY OF OTHER PARTNERS OF M/S ARCUS OVERSEAS, MORBI: SHRI SACHIN PATEL, SMT. KETU DIVYA SHERASIYA, SMT. DIMPLE BHORANIA**

During investigation, it is found that Shri Sachin Patel, Smt. Ketu Divya Sherasiya, Smt. Dimple Bhorania are partners too. From the facts discussed in foregoing paras, it appears that the M/s Arcus Overseas, Morbi has imported subject goods which had originated in Pakistan and in connivance with key persons Shri Maulik Atulbhai Shah, the declared suppliers and other associates and mis-declared the Country of Origin of the same in the Bills of Entry /import documents in order to evade the differential Customs Duty. During statement of Shri Sachin Patel, he accepted that being partners of M/s Arcus Overseas, it would be the responsibility of all the partners to deposit the differential customs duty.

Thus, Shri Sachin Patel, Smt. Ketu Divya Sherasiya, Smt. Dimple Bhorania had abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and his act rendered the subject goods liable for confiscation under Section 111(m) of Customs Act, 1962. They were knowingly and deliberately dealing with the subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962. By these acts of commission and omission on his part, Shri Sachin Patel, Smt. Ketu Divya Sherasiya, Smt. Dimple Bhorania rendered themselves separately liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962. They had knowingly and intentionally made/signed/used the import document (Invoice, packing list etc.) and caused to make and use the documents such as Certificate of Origin and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore they are also separately liable to penalty under **Section 114AA** of the Customs Act, 1962.

Summons had been issued to Smt. Ketuben Devya Sherasiya on 22.12.2023 and Smt. Dimple Bhorania on 22.12.2023 u/s 108 of customs act 1962, but both were not present for recording the statement. They had sent evasive, irrational and unsatisfactory reply that they were inactive partners and regarding importation of subject goods to from Pakistan to Mundra, India and showed their unawareness about the same. Thus, these deliberate acts of commission and omission on the part of Smt. Ketuben Devya Sherasiya and Smt. Dimple Bhorania were to defeat the investigation and are in contravention of the provisions of Section 108 of the Customs Act, 1962. Accordingly, Smt. Ketuben Devya Sherasiya and Smt. Dimple Bhorania have rendered themselves separately liable to penalty under **Section 117** of Customs Act, 1962 too.

**31. ROLE AND CULPABILITY OF M/S. LIVRO SHIPPING AGENCY, CONTAINER LINE, GANDHIDHAM AGENT ON BEHALF OF PRINCIPAL CONTAINER LINE M/S. ANCHORAGE SHIPPING LINE:-**

**31.1 M/S. Livro shipping Agency**, was the Container Line who rendered transportation and logistics services to the supplier and importer in respect to the subject goods covered under Bill of Entry No. 9210015 dated 13.12.2023 (Bill of Lading No. ASLJEAMUN115923A dated 12.12.2023), B/E No. 9107961 dated 07.12.2023 (Bill of Lading No. ASLJEAMUN109523 dated 06.12.2023). Investigation revealed that after 16.02.2019 i.e. the date from which 200% BCD was effected in respect of goods originated in or exported from Pakistan, the importer M/s. Arcus Overseas, Morbi had imported these consignments of subject goods from Pakistan mis-declaring the country of origin. For such consignments M/s Livro shipping had played prominent role in manipulation of country of origin of the subject goods and thereby evasion of Customs Duty by way of importation of subject goods from Pakistan through Dubai, UAE. However, in order to hide the Country of origin of goods the Port of loading was shown as Turkmenistan/Turkey and Port of discharge as Mundra, India.

**31.2** Investigation revealed that the importer in connivance with the Container line and the shipper arranged the Bill of Lading in which showing Port of loading as Turkmenistan/ Turkey' and port of discharge as 'Mundra, India'. On the basis of these facts and evidences, it emerged that the importer, in connivance of said container line and others, have mis-declared the goods purportedly showing of originated in Turkmenistan/Turkey origin and evaded the applicable Customs duty by way of mis-classification and Mis-declaration of Country of origin. Further, Shri Deep Chandulal Sitapara in his statement has clearly admitted this fact that the said consignment was originated in Pakistan. These facts are also strengthened and corroborated by the container tracking records (movement of container) available on the website of 'Karachi International Terminal', which shows that said container (with the goods contained therein) was shipped from Pakistan.

**31.3** From above, it appears that M/s. Livro Shipping Agency , Gandhidham, an associate of **M/s. Anchorage Shipping Line, Dubai** were knowingly involved in the conspiracy of mis-classification, mis-declaration and thereby evasion of Customs Duty in respect of subject goods covered under said Bill of Entry. They had abetted the smuggling of subject goods by way of suppressing the actual Country of Origin of the subject goods and thereby rendered the goods liable for confiscation under Section 111(m) of Indian Customs Act, 1962. M/s. Livro shipping agency, an associate of **M/s. Anchorage Shipping Line, Dubai** were deliberately concerned in transporting and dealing with subject goods liable for confiscation which rendered each of them separately liable to penalty each under **Section 112 (a) and 112 (b)** of the Indian Customs Act, 1962.

**31.4** M/s. Livro Shipping Agency , Gandhidham, an associate of **M/s. Anchorage Shipping Line, Dubai** knowingly and intentionally wrongly shown splitted the route of transportation of the shipment from Karachi, Pakistan to Dubai, UAE and then from Dubai, UAE to Mundra, India to suppress the actual country of origin of goods i.e. Pakistan. They had also arranged documentation thereof resulting in caused to make/sign/use Certificate of Origin, Bills of Entry and other related documents which were having incorrect material particulars such as country of origin of subject goods, CTH etc. Thus, the said container M/s. Livro shipping agency , Gandhidham, an associate of **M/s. Anchorage Shipping Line, Dubai** caused to manipulate and falsify the import documents for the subject goods destined for Mundra Port. By doing so, they committed an offence for which they each separately liable to separate penalty under **Section 114AA** of the Indian Customs Act, 1962.

### 32. ROLE AND CULPABILITY OF CUSTOMS BROKERS:-

**32.1** The following Customs Brokers have attended the filing of Bills of Entry on behalf of the importer and thereby clearance of subject goods from Customs Authorities at Mundra port from 2022 to 2023. The list of CHAs, including the total duty evasion in the Bills of Entry cleared through them, is mentioned in below table:-

Sr. No.	Name of CHA	No. of Bills of Entry	Assessable Value	Total Duty
1	Eiffel Logistics Pvt. Ltd.	22	71794360	222275338
2	Tulsidas KhimjiPvt. Ltd.	14	35321227	109354521

Theabove said Customs House Agents had filed the Bills of entry for clearing the goods Natural Magnesium carbonate/Raw magnesium carbonate/Magnesium lumps. They had prepared checklist and before filing of Bill of entry they got it approved from Shri Deep ChandulalSitapara, Partner of M/s Arcus Overseas.

### 33. ROLE AND CULPABILITY OF M/s. Eiffel Logistics Pvt.Ltd.: -

**33.1** As summarized in above Table, M/s. Eiffel Logistics Pvt. Ltd filed 22 Bills of Entry on behalf the importer for clearance of subject goods. During statement of Shri Mahip Shahi, G

card holder of M/s Eiffel Logistics Pvt. Ltd., he stated that he had done clearance work of M/s Arcus Overseas through Shri Mitesh Malastar, Forwarder, M/s Blackfinn Shipping and Logistics and he stated he didn't know about Shri Deep Sitapara and Shri Nishank Bhorania, he received the documents of M/s. Arcus Overseas from email ID of M/s Blackfinn Shipping and Logistics.

**33.2** Shri Mahip Shahi admitted in his statement that they filed Bills of Entry on the basis on invoices provided by the importer through forwarder M/s Blackfinn Shipping and Logistics and they had not verified the details of containers mentioned in the Certificate of origin, and as per documents submitted by M/s Arcus Overseas to his company, the country of Origin of the goods mentioned were Turkmenistan/Turkey, however, he didn't Know actual Country of Origin of the import consignments filed by him. It means M/s Eiffel Logistics Pvt. Ltd. had filed 22 Bills of entry without any verification of actual country of origin and never asked about this to importer and forwarder.

**33.3** Being the experts in Customs Act, it was their duty to point out to the importer about the wrong classification of the import goods. It was also their responsibility to verify from the importer and forwarder that the actual country of origin in respect of subject goods, because he was aware that the applicable rate of Customs Duty on the goods imported from Pakistan was @200% from February, 2019 on every goods.

**33.4** It appears that in this case the CHA M/s Eiffel Logistics Pvt. Ltd. had actively conspired with Shri Deep Chandulal Sitapara and their associates while aiming to manipulate the documents and involved in mis-classification, mis-declaration and thereby evasion of Customs Duty and filed Bills of Entry (B/E) in order to facilitate the clearance of goods through customs with evasion of customs duty. This deliberate collusion resulted in a significant financial loss to Government of India. Such actions not only undermine the integrity of customs procedures but also pose a threat to fair trade practices and the overall regulatory framework. The implications of these actions highlight the importance of stringent oversight and compliance measures within customs administrations to prevent fraudulent activities and uphold fiscal responsibility. Manipulating information in this manner not only compromises the integrity of customs declarations but also undermines the transparency and fairness of the entire importation process.

**33.5** As a Customs House Agent, the responsibility extends beyond merely processing the provided documents; it includes ensuring the accuracy and consistency of the information presented. Failing to seek clarification on discrepancies in product descriptions, especially when tied to the invoices, packing list, country of origin, undermines the agent's role in maintaining the integrity of customs declarations. Apparently, they knowingly had not fulfilled their statutory obligation to verify the same and to intimate the same to the Department. They, therefore had failed to ensure the genuineness of the particulars, details in the Bills of Entry being filed by them. They deliberately did not care to ask the importer in this respect and also did not bring the variation to the notice of the concerned Customs officer, for which they were legally abide by being a licensed Customs Broker and designated entity under the relevant rules under Customs Act, 1962.

**33.6** From the above discussed para, it appears that M/s Eiffel Logistics Pvt. Ltd. was knowingly and deliberately involved in the conspiracy of mis-classification, mis-declaration and thereby evasion of Customs Duty in respect of subject goods covered under said 22 Bills of Entry. Thus, M/s Eiffel Logistics Pvt. Ltd. had actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and abetted the smuggling of subject goods covered under said 22 Bills of Entry by way of mis-declaration of particulars in the Bills of Entry which resulted into suppression of the actual Country of Origin of the goods and thereby rendered the goods liable for confiscation under Section 111(m) of Customs Act, 1962. Thus, M/s. Eiffel Logistics Pvt. Ltd. is liable to penalty under **Section 112 (a)** of the Indian Customs Act, 1962. On the basis of documents supplied by the importer having doubtful/incorrect material particulars, there were reason to believe on the part of M/s. Eiffel

Logistics Pvt. Ltd. that the subject goods were liable to confiscation, even then they remained concerned in dealing with the subject goods with respect to its clearance from Customs, which liable for confiscation under Section 111(m) and therefore the Customs Broker M/s. Eiffel Logistics Pvt. Ltd have rendered themselves also liable to Penalty under **Section 112(b)** of Customs Act, 1962.

#### 34. ROLE AND CULPABILITY OF M/S. TULSIDAS KHIMJI PVT. LTD.:-

**34.1** As summarized in above Table, M/s. Tulsidas Khimji Pvt. Ltd filed 14 Bills of Entry on behalf the importer for clearance of subject goods. During statement of **Shri Chandran Gangadharan Nair**, G card holder of M/s Tulsidas Khimji Pvt. Ltd, he stated that he had done filing of B/E and clearance work of M/s Arcus Overseas since May 2023, and he never physically visited the offices of the said importers. They contacted to their company only phone and email. It means M/s Tulsidas Khimji Pvt. Ltd. had never verified KYC properly of M/s Arcus Overseas, Morbi.

**34.2** Shri Chandran Gangadharan Nair admitted in his statement that they filed Bills of Entry on the basis on invoices provided by the importer and they had not verified the details of containers mentioned in the Certificate of origin, and as per documents submitted by M/s Arcus Overseas to his company, the country of Origin of the goods mentioned were Turkmenistan/Turkey, however, he didn't know actual Country of Origin of the import consignments filed by him. It means M/s Tulsidas Khimji Pvt. Ltd. had filed 14 Bills of entry without any verification of actual country of origin and never asked about this to importer and forwarder. He never verified the details of containers whereas as per container tracking from website of Karachi International Container Terminal Ltd ([www.kict.com](http://www.kict.com)) the containers covered under B/E No. 9107961 dated 07.12.2023 and 9210015 dated 13.12.2023; the containers were shipped from Pakistan and the same containers arrived at Mundra via UAE without any cross stuffing. It appears that M/s Tulsidas Khimji Pvt. Ltd. had filed Bills of entry without verification of actual country of origin of subject goods i.e Pakistan.

**34.3.** Being the experts in Customs Act, it was their duty to point out to the importer about the wrong classification of the import goods. It was also their responsibility to verify from the importer and forwarder that the actual country of origin in respect of subject goods, because he was aware that the applicable rate of Customs Duty on the goods imported from Pakistan was @200% from February, 2019 on every goods.

**34.4** It appears that in this case the CHA M/s Tulsidas Khimji Pvt. Ltd. had actively conspired with Shri Deep ChandulalSitapara and their associates while aiming to manipulate the documents and involved in mis-classification, mis-declaration and thereby evasion of Customs Duty and filed Bills of Entry (B/E) in order to facilitate the clearance of goods through customs with evasion of customs duty. This deliberate collusion resulted in a significant financial loss to Government of India. Such actions not only undermine the integrity of customs procedures but also pose a threat to fair trade practices and the overall regulatory framework. The implications of these actions highlight the importance of stringent oversight and compliance measures within customs administrations to prevent fraudulent activities and uphold fiscal responsibility. Manipulating information in this manner not only compromises the integrity of customs declarations but also undermines the transparency and fairness of the entire importation process.

**34.5** As a Customs House Agent, the responsibility extends beyond merely processing the provided documents; it includes ensuring the accuracy and consistency of the information presented. Failing to seek clarification on discrepancies in product descriptions, especially when tied to the invoices, packing list, country of origin, undermines the agent's role in maintaining the integrity of customs declarations. Apparently, they knowingly had not fulfilled their statutory obligation to verify the same and to intimate the same to the Department. They, therefore had failed to ensure the genuineness of the particulars, details in the Bills of Entry

being filed by them. They deliberately did not care to ask the importer in this respect and also did not bring the variation to the notice of the concerned Customs officer, for which they were legally abide by being a licensed Customs Broker and designated entity under the relevant rules under Customs Act, 1962.

**34.6** From the above discussed para, it appears that M/s Tulsidas Khimji Pvt. Ltd. was knowingly and deliberately involved in the conspiracy of mis-classification, mis-declaration and thereby evasion of Customs Duty in respect of subject goods covered under said 22 Bills of Entry. Thus, Tulsidas Khimji Pvt. Ltd had actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and abetted the smuggling of subject goods covered under said 22 Bills of Entry by way of mis-declaration of particulars in the Bills of Entry which resulted into suppression of the actual Country of Origin of the goods and thereby rendered the goods liable for confiscation under Section 111(m) of Customs Act, 1962. Thus, M/s. Eiffel Logistics Pvt. Ltd. is liable to penalty under **Section 112 (a)** of the Indian Customs Act, 1962. On the basis of documents supplied by the importer having doubtfull/incorrect material particulars, there were reason to believe on the part of M/s. Tulsidas Khimji Pvt. Ltd. that the subject goods were liable to confiscation, even then they remained concerned in dealing with the subject goods with respect to its clearance from Customs, which liable for confiscation under Section 111(m) and therefore the Customs Broker M/s. Tulsidas Khimji Pvt. Ltd have rendered themselves also liable to Penalty under **Section 112(b)** of Customs Act, 1962.

### 35. ROLE AND CULPABILITY OF FORWARDER SHRI MITESH KESHAVJI MALSTAR, MANAGING DIRECTOR OF M/S. BLACKFINN SHIPPING AND LOGISTICS:-

**35.1** Shri Mitesh Keshavji Malstar, Managing Director of M/s. Blackfinn Shipping and Logistics had acted as a forwarder in this case. He had forwarded the work relating to customs clearance to the Customs Broker viz. M/s. Eiffel Logistics Pvt.Ltd. The importer used to send the import documents to Shri Mitesh Keshavji Malstar, Managing Director of M/s. Blackfinn Shipping and Logistics who further used to forward the same to the said Customs Broker for filing of Bills of Entry and they themselves issue consolidated Bills to the importer for collecting various charges including Customs Clearance Agency charges, CFS charges etc. The Customs Broker used to send check list to Shri Mitesh KeshavjiMalstar, Managing Director of M/s. Blackfinn Shipping and Logistics before finalizing the Bills of Entry. Shri Mitesh KeshavjiMalstar, in turn used to forward the check list to the importer and after getting approval from the importer regarding correctness of material particulars in the Bills of Entry, Shri Mitesh KeshavjiMalstar, Managing Director of M/s. Blackfinn Shipping and Logistics used to send their approval for filing Bills of Entry to the respective Customs Broker who accordingly used to file the Bills of Entry. Thus, it appears that Shri Mitesh KeshavjiMalstar, Managing Director of M/s. Blackfinn Shipping and Logistics were also required to correctly check the material particulars of check list for filing the Bills of Entry before approving the check list for finalization/filing of the Bills of Entry in EDI system of Customs.

**35.2** Since Mitesh Keshavji Malstar, Managing Director of M/s. Blackfinn Shipping and Logistics are concerned with respect to 22 Bills of Entry filed by the importer through said Customs Broker, they were also responsible for the discrepancies noticed during investigation in import documents related to 22 Bills of Entry as narrated supra.

**35.3** During statement of Shri Deep Chandulal Sitapara, he accepted that Shri Mitesh bhai consequently got aware with the fact that country of Origin had been mis-declared for these consignments and thereafter apart from the said charges used to take extra money of Rs. 20,000/- per container in cash in lieu of clearance of the same. It appears that Shri Mitesh Keshavji Malstar, Managing Director of M/s. Blackfinn Shipping and Logistics was also involved in mis-declaration of COO and evasion of customs duty.

**35.4** From above, it appears that shri Mitesh Keshavji Malstar Managing Director of M/s. Blackfinn Shipping and Logistics abetted the smuggling of subject goods covered under said 22 Bill of Entry by way of mis-declaration of particulars in the Bill of Entry which resulted into

suppression of the actual Country of Origin of the goods and thereby rendered the goods liable for confiscation under Section 111(m) of Customs Act, 1962. Thus, shri Mitesh Keshavji Malstar Managing Director of M/s. Blackfinn Shipping and Logistics are liable to penalty under **Section 112 (a)** of the Indian Customs Act, 1962. On the basis of documents supplied by the importer having doubtfull/incorrect material particulars, there were reason to believe on their part that the subject goods were liable for confiscation, even then they remained concerned in dealing with the subject goods with respect to its clearance from Customs through the Customs Brokers, which liable for confiscation under Section 111(m) and therefore shri Mitesh KeshavjiMalstar Managing Director of M/s. Blackfinn Shipping and Logistics have rendered himself also liable to Penalty under Section **112(b)** of Customs Act, 1962.

**35.5** In spite of knowing that the supporting documents provided by the importer were having incorrect/doubtful material particulars, by approving the check lists and allowing filing Bills of Entry having incorrect particulars, shri Mitesh KeshavjiMalstar Managing Director of M/s. Blackfinn Shipping and Logistics caused to be made/signed/used of import documents at Mundra port which were false or incorrect in material particular Country of Origin etc. By doing so, shri Mitesh KeshavjiMalstar Managing Director of M/s. Blackfinn Shipping and Logistics is also liable to penalty under **Section 114AA** of the Indian Customs Act, 1962.

### **36. ROLE AND CULPABILITY OF SHRI SHRI BHAGIRATH JAYANTILAL VARMORA, PARTNER OF M/S. M G MICRON, MORBI.**

**36.1** Shri Bhagirath Jayantilal Varmora was a buyer of Pakistan originated goods i.e Natural Magnesium Carbonate/Raw Magnesium Lumps and purchased from M/s Arcus Overseas, Morbi and import activity sharing partner. Shri Bhagirath Jayantilal Varmora had participated in importation of subject goods from Pakistan originated. Thus, the subject goods imported by the importer at Mundra Port and the Country of Origin of the same was mis-declared as 'Turkmenistan/Turkey' in the Bill of Entry and other related import documents which was filed at Mundra port. The plot of conspiracy was designed, processed and materialized by using WhatsApp Chats or calls/ email and all activity regarding importation of subject goods from Pakistan were participated by Shri Bhagirath Jayantilal Varmora.

**36.2** During investigation, it is clear that Shri Bhagirath Jayantilal Varmora was an active member of whatsapp group (Energyya& Amir Bhai). As per WhatsApp chatting on this group it is revealed that natural magneisum carbonate were exported from Pakistan and goods received in India via UAE and informations were shared on this whatsapp group. It is evident that he was well aware with actual origin of goods as Pakistan as the invoices, B/Ls and other documents were being shared in the said group. Shri Bhagirath Jayantilal varmora was handled email Id bhagirath.varmora@gmail.com. and informations shared regarding exportation of subject goods from Pakistan to India on this email ID by suppliers of Pakistan. It is evident that he was well aware with actual origin of goods as Pakistan. Shri Maulik Shah used to copy email conversations to Shri Bhagirath Jayantilal Varmoraon said email. Shri Maulik Shah informed him various charges on import goods such as Cross stuffing of Pakistani Goods at UAE, Charges for preparation of documents of Turkmenistan origin etc. It is clear that Shri Bhagirath Jayantilal Varmora, Partner of M/s M G Micron in connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

**36.3** From above, it appears that Shri Bhagirath Jayantilal Varmora, Partner of M/s M G Micron abetted the smuggling of subject goods by way of participation of mis-declaration of particulars in the documents which resulted into suppression of the actual Country of Origin of the goods and thereby rendered the goods liable for confiscation under Section 111(m) of Customs Act, 1962. Thus, Bhagirath Jayantilal Varmora, Partner of M/s M G Micron are liable to penalty under **Section 112 (a)** of the Indian Customs Act, 1962. On the basis of documents supplied by the importer having doubtfull/incorrect material particulars, there were reason to believe on their part that the subject goods were liable for confiscation, even then they remained concerned in dealing with the subject goods with respect to its clearance from

Customs by importer, which liable for confiscation under Section 111(m) and therefore Bhagirath Jayantilal Varmora, Partner of M/s M G Micron have rendered himself also liable to Penalty under **Section 112(b)** of Customs Act, 1962.

**36.4** Shri Bhagirath Jayantilal Varmora used to import these goods earlier in name of his own firm. However, later on he started purchasing these goods from M/s Arcus Overseas which was importing these from Pakistan. But evidences indicate that Shri Bhagirath Jayantilal Varmora was active in the whatsapp group "Energyya & Amir Bhai" and actively communicating with the suppliers of Pakistan. Shri Maulik Shah was also copying the email communications to him regarding exportation of subject goods from Pakistan to India. It appears that Shri Bhagirath Jayantilal Varmora instead of directly importing from Pakistan had used the firm M/s Arcus Overseas to get these materials from Pakistan. He has clear direct or undirect influence on importation of goods by filing wrong country of origin by M/s Arcus Overseas and thus has rendered himself liable to penalty under **Sec 114AA** of Customs Act.

### 37. ROLE AND CULPABILITY OF SHRI ATULBHAJ SHAH, PROPERITOR OF M/S J K TRADELINK, AHMEDABAD.

**37.1** Shri Atulbhai Shah is the proprietor of M/s J K Tradelink, Ahmedabad who was buyer of Pakistan originated goods i.e Natural Magnesium Carbonate/Raw Magnesium Lumps and purchased from M/s Arcus Overseas, Morbi and import activity sharing partner through email. It is evident that M/s J K Tradelink was well aware with actual origin of goods as Pakistan as the invoices, B/Ls and other documents were being shared on email [info@jktradelink.in](mailto:info@jktradelink.in) / [export@jktradelink.in](mailto:export@jktradelink.in) by Pakistani suppliers. A copy of an excel sheet had been recovered from the email ID/Mobile's of Deep Chandulal Sitapara, Morbi which was related to Magnesium Actual Costing and mentioned the commission of M/s J K Tradelink, related to importation of subject goods from Pakistan. It is clear that Shri Atulbhai Shah, Properitor of M/s J K Tradelink has involved to export the subject goods from Pakistan and for this act he has taken commission on the splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India. Shri Atulbhai Shah in connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

**37.2** From above, it appears that Shri Atulbhai Shah, proprietor of M/s J K Tradelink abetted the smuggling of subject goods by way of participation of mis-declaration of particulars in the documents which resulted into suppression of the actual Country of Origin of the goods and thereby rendered the goods liable for confiscation under Section 111(m) of Customs Act, 1962. Thus, Shri Atulbhai Shah, proprietor of M/s J K Tradelink is liable to penalty under Section **112 (a)** of the Indian Customs Act, 1962. On the basis of documents supplied by the importer having doubtful/incorrect material particulars, there were reason to believe on their part that the subject goods were liable for confiscation, even then they remained concerned in dealing with the subject goods with respect to its clearance from Customs by importer, which are liable for confiscation under Section 111(m) and therefore Shri Atulbhai Shah, proprietor of M/s J K Tradelink have rendered himself also liable to Penalty under Section **112(b)** of Customs Act, 1962.

### 38. ROLE AND CULPABILITY OF SHRI SHERASHIYA DIVYA RAMESHBHAI, MARKETING MANAGER OF M/S. ARCUS OVERSEAS

**38.1** During investigation, it is evident that Shri Sherashiya Divya Rameshbhai is an active member of M/s Arcus Overseas, Morbi and he is marketing Manager of this firm. Investigation revealed that to evade 200% customs duty, M/s Arcus Overseas had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5% with respect to goods originated in or exported from Pakistan, Shri Sherashiya Divy Rameshbhai, Marketing Manager of M/s. Arcus Overseas in connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject

goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

**38.2** Shri Sherashiya Divy Rameshbhai was a member of whatsapp group "Energyya& Amir Bhai" and "Energyya& Sahama", in which information had been provided by Pakistani suppliers regarding Pakistan originated subject goods. In these groups all planning of export from Pakistan, cross stuffing in UAE and then export to India was taking place. It appears that Shri Sherashiya Divy Rameshbhai was active in planning and executing activities of export the subject goods from Pakistan and arrival to Mundra via UAE etc. He was member of whatsapp group "Arcus" in which he and Shri Harsh Kaila used to talk to various buyers of Magnesium Carbonate. In the said whatsapp group they promoted the goods by mentioning that they pertain to Pakistan. This clearly is evidence that he was fully aware that goods pertain to Pakistan and he also used the Pakistan origin of the goods to promote the sale of these goods.

**38.3** Thus, Sherashiya Divy Rameshbhai had actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and his act rendered the subject goods liable for confiscation under Section 111(m) of Customs Act, 1962. He was knowingly and directly dealing with the subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962. By these acts of commission and omission on his part, Shri Sherashiya Divy Rameshbhai, Marketing Director of M/s Arcus Overseas has rendered himself liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962.

**38.4** He has clear direct or undirect influence on importation of goods by filing wrong country of origin by M/s Arcus Overseas. He had knowingly and intentionally participated to made/signed/used the import documents (Bill of Entry etc.) and caused to make and use the documents such as Certificate of Origin and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore he is also liable to penalty under **Section 114AA** of the Customs Act, 1962.

### **39. SHRI NISHANK BHORANIA, PARTNER OF M/S VALUCE GLAZE**

**39.1** During investigation, it is evident that Shri Nishank Bhoraniya has played role as middle man for importation of M/s Arcus Overseas, Morbi and he was well known to Shri Maulik Shah. During statement of Shri Deep Sitapara he accepted that Shri Nishank Bhorania played very important role in respect of his importation of subject goods from Pakistan. All activity of importation in respect of M/s Arcus overseas from Pakistan to Mundra via Dubai shared through medium of email and whatsapp chat etc., it is reveled that it was Nishank who introduced Shri Deep Sitapara to Key person i.e Shri Maulik Shah via mobile and support him to make a mis-declaration because Nishank's firm had already been importing from 6-7 years ago. Investigation revealed that to evade 200% customs duty, M/s Arcus Overseas had mis-declared the COO as Turkmenistan and Turkey and paid the Customs duty at the rate of 5% with respect to goods originated in or exported from Pakistan, and Shri Nishank Bhoraniyain connivance with suppliers /consignees and their associates hatched the conspiracy of manipulating the country of origin/export of subject goods by way of wrongly and advertently splitting the route of transportation of subject goods from Pakistan- India to Pakistan-UAE and UAE-India.

**39.2** Shri Nishank Bhoraniyawas also members of whatsapp group like as "Arcus", "Energyya& Amir Bhai" and "Energyya& Sahama", in which information had been sharedrelatedtoimportation by key person/Pakistani suppliers etc. regarding Pakistan originated subject goods. It appeared that Shri Nishank Bhoraniyahad well known regarding all activities of export the subject goods from Pakistan and arrived to Mundra via UAE etc. Thus, Nishank Bhoraniyahad actively abetted the evasion of Customs Duty and contravention of the provisions of Customs Act, 1962 and his act rendered the subject goods liable for confiscation under Section 111(m) of Customs Act, 1962. He was knowingly and directly dealing with the subject goods which were liable to confiscation under Section 111(m) of Customs Act, 1962. By these acts of commission and omission on his part, Shri Nishank

Bhoraniyahas rendered himself liable to penalty under **Section 112 (a) and 112(b)** of the Customs Act, 1962. He had knowingly and intentionally participated to made/signed/used the import documents (Bill of Entry etc.) and caused to make and use the documents such as Certificate of Origin and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore he is also liable to penalty under **Section 114AA** of the Customs Act, 1962.

#### **40. SHRI HARDIK SHAH, EMPLOYEE OF M/S TULSIDAS KHIMJI PVT. LTD**

Firm Arcus overseas, MaulikAtulbhai Shah and Shri Deep Sitapara was introduced to CHA Firms M/s TulsidasKhimji Pvt. Ltd by Shri Hardik Shah. He did not appear for recording statements at DRI. It appears that by such acts and omissions he has rendered himself liable to penalty under **Section 117** of Customs Act, 1962.

**41.** Based on the above investigation and facts of the case, **M/s. Arcus Overseas**, was called upon to show cause as to why:-

- (i) The **11295.16 MT** import goods valued at **Rs.10,71,15,588/-** as covered in said 36 Bills of Entry, should not be classified under CTH 98060000 of Customs Tariff Act, 1975 and the declared classification of the import goods under CTH 25191000, 25199090 should not be rejected.
- (ii) The differential customs duty totally amounting to **Rs. 32,00,88,143/- (Rupees Thirty-two Crore eighty-eight thousand one hundred and forty three only)** on the import of **11295.16MT** covered under above mentioned 36 Bills of Entry of Raw Magnesium Lumps / Raw Magnesite Lumps/ Natural Magnesium Carbonate Lumps etc., should not be demanded and recovered from them in terms of Section 28 (4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962.
- (iii) The **11,295.16 MT** import goods valued at **Rs.10,71,15,588/-** as covered in said Bills of Entry, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962. However, out of these only **177.500 MT of goods** valued at **Rs 14,70,079/-** found lying at premises of the importer are available for confiscation.
- (iv) Penalty should not be imposed on them under Section 114A, 114AA and Section 117 of the Customs Act, 1962, as per discussion in the paras supra.

**42.** Apart from that, based on the above investigation and facts of the case, the following further persons/companies/firms/concerns as appearing in **Column (2)** of the following table, were called upon to show cause in writing individually and separately as to why Penalty should not be imposed on each of them separately and individually in terms of the provisions of Customs Act, 1962 as mentioned below (as appearing at **Column 3 to 6** of the table):-

S.No.	Name (S/Shri/Ms/Smt/ M/s)	Penal provisions under the mentioned Sections of the Customs Act, 1962			
(1)	(2)	(3)	(4)	(5)	(6)
1	Shri Deep Chandulal Sitapara	112(a)	112(b)	114AA	
2	Shri Maulik Atulbhai Shah	112(a)	112(b)	114AA	117
3	Shri Harsh Kaila	112(a)	112(b)	114AA	
4	Shri Sachin Patel	112(a)	112(b)	114AA	
5	Smt. Ketu Ben Sherasiya	112(a)	112(b)	114AA	117
6	Smt. Dimple Ben Bhoraniya	112(a)	112(b)	114AA	117
7	M/s Livro shipping	112(a)	112(b)	114AA	
8	M/s Eiffel Logistics	112(a)	112(b)		
9	M/s Tulsidas Khimji Pvt. Ltd.	112(a)	112(b)		
10	Shri Mitesh Keshavji Malstar	112(a)	112(b)	114AA	

11	Shri Bhagirath Jayantilal Varmora	112(a)	112(b)	114AA	
12	Shri Atul Jaswantlal Shah, Properitor of M/s JK Tradelink	112(a)	112(b)		
13	Shri Divya Rameshbhai Sherasiya	112(a)	112(b)	114AA	
14	Shri Nishank Bhoraniya	112(a)	112(b)	114AA	
15	Shri Hardik Shah	-	-	-	117

### 43. WRITTEN SUBMISSION:-

**43.1** M/s Arcus Overseas, Shri Deep Sitapara, Shri Harsh Kaila, Shri Sachin Patel, Smt. Ketuben Sherasiya, Smt. Dimpleben Bhoraniya, Shri Divy Sherasiya and Shri Nishank Bhoraniya, all vide letter dated 23.01.2025 filed written submission. Their point wise submission are as under:

1. That the SCN is issued based on assumptions and presumptions. The entire case is primarily based on statements recorded under pressure during the course of investigation and print out of the data received from Whatsapp Chat. No Specific primary evidence/corroborative evidence has been produced by department to establish the goods are originated from Pakistan: The Noticee has submitted that the impugned SCN is based on inadmissible evidence, assumptions and presumptions and is not, therefore, sustainable. Reliance in this regard is placed on the judgments in Oudh Sugar Mills Ltd- 1978(2) E.L.T. J172 (S.C.) and Universal Polythelene Inds-2001 (130) E.L.T. 228 (Tri). The Noticee has requested for cross examination of Shri Deep Sitapara, Shri Harsh Amrutbhai Kalia, Shri Sachin Vinodrai Patel, Shri Yuvrai Jadeja, Shri Mitesh Malstar, Shri Divy Rameshbhai Sherasiya. The Noticee has further submitted that the department has not proved the origin of goods by proving any cogent evidence. The only basis of whole case is whatsapp chats, emails and couple of proforma invoices of Pakistan supplier. On this ground alone. The impugned SCN is liable to be dropped.
2. That the confessional statements not reliable as same were recorded under threat and coercion: The noticee has submitted that SCN has made allegations against the noticee based on statements of various persons. It is submitted that statements were recorded under force and coercion. Thus, confessional statements cannot be relied upon in the present case. In this regards, the noticee has placed reliance upon the following decisions:
  - Manidipa Debroy Chowdhury Vs. Commissioner-2020(374) E.L.T. 133 (Tri-Kolkata)
  - Hissar Pipes Pvt Ltd Vs. Commissioner of C.Ex. Rohtak, 2015 (317) E.L.T. 136 (Tri-Del)
  - CC Lucknow Vs Shakil Ahmad Khan-2019 (366) E.L.T. 634 (All)
  - K.Babu Rao and Others vs. Collector of Customs, 1986 (26) ELT 766
  - Asst CC, Bombay Vs Hasanali Rumi-2020 (372) E.L.T. 527 (Bom.)

The noticee has further submitted that a confessional statement of a co-accused cannot by itself be taken as a substantive piece of evidence against another co-accused and can at best be used or utilized in order to lend assurance to the Court. In the absence of any substantive evidence it would be inappropriate to base the conviction of the appellant purely the statements of co-accused.

3. That no reliance could be placed on the statement of a co-accused:

The noticee has submitted that the department has heavily placed reliance on the statements of the co-noticees of the case. Investigation has not been carried out in totality to prove import of goods from Pakistan and not Turkistan and Turkey. The Noticee has further submitted that the in the SCN, reliance is placed on statements of co-accused/person i.e. Shri Deep Sitapra, Shri Harsh Amrutbhai Kalia, Shri Sachin Vinodrai Patel, Shri Yuvrai Jadeja, Shri Mitesh Malstar and Shri Divy Rameshbhai

Sherasiya. The noticee has further submitted that the officers did not take extra efforts to actually prove alleged import of goods from Pakistan during the disputed period. The noticee has further alleged that the Show Cause Notice and investigation is silent on many prime issues which needs legal attention to impose any duty or penalty upon the noticee or co-noticees. The Noticee has placed reliance upon the below mentioned case laws/judgements:

- Superintendent of Customs vs Bhanabhai Khalpabhai Patel [1995 (75) E.L.T. 508 (S.C.)]
- Haroom Haji Vs. State of Maharashtra AIR 1968 SC 832.
- Haricharan Kurmi Vs. State of Bihar AIR 1964 SC 1184
- M Shrishali Nageshi Vs. State of Maharashtra AIR 1985 SC 866
- Commissioner of Customs (Prev.), W. Bengal, Calcutta v. Shri Ranjit Ghosh Alias Rana Ghosh reported in 1998 (104) E.L.T. 349(T)=1998(24)RLT 156
- Ravi Garg v C.C., New Delhi [1996(86) E.L.T. 357(T)]
- Jaswinder Singh v. C.C., New Delhi [1996(83)E.L.T.175(T)]
- Jai Narain Verma v. C.C., New Delhi [1995(76)E.L.T. 421(T)]
- Jagmohan Singh Sawhney vs. C.C., Delhi [1995(75)E.L.T. 350(T)]
- Jiban Kundu v. C.C. (Prev), Calcutta [1994(69) E.L.T. 137(T)]
- Akbar Badruddin Jiwani v. C.C. [1990(47)E.L.T. 161(S.C.)]
- K. Moiddeen v. C.C. [2000(117)E.L.T. 56(Tribunal)=1999 (32) RLT 428 (Tribunal) and
- C.C. v. United Informatics [1999(35)RLT 500]

4. Reliance placed by the SCN on the statements recorded during the course of investigation is in violation of Section 138B of the Customs Act. Opportunity of cross examination may be granted to the noticee: The Noticee has submitted that the allegations made by the Lt. Pr Commissioner in the impugned SCN by relying upon the statements discussed supra are not tenable unless supported by evidence other than the statement itself and unless the same are cross examined in terms of section 138B of the Customs Act. The noticee has also submitted that provisions of Section 9D of Central Excise Act, 1944 stipulating cross-examination and examination -in-chief of the witnesses are pari materia to the provisions of Section 138B of Customs Act, 1962. The noticee has placed reliance upon the following decisions/case laws:

- Basudev Garg v. Commissioner-2013 (294) E.L.T. 353 (Del.)
- CCE, Delhi-1 v. Kuber Tobacco India Limited-2016 (338) ELT 0113 (Tri. Del.)
- Jindal Drugs Pvt Ltd v. Union of India-2016 (340) ELT 67 (P&H)

The said noticee has further submitted that in the present case, the exemption from following procedure would not be invokable since the same only applies where the person who made the statement is dead or cannot be found or is incapable of giving evidence or is kept out of the way by an adverse party or whose presence cannot be obtained without an amount of delay or expense which the court considers unreasonable. The Noticee has further submitted that all the persons whose statements have been relied upon in the present case are available. Therefore, in absence of examination of such witnesses whose statements are relied upon in the SCN, the said statements cannot be relied upon as evidence to confirm any demand against the Noticee. Reliance is also placed upon the judgment of the Hon'ble Tribunal in the case of Thar Dry Port v. Commissioner of Customs, Jodhpur-2017(358)ELT 1214 (Tri. Del.)

*\*12. At the time of fresh adjudication it is necessary for the original authority to provide opportunity for the noticees to present their side of the case. We note that the cross-examination sought for by the appellants have not been accepted by the original authority on the ground that the same is not a fundamental right. We note that it is a well settled legal principle that the cross-examination of witnesses whose statements are admitted as*

evidence has to be considered in terms of Section 138B of the Customs Act. The said provisions are identical to the provisions of Section 9D of the Central Excise Act, 1944"

The said noticee has also referred to the below case laws:

- J&K Cigarettes Ltd v. Collector of Central Excise-2009 (242) ELT 189 (Del.)
- M/s Dhakad Metal Corporation v. CCE &ST, Daman-2015 (330) ELT 561 (Tri. Ahd.)
- Adnaman Timber Industries v. Commissioner of Central Excise, Kolkata (2016) 16 SCC 785=2015 (324) E.L.T. 641 (S.C.)=2017(50)S.T.R. 93(SC)
- M/s Kanungo and Co. v Collector of Customs, Calcutta, 1973 KHC 589: (1973)2SCC 438=1983(13)E.L.T. 1486 (S.C.)

Based on the above submissions and judgments, the noticee has requested to cross examine the following persons

- Shri Harsh Kaila
- Shri Patel Sachin Vinodrai
- Shri Yuvrai Jadeja
- Shri Mitesh Malstar

5. That the Department has not established Country of Origin (COO) is Pakistan and not Turkmenistan and Turkey: The Noticee has submitted that the goods imported by the Noticee are of Pakistan Origin and no means have proved that the goods are of Pakistan Origin. The Noticee has placed reliance on the following judgments/case laws:

- Dr Soneta & Sons, Vishal K Agarwal, ved Dutt Prem Prakash Ahuja Versus Commissioner of Customs (General & CFS Mulund), 2023 (4) TMI783-CESTAT Mumbai.

The Noticee has further submitted that the department has not extended its research to the alleged Pakistan supplier so as to confirm the allegation levelled against the Noticee, that the goods are of Pakistan Origin. The Noticee has referred to the following cases:

- Amglo Resources Pvt Ltd Stish Amlani and Vishal Amlani versus Commissioner of Customs, Ahmedabad 024(3) TMI 360-CESTAT AHMEDABAD.
- Agarwal Industrial Corporation Ltd vs. Commr. Of Cus. Mangalore reported in 2020 (373) ELT 280 (Tri Bang)

6. That Print outs obtained from Whatsapp and mobile seized cannot be relied upon to demand duty or to impose penalty in absence of other corroborative evidence: The Noticee has submitted that impugned SCN has erred in relying upon data printed from such Whatsapp chat as the same cannot be considered as reliable or cogent evidence. The Noticee has placed reliance upon the following judgements:

- Belgium Glass & Ceramics Pvt Ltd vs. CCE, Vadodara-I [CESTAT Final Order No. A/10543-10545/2015 dated 12.05.2015]
- Century Metal Recycling Pvt Ltd v CCE, Delhi-IV [201(333) ELT 483 (Tri-Del.)]
- Sakeen Alloys Pvt Ltd vs. CCE, Ahmedabad [2013 (296)ELT 392 (Tri. Ahd.)]
- Commissioner vs. Belgium Glass & Ceramics Pvt Ltd-2016 (337) ELT A204 (SC)
- Principal Commissioner of CGST & Central Excise Vs Shah Foils-2020(372) E.L.T. 632 (Guj)

7. That Panchnama was not drawn by gazetted officer: The Noticee has submitted that according to para 1(a) of Notification No. 11-Cus, dated 31-01-1970 of the Customs, a gazetted officer of the central government was authorized under section 105 of the act

to search the premise under the specified condition. The Noticee has further submitted that in the present case Panchanama were not drawn by gazetted officer. Thus, same cannot be relied upon.

8. That Extended period is not invocable in the present case, as noticee was under Bonafide belief that imported goods are not of Pakistan origin. None of the evidence relied upon by the department shows that noticee was aware about the origin of the goods. Thus demand is barred by limitation to the extent and section 28(4) of the Customs Act.
9. Whatsapp Chat is not reliable evidence under Section 65B of evidence Act is not satisfied in the present case: The Noticee has submitted that whatsapp chat does not pertain to the noticee as requirement of section 65B of the Evidence Act is not satisfied in the present case. Thus printout of whatsapp chat cannot be relied upon as evidence in the present case.
10. That Email communications cannot be relied upon against the noticees: The Noticee has submitted that email cannot be relied in the present case as condition of Section 65 of the Evidence Act is not satisfied in the present case. The noticee has referred to the following case laws:
  - Modern Laboratories v. Commissioner-2017 (358) E.L.T. 1179 (Tribunal)
11. That print outs obtained from Mobile cannot be relied upon to demand duty or to impose penalty in absence of other corroborative evidence: The Noticee has submitted that the aforementioned statements relied upon in the impugned SCN are obtained by the department after showing to the individuals printed chats from WhatsApp seized from Mobile of Noticee. The Noticee has further submitted that the impugned SCN has erred in relying upon data printed from WhatsApp chat as the same cannot be considered as reliable or cogent evidence. The noticee has relied upon the following case laws:
  - Belgium Glass & Ceramics Pvt Ltd v. CCE, Vadodara-1 [CESTAT Final Order No. A/10543-10545/2015 dated 12.05.2015]
  - Century Metal Recycling Pvt Ltd vs. CCE, Delhi-IV [2016(333) ELT 483 (Tri-Del.)]
  - Sakeen Alloys Pvt Ltd v CCE Ahmedabad [2013 (296) ELT 392 (Tri. Ahd)]
  - Commissioner v. Belgium Glass & Ceramics Pvt Ltd-2016 (337) ELT A204 (SC)
  - Principal Commissioner of CGST & Central Excise vs. Shah Foils-2020 (372) E.L.T. 632 (Guj.)
12. That Cross Examination of Panchas are required to be allowed: The Noticee has submitted that they seek cross examination of various panchas who were present during course of search and panchnamas & the noticee has referred to the case law of Arya Abhushan Bhandar vs Union of India-2002 (143) E.L.T. 25(SC)
13. That No mis-representation or suppression of facts has been resorted to by the Noticees: The Noticee has submitted that they have not mis-represented any facts nor has suppressed any fact before the customs authorities at the time of importation or at any point of time and referred to the following case laws:
  - M/s Aban Lyod Offshore Ltd vs. Commissioner of Customs, 2006 (200) ELT 370(SC)
  - M/s Granite India Limited vs. Collector, Central Excise, Coimbatore, 93 ELT84 (Tri-Mad.)
  - Maruti Udyog Ltd vs. Commissioner of C.Ex, Delhi, 2002 (147) E.L.T. 881 (Tri. Del.)

The Noticee has further submitted that in order to invoke the extended period of limitation, it is necessary to prove an act or omission on the part of the Noticee equivalent to collusion or willfull misrepresentation or suppression of facts. The assessee must effectively mis-declare or suppress facts to evade customs duty. The Noticee has further submitted that declarations have been made by the Noticee in the Bills of Entry. All the

Material information pertaining to the goods in question was submitted to and was available at all times with the officers of the department and the Noticee has referred to the following case laws:

- Densons Pultretaknik v CCE 2003 (155) ELT 211(SC)
- CC, Amritsar v Jyoti Industries Ltd, 2005 (188) ELT 88(Tri-Del.)
- CC, Amritsar vs Jyoti Industries 2007 (209) ELT 180 (P& H)

The Noticee has further submitted that in the instant case, all the primary facts have been disclosed before customs authorities. When all facts had been disclosed to the true knowledge of the Noticee, then the allegation that the Noticees have suppressed or misrepresentative any fact is incorrect.

**14.** That goods are not liable for confiscation: The Noticee has submitted that goods are not liable for confiscation in the present case for the reasons mentioned in the above paras of reply to SCN. For ease of reference relevant part of section 111 of the Customs Act is extracted and re-produced as under:

*SECTION 111. Confiscation of improperly imported goods, etc. — The following goods brought from a place outside India shall be liable to confiscation:*

*(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;*

The Noticee has further submitted that Section 111 of the Customs Act, 1962 provides for liability for confiscation of the improperly imported goods. It is therefore, submitted that once the goods are cleared for home consumption under Section 47 of the Customs Act, 1962, the same cannot be said to be improperly imported goods. Hence, Section 111 of the Customs Act, 1962 cannot be invoked for goods already cleared. The Noticee has referred to the below case law:

- Bussa Overseas & Properties Vs. C.L. Mahar, ACC-2004 (163) ELT 304 (Bom).

The Noticee has further submitted that Section 111(m) of the Customs Act, is not applicable in the present case. The Noticee has submitted that Section 111(m) of Customs Act provide only for goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54 of the Act. The Noticee has submitted that the whole case is based on assumptions and presumptions as per above paras to reply. Thus, goods are not liable for confiscation.

**15.** That Penalty is not imposable in the present case: The Noticee has submitted that penalty is not imposable upon them under Section 114A and 114AA of the Customs Act and has referred to the following case laws:

- Pradip Kr. v. Commissioner — 2000 (117) E.L.T. 383 (Tribunal)
- Superintendent of Customs vs Bhanabhai Khalbhai Patel [1995 (75) E.L.T. 508(SC)]
- Commissioner of Customs (Prev.), W. Bengal, Calcutta vs Shri Ranjit Ghosh Alias Rana Ghosh reported in 1998(104) E.L.T. 349 (T)=1998 (24) RLT 156

**16.** That no penalty is imposable under Section 114A on the noticees: The Noticee has submitted that the condition for imposing penalty under Section 114A are the same as that for suppression of facts with intent to evade payment of duty. The Noticee has further submitted that for the reason stated in the impugned SCN, penalty under Section 114A of the Customs Act, is not imposable.

**17.** That penalty under section 114AA is not imposable: The Noticee has submitted that they have not made any incorrect statements or signed or submitted any fraudulent documents in the entire matter. In fact, there is no such allegation in the SCN. The Noticee has further submitted that under Section 114AA of the Act can be imposed only when the duty has not been paid by the due to use of false and incorrect documents or statement has been made by the Noticee in the matter in order to evade payment of duty. The Noticee has further submitted that the duty has already been paid along with the interest. The Noticee has further submitted that there is no denial of same in the SCN and therefore no penalty, can be imposed on the Noticee under Section 114AA of the Act. The said Noticee has also referred to the following judgment:

- Hindustan Steel Ltd Vs. The State of Orissa, 1969(2) SCC 627.

**18.** That penalty under section 117 of the Customs Act is not impossible in the present case, section 117 of the Customs Act provides for penalty only if penalty under other sections of customs act is not imposable. The Noticee has further submitted that since penalty under Section 114A and 114AA of Customs Act is already imposed, penalty under Section 117 is not imposable.

**19.** That proceedings initiated under Show Cause Notice dated 11.12.2024 should be dropped and the said SCN must be discharged forthwith with consequential relief to the Noticees.

**43.2** Shri Maulikkumar Atulbhai Shah, Noticee No. 3, vide reply dated 26.10.2025, has inter-alia, submitted:

1. That the reference within the SCN to WhatsApp group communications is deeply misplaced and misconceived. The mere existence of digital conversations for the purposes of coordinating shipments, managing logistics, and executing commercial transactions is standard international business practice. That No single message or exchange, taken in isolation or in aggregate, can be construed as direct evidence of knowledge or intention to contravene customs law. Cross-referencing of shipment details, bills, and third-party confirmations through such channels was carried out in furtherance of logistical efficiency, and not in furtherance of any unlawful scheme.

2. That the procedural requirement to facilitate international business and does not by any stretch of law or fact signal acknowledgment or involvement in any customs infraction. The documents presented to the Ras Al Khaimah Economic Zone and other authorities were accurate, bona fide, and statutorily mandated. There is no evidence to suggest that such declarations were false, misleading, or used for any illicit end.

3. That the SCN alleges that the noticee managed the invoices and payment arrangements for imported consignments, including storage and mixing of imported and locally procured goods. The noticee submits that his role was confined to logistical support, handling documents submitted by vendors, and ensuring timely facilitation of customs processes. The details of goods storage, localprocurement, and mixing were dictated solely by operational exigencies and market conditions. No act or omission on part of the noticee was designed, executed, or intended to vitiate customs procedure or facilitate duty evasion. All dealings were supported by regular invoices, ledgers, and payment receipts as annexed herein.

4. That the noticee has always relied on original commercial documents issued by exporters, independent logistic companies, and statutory authorities. Any inadvertent discrepancy or error in declaration is exclusively attributable to the third parties generating such documentation and cannot be imputed as abetment or conscious wrongdoing by the noticee.

5. That the present Noticee moved a reply dated 16/01/2024 to the department with regard to the above-mentioned summons dated 03/01/2024 that the noticee resides in the

United Arab Emirates and there are constraints on his part to travel to India for the limited purposes of inquiry and due to that the petitioner made a request to the Respondent agency that the petitioner may be permitted to appear through video conferencing in the interest of justice.

6. That department sent another summons dated 19/01/2024 and sought the presence of the present petitioner for inquiry on 06/02/2024. The Noticee again made a reply dated 07/02/2024 and requested the Respondent agency that the Noticee may be permitted to appear through video conferencing as to having difficulties traveling to India from the United Arab Emirates for the purpose of the inquiry. The Department once again sent one summon dated 18/03/2024, this time in the pet name of the present Noticee that too without responding to the earlier replies submitted by the noticee. The reply was again submitted to the department agency vide letter dated 02/04/2024 with a similar request.

7. That the foundational legal principle for imposition of penalty under Sections 112(a) and 112(b) of the Customs Act, 1962 is the requirement of mens rea, ie., the existence of knowledge, intention, or abetment. Reliance is placed on the jurisprudence of *Rajeev Khatri v. Commissioner of Customs Export* (Delhi High Court), *Amritlakshmi Machine Works v. Commr. of Cus. Import* (Bombay High Court), and *Ajay Sarawagi v. Commissioner of Customs Preventive* (CESTAT Kolkata), which unequivocally hold that abetment and knowledge must be shown through cogent material, not mere inference or circumstantial proximity.

8. That there is no direct evidence, documentary or oral, that the noticee possessed, owned, or controlled goods adjudged as liable to confiscation. No proceeds from customs infraction were received or handled by the noticee. There was no execution of declarations designed to suppress or misrepresent the country of origin. The investigation has not produced any incriminating records from premises connected to the noticee, nor has it directly established a factual nexus between operational activities and customs wrongdoing.

9. That the International commercial support activities such as cross-stuffing, documentation management, and third-party logistical coordination are standard and lawful. These activities in themselves cannot form the foundation for penalty or adverse consequences absent specific evidence of intent. The Supreme Court and appellate tribunals have repeatedly affirmed that bona fide commercial engagement is outside the purview of penal action unless supported by clear indication of conscious wrongdoing.

10. That the SCN posits a computation of customs duty allegedly evaded, to the tune of more than thirty crore rupees. The noticee disputes liability on the ground that duty calculation is contingent upon statutory interpretation, customs notification, and bespoke circumstances of each consignment. The noticee did not control the ultimate customs clearance procedure nor the certification of country of origin at the border. Any imputed duty demand must be subject to full verification and cross-examination as part of adjudication.

11. That the threshold for imposition of penalty under Sections 112(a) and 112(b) has not been met. Penal liability demands specificity, corroboration, and conscious knowledge, not conjecture or circumstantial inference. The absence of direct evidence, lack of mens rea, and the routine nature of commercial logistics together negate any basis for adverse orders. The principles of natural justice, due process, and evidentiary fairness apply with full vigour to the present proceedings, as affirmed by case law and statutory interpretation. The Noticee has referred to the following case laws:

- *Amritlakshmi Machine Works Vs Commr of Cus. (Import)*, Mumbai, 2016 (335) ELT 225 (Bom.)
- *Ajay Sarawagi vs Commissioner of Customs (Preventive)*, Shillong (CESTAT), Customs, Appeal No. 75626 of 2021
- *Vipul Joshi Vs C.C.-Ahmedabad (CESTAT Ahmedabad)*, Custom Appeal No. 10053 of 2022.

- Mayeen Uddin Vs Commissioner of Customs (Prev.), Shillong, 2020 (371) ELT 779 (Tri. Kolkata)
- Dinesh Ishwarlal Patel Vs Collector of Customs, Bombay 1988 (34) ELT 382 (Tri. Mumbai)
- Dass Photo Electronics Vs Collector of Customs, New Delhi, 1987 (30) ELT 988 (Tribunal)
- Shankeshwar Metal Corporation Vs. Commr of Cus. (Imports), Mumbai, 2014 (312) ELT 344 (Tri-Mumbai)

12. That Section 112 of the Customs Act, 1962, imposes penalty only where a person, by act or omission, renders goods liable for confiscation (112(a)), or is concerned with dealing, carrying, keeping, or disposing goods knowing or with reason to believe the goods are liable to confiscation (112(b)). It is a settled position in law, including as held in *Lakshmichand v. Govt. of India and Mayeen Uddin v. CC (Prev.), Shillong*, that penalties under Section 112(a) or (b) require clear evidence of deliberate involvement, knowledge, or intent ("mens rea").

13. That in the present case, the SCN does not produce any evidence directly establishing that Maulik Shah had conscious knowledge of any mis-declaration, nor that he actively engaged in acts, omissions, or abetment leading to improper importation. The duties performed—including logistics organization, document forwarding, and ordinary operational support—do not qualify as acts of fraudulent intent or deliberate evasion. The possession or processing of documents provided by foreign entities, without independent means of verifying their legality, cannot establish culpability absent direct proof of collusion or knowledge of illegality. There is no finding or material that Maulik Shah had reason to believe the goods were liable to confiscation, a prerequisite under Section 112(b).

14. That Section 114AA penalizes knowingly or intentionally making, signing, using, or causing to be made, any declaration, statement, or document that is materially false or incorrect.

15. That there is no allegation, much less proof, that Maulik Shah fabricated, altered, or knowingly supplied false documents. All commercial and custom-related paperwork, such as Bills of Lading, Certificates of Origin, and invoices, were sourced from foreign principals for official use and issued through recognized processes. Mere transmission or handling of such documentation in routine course of business, without direct authorship, knowledge of their falsity, or evidence of material inducement, is outside the scope of Section 114AA.

16. That Section 111(m) pertains to confiscation of goods imported by means of mis-declaration. To attract this provision, active participation in mis-declaration or suppression is essential. Maulik Shah was never the importer or declarant before customs, nor did he sign or file any customs declaration. He neither orchestrated nor participated in the preparation of shipping documents attesting to the country of origin or other particulars. The obligation to ensure the genuineness of such documents lies with the importer and customs broker, and mere logistical involvement or foreign coordination does not suffice to invoke confiscation proceedings against a service provider.

17. That non-compliance or delayed compliance with summons under Section 108, in the absence of repeated, wilful, and unjustified non-attendance, is not ipso facto penal. Courts have affirmed that absence due to bona fide reasons, such as being abroad for work, does not constitute evidence of culpability or intent to obstruct investigation. Any procedural irregularity should be dealt with administratively and does not shift or substitute the burden of establishing offence under substantive penal sections.

18. That throughout the investigative process, no proceeds of offence, illegal consideration, or asset relating to the alleged customs infraction has been found in possession or control of Maulik Shah. The absence of material gain or beneficial ownership drastically weakens the case for implicating the noticee as a principal wrongdoer or abettor, especially in the absence of mens rea or active concealment.

19. That all facilitative actions attributed to Maulik Shah—coordinating shipments; handling paperwork per usual commercial practice; creation of WhatsApp business groups—are part of regular international trade and logistics workflow. Jurisprudence consistently holds that standard business conduct, absent positive evidence of improper motive or knowledge, falls outside the remit of customs penal provisions.

20. That it is a settled legal principle that in penal proceedings, the burden squarely lies with the Department to establish guilt with definite and reliable evidence. Where the evidence rests entirely on inferences, statements of third parties (in absence of opportunity for cross-examination or corroboration), or mere presence in communication chains, the penalty cannot be sustained. The opportunity to defend and be heard fairly, with the presumption of innocence, mandates dropping of proceedings in the absence of direct, concrete evidence.

**43.3** Shri Atul Jaswantlal Shah in his reply dated 26/10/2025 has, inter-alia, submitted:

1. That he had no knowledge of the business carried on by M/s J K Tradelink. He further affirms that he does not possess any knowledge or any information regarding any kind of import of the subject article called Natural Magnesium Lumps. He further submitted that M/s J K Tradelink ("Firm") is a proprietorship firm registered at 2888/1, Sudarshan Nagar, 4, GHB, Chandkheda, Ahmedabad-382424 (Annexure - B). The firm was registered in his name by his son, Mr. Maulik Atulbhai Shah (Noticee No. 3), without his knowledge and without his involvement in the registration process.

2. That his son, Mr. Maulik Atulbhai Shah, managed all matters of the Firm, including banking and emails of the Firm, and he had no involvement or any knowledge in the daily operations or any import of the subject articles. He further submitted that he is a simple person with limited education, having studied only till the 4th standard. He is illiterate in English and has no knowledge or expertise in making and selling plastic items at his shop.

3. That he has never made any application for the registration of the Firm with any authority and has never signed any documents in respect of the Firm or those relating to customs. It is most humbly submitted that he had never authorized any person to act on his behalf with regard to the Firm. He further submitted that he had never had any bank account in the name of the Firm, nor any cheque book, passbook, or any document pertaining to the Firm's bank account, and he had never operated any such bank account.

4. That he had no involvement in the operations, management, or decision-making of M/s J K Tradelink. He does not possess any knowledge about the business activities, email IDs (info@jktradelink.in and export@jktradelink.in), or transactions related to the company. His son handled all matters related to M/s J K Tradelink.

5. That he has no knowledge of or association with the entity M/s Arcus Overseas, Morbi (Noticee No. 1). He heard this name for the first time during the investigation. He also does not know the person Chandubhai Jamnadas (Noticee No. 2), and he has no connection to any emails, excel sheets, or transactions attributed to him.

6. That his son, Mr. Maulik Atulbhai Shah (Noticee No. 3), opened J K Tradelink in his name and moved to Dubai three to four years ago. All operational knowledge and decisions concerning J K Tradelink are solely within his purview, and he requested that he may not be held liable under Section 112 of The Customs Act, 1962. The Noticee has further submitted that he had no involvement whatsoever in the operations, management, or decision-making of M/s J K Tradelink. The company was registered in his name without his knowledge. The Noticee has further submitted that he had no access to or control over the company's email accounts (info@jktradelink.in and export@jktradelink.in) and was completely unaware of any transactions or dealings with M/s Arcus Overseas or any other mens rea on his part. The essential requirement of Section 112(a) remains unfulfilled, and consequently, no penalty can be imposed under this provision. The Noticee has referred to the following case laws:

- Rajeev Khatri vs. Commissioner of Customs (Export) (04.07.2023-DELHC): MANU/DE/4161/2023.
- Amritalakshmi Machine Works vs. Commissioner of Customs (Import), Mumbai, 2016 (335) E.L.T. 225 (Bom).

7. That the legal requirements for abetment under Section 112(a) are explicit, necessitating clear and unequivocal evidence of knowledge and intentional participation in the wrongful act. The mere fact that an email address linked to his firm may have been involved in the importation process does not, by any stretch of the imagination, prove that the Noticee had knowledge of the alleged mis-declaration or any conspiracy related to the same. The investigation has failed to bring about cogent evidence demonstrating his involvement, knowledge, or active participation in the actions alleged. He further submitted that he had no access to or control over the company's communications, including the email addresses [info@jktradelink.in](mailto:info@jktradelink.in) and [export@jktradelink.in](mailto:export@jktradelink.in) through which the alleged transactions were conducted. The Noticee has further submitted that he was unaware of any dealings with M/s Arcus Overseas or any other entities involved in the import operations. Therefore, the requirement of knowledge or reasonable belief regarding the goods' liability for confiscation, as mandated under Section 112(b), is entirely absent in his case, making the imposition of any penalty under this provision legally untenable. The said Noticee has referred to the below case laws:

- Ajay Sarawagi vs. Commissioner of Customs (Preventive), Shillong (CESTAT Kolkata), Customs Appeal No. 75626 of 2021.
- Vipul Joshi vs. Commissioner of Customs, Ahmedabad (CESTAT Ahmedabad), Customs Appeal No. 10053 of 2022.
- Maveen Uddin vs. Commissioner of Customs (Preventive), Shillong, 2020 (371) E.L.T. 779 (Tri.-Kolkata).
- Dinesh Iswarlal Patel vs. Collector of Customs, Bombay, 1988 (34) E.L.T. 382 (Tri.-Mumbai).
- Dass Photo Electronics vs. Collector of Customs, New Delhi, 1987 (30) E.L.T. 988 (Tribunal).
- Shankeshwar Metal Corporation vs. Commissioner of Customs (Imports), Mumbai, 2014 (312) E.L.T. 344 (Tri.-Mumbai).
- Ana Jamil vs. Commissioner of Customs (Preventive), Shillong, 2016 (342) E.L.T. 248 (Tri.-Kolkata).

8. That the SCN may be set aside, based on the submissions made by him vide reply dated 26.10.2025.

**43.4** M/s TulsidasKhimji Pvt LTd & Shri Hardik Shah, Employee of Tulsidas Khimji Pvt Ltd, in their reply submitted have inter-alia stated that:

1. That at the outset, no penalty under Section 112(a) or 112(b) of the Customs Act, 1962 can be imposed upon them in as much as they have in no manner acted or facilitated the alleged evasion of 200% customs duty on import of raw magnesite lumps, raw magnesite and natural magnesium carbonate originating in or exported from Pakistan. It is submitted that in the show cause notice itself other than mentioning that they were aware of the actual country of origin and have actively abetted the evasion of customs duty, nothing has been mentioned about whether they were actually aware of or had knowledge about the actual country of origin and evasion of 200% customs duty on the subject goods. In fact, Shri Bhorania Nishank Chandulal, partner of M/s. Valuce Glaze has clearly stated in his statement dated 06.02.2024 and 07.02.2024 that he had not discussed about the actual origin of the imported goods with them and that they were not aware about the actual country of origin of the imported goods. When the importer himself has categorically stated that they have not informed them about the actual country of origin of the imported goods and that they were not aware of about actual country of origin of the said goods, there is no case of participating in the abetment with an intention to evade customs duty.

2. That Shri Chandran Gandadharan Nair, G-card holder of their firm has also categorically stated in his statement dated 21.02.2024 that they had filed bills of entry on behalf of M/s. Valuce Glaze on the basis of documents received from the importer like Bill of lading, invoices, country of origin. Based on the documents received from M/s. Valuce Glaze, our impression regarding the country of origin and place of export was as below:

Sr. No.	Bill of Entry No.	COMMODITY	COUNTRY OF ORIGIN	ARRIVED FROM
1	BE no. 6726406	RAW MAGENSITE LUMPS	MUSCAT	MUSCAT
2	BE no. 7386749	RAW MAGENSITE-	MUSCAT	MUSCAT
3	BE no. 7997859	RAW MAGENSITE-	MALAYSIA	MALAYSIA
4	BE no. 8256233	NATURAL MAGNESIUM CARBONATE	TURKMENISTAN	UAE
5	BE no. 8991262	RAW MAGENSITE LUMPS-	MUSCAT	MUSCAT
6	Be no. 9210017	NATURAL MAGNESIUM CARBONATE	TURKMENISTAN	UAE

Therefore, there is no mis-declaration about the country of origin of the imported goods by them.

3. That a CHA like them can only ascertain that the imported goods match the description as mentioned in the documents provided to them by the importer, however, it is impossible to know and verify the actual country of origin of the imported goods. There is no such obligation cast upon a CHA to know the actual country of origin in as much as a CHA would only rely upon the information which is given by the actual importer. Furthermore, the show cause notice nowhere states that they very well knew that the imported goods originated in the Islamic Republic of Pakistan and even after knowing such fact they proceeded to file the bill of entry and paid 5% customs duty. There is also no allegation that they have charged any amount over and above our regular bill for CHA services, to facilitate or abet the import of goods originating from Pakistan. Therefore, in absence of any such allegation or cogent evidence to support our role play in the irregular import of raw magnesite lumps, raw magnesite and natural magnesium carbonate, no penalty can be imposed upon them.

4. That at this stage they refer to a few cases where similar proposals for penal action or revocation of licence to do business etc. were levelled against agencies like a Customs House Agent or a C&F agent or a Shipping line, and the like. However, in all such cases, judicial and quasi-judicial authorities have consistently decided that penal action can be taken against such agencies only if they were actively involved in any fraud or smuggling with knowledge that the goods being dealt with by them were offending in nature or that import-export of such goods was prohibited under the law. It is consistently held by judicial and quasi-judicial authorities that penal action cannot be taken against such agencies only because there was a case of smuggling of prohibited goods, if such agencies were not involved in smuggling and that they had no knowledge about smuggling proposed to be done by their clients. They have referred to the following case laws:

- Cargo & Travel Services (P) Ltd. – 2010 (252) ELT 82 (Tri.-Bang)
- Maruti Transports – 2004 (177) ELT 1051
- R.S. Travels – 2007 (217) ELT 384
- Air Travel Enterprise India Limited – 2009 (239) ELT 275
- Glory Agencies – 2009 (244) ELT 596
- Sai Shipping Services – 2009 (239) ELT 104
- Commissioner Vs. Moriks Shipping and Trading Pvt.Ltd. – 2008 (227) ELT 577
- Prime Forwarders – 2008 (222) ELT 137
- Premier Instruments and Controls Limited – 2008 (227) ELT 139,
- Ashok Jaiswal – 2006 (200) ELT 122 and Setwin Shipping Agency (supra).

- M/s. SavithriJewellers Pvt. Ltd. reported at 2020 (374) ELT 754

5. That the law about imposition of penalty on the CHA is very clear that only when the CHA was well aware and actually participated in facilitating the mis-declaration of goods or value or country of origin, can the CHA be held accountable. Furthermore, it is also clear that the CHA is not supposed to go into and verify each and every detail provided by the exporter about description and value of goods. They request to consider the principle flowing from the above referred decisions and case laws, while deciding the proposal for imposing personal penalty on the min the present case. They also request to consider that if a Customs House Agent or a C&F Agent, who is directly involved in handling the goods and the documentation of the cargo for customs clearance is not held liable for any penalty in the above referred cases. Then when They have only filed the Bills of Entry with the description as provided by the importer, they cannot be justifiably penalized in the present case. Therefore also, the proposal to impose personal penalty on them deserves to be withdrawn in the interest of justice.

6. That the show cause notice also proposes to impose penalty on Shri Hardik Shah, employee of their firm under section 117 of the Customs Act, 1962 on the ground that he did not appear for recording statements at DRI office despite issuance of summons. Shri Hardik Shah is our employee from last 15 years and he has not received any summons or any communication from the department prior to issuance of this show cause notice and hence in absence of any such summons or communication it is but obvious that he cannot appear. Therefore the proposal to impose penalty on such frivolous ground, deserves to be vacated. It is submitted that when the penalty cannot be imposed on our firm as explained above in absence of their being any tangible evidence of abetment in evasion of customs duty, penalty on our employee Shri Hardik Shah also cannot be imposed when there is not even a whisper in the show cause notice about his involvement in the present case. They further wish to clarify as regards the proposal to impose penalty on Shri Hardik Shah, that Shri Shah only introduced the customers i.e. M/s. Arcus Overseas and M/s. Valuce Glaze to the firm i.e. M/s. Tulsidas Khimji Pvt. Ltd. and after introduction of such customers they decided to undertake the clearance of the imported goods for them based upon the information and details as provided by these parties. Shri Hardik Shah was nowhere concerned with the clearance of the goods for M/s. Arcus Overseas or M/s. Valuce Glaze directly and his role was limited to introducing the client to us. On a perusal of the Panchnama dated 21.12.2023, it is clear that during the course of investigation Shri Hardik Shah has informed that Shri Maulik Shah forwarded the contact details of Shri Nishank and Shri Deep and that thereafter the documents were later handed over to Shri Hardik Shah, who inturn handed over these documents to the firm i.e. M/s. Tulsidas Khimji Pvt. Ltd. and after verification of such documents the firm decided to undertake the clearance work for M/s. Arcus Overseas and M/s. Valuce Glaze. On a perusal of the statement of Shri Chandran Nair dated 21.02.2024, it is clear that Shri Chandran also stated that Shri Maulik Shah contacted Shri Hardik Shah earlier for two export consignments for M/s. NMC Tradlink Company and subsequently again Shri Maulik Shah contacted Shri Hardik Shah for the consignments relating to M/s. Arcus Overseas and M/s. Valuce Glaze. That Shri Hardik Shah had received documents from the importer side along with country of origin, which was not Pakistan as per the documents and hence Shri Hardik Shah did not know the actual country of origin. The statements recorded during panchnama and the statement of Shri Chandran Nair clearly reveal that Shri Hardik Shah was nowhere concerned with any other activity over and above introducing the importers like M/s. Arcus Overseas and M/s. Valuce Glaze to our firm i.e. M/s. Tulsidas Khimji Pvt. Ltd. and his job ended after he introduced these clients and was nowhere concerned with the documents which were provided by these clients showing country of origin as being other than Pakistan. Therefore, considering such facts which are borne out of the statements, it is clear that Shri Hardik Shah was nowhere concerned with mis-declaring the country of origin nor did he have any knowledge that M/s. Arcus Overseas or M/s. Valuce Glaze had provided fabricated documents to him which were then handed over to our firm. Therefore, since Shri Hardik Shah had no knowledge of any such fabrication of documents and the original country of origin, he was under a bona-fide belief that such goods did not originate from Pakistan and hence the proposal to impose penalty on him is completely erroneous and unsustainable in law as well as in facts.

### 43.5 Submission of M/s. Livro Shipping Private Limited dated 03.02.2025

M/s. Livro Shipping Private Limited, vide their letter dated 03.02.2025, has inter alia stated as under:

1. That the limited role and responsibility of Livro Shipping was to share the necessary particulars with the vessel operator/agent (Authorised Carrier/Authorised Carrier's Agent) for filing the Import General Manifest (IGM), issue the Delivery Order to the consignee (M/s. Arcus Overseas), and collect the empty containers from the consignee after cargo release. Livro Shipping collected the destination charges and issued the Delivery Order to the consignee in accordance with the agency contract with their principal. As part of their documentation procedure and shipping practice in the normal course of business, Livro Shipping received a copy of the Bill of Lading of their principal, i.e., M/s. Anchorage Shipping Line.

The details of the Bill of Lading were compiled for the vessel operator/conveyance/agent to file the IGM under the provisions of the Customs Act, 1962, and the IGM was accordingly filed by the vessel operator.

2. That M/s. Livro Shipping, while acting as the Indian delivery agent of the carrier, was not involved in any overseas activities, including container booking, freight collection, or issuance of Bills of Lading, which are solely initiated and managed by the principal offices.

Thus, upon payment of the agreed destination delivery charges, Livro Shipping issued the Delivery Order for the consignment in the name of the consignee (M/s. Arcus Overseas). Upon arrival of the vessel at Mundra, the consignee/importer filed their Bill of Entry (BOE) declaring all essential details, including the port of loading, in accordance with their sale-purchase contract, invoice/packing list, and certificate of origin, etc. Consequently, the importer assessed and paid duty on the imported goods in accordance with the Act and relevant notifications.

3. That regarding the allegation of violation of Section 112(a) and 112(b) of the Customs Act, 1962, the relevant provisions are extracted below for ready reference:

#### **"Section 112. - Penalty for improper importation of goods, etc.**

(a) 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 111, or abets the doing or omission of such an act; or

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

(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 not exceeding the value of the goods or five thousand rupees, whichever is greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is greater;

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

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

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the actual value or five thousand rupees, whichever is the highest."

4. That on examination of the facts and documents, it is clear that Livro Shipping acted only as the delivery agent of an NVOCC/container operator in India and is not "a person who is in relation to any goods" as referred to in the penal provision. The said provision applies only to "any person who, in relation to any goods...", and therefore, the person in relation to the goods which are the subject matter of the SCN is M/s. Arcus Overseas and not Livro Shipping.

Specifically, Livro Shipping neither received the goods in its possession nor regulated the movement of the goods. Their involvement was limited to the container operations; Livro Shipping was engaged only to collect destination charges and issue the Delivery Order.

5. That Section 112 has to be harmoniously read with Section 111 and Section 2(23) of the Customs Act, 1962, which respectively govern the provisions for confiscation of improperly imported goods and define the term "import".

6. That the penal provision under Section 112 of the Customs Act, 1962 is applicable only to the "importer" whose goods are confiscated due to improper importation as per Section 111 of the Act. Both Sections have to be read and interpreted holistically and not narrowly so as to contradict each other.

7. That the second part of clause (a) of Section 112, which is separated by the word 'or', contains the word 'abet', thereby implying the necessity of knowledge or intent. A perusal of this Section reveals that, for an act of abetment, the existence of *mens rea* is an essential ingredient owing to the inclusion of the word "abet".

8. That for invocation of the second part of Section 112(a) against stakeholders who assist the importer/exporter/beneficial owner in customs clearance and whose actions render goods liable for confiscation, *mens rea* is an absolute necessity. Without *animus* on the part of such stakeholders, it is impossible to invoke Section 112(a) or bring them within the scope of this penal provision.

9. That at paragraph 4 of the Show Cause Notice, M/s. Arcus Overseas has acknowledged that they, along with the supplier, breached the terms by inaccurately declaring the Country of Origin (COO). Therefore, it is evident that Livro Shipping, acting solely as the agent of the overseas carrier, was not involved in any collusion. Moreover, Livro Shipping did not participate in the change of the port of loading in the Bill of Lading.

Thus, M/s. Arcus Overseas, being the importer of the said goods, is to be treated as the "person in relation to the goods" and not Livro Shipping. Hence, the imposition of penalty, if any, under Sections 112(a) and 112(b) of the Customs Act, 1962 upon Livro Shipping, who is "not a person in relation to the goods", is contrary to law and therefore not sustainable.

The Noticee has relied upon the following case laws:

- *M/s. Rajeev Khatri vs. Commissioner of Customs (Export)* [CUSAA 3/2021 & CM APPL 5517/2021, dated 04.07.2023; MANU/DE/4161/2023]
- *M/s. Amritlakshmi Machine Works & Another vs. The Commissioner of Customs* [2016 (335) E.L.T. 225]
- *Tata Oil Mills Company Ltd. & Another vs. Union of India & Another* [1986 (26) E.L.T. 931 (Bom.)]

10. That penalty under Section 114AA of the Customs Act, 1962 was introduced primarily to cover cases of bogus or fraudulent exports without documentation and cases where goods were not available for seizure or confiscation. Therefore, imposition of penalty under Section 114AA, after already imposing penalty under Section 112, amounts to double jeopardy.

Section 114AA of the Act is reproduced below for ready reference:

"Section 114AA - Penalty for use of false and incorrect material. If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, he shall be liable to a penalty not exceeding five times the value of the goods."

11. That in support of the above contention, reliance is placed on the Twenty-Seventh Report of the Standing Committee on Finance, wherein the insertion of Section 114AA was discussed in Paragraphs 62 to 66. The relevant portions of the said report explain the purpose for which Section 114AA was incorporated in the Customs Act, 1962.

The intention was to punish persons who avail export benefits without actually exporting any goods. Such cases involve serious criminal intent and cannot be equated with cases of duty evasion. The perusal of the said report makes it clear that Section 114AA was introduced to penalize situations where export benefits are availed without any corresponding export.

According to the legislature, Section 114AA provides for a penalty for improper exportation of goods and does not cover import situations. Therefore, a penalty under Section 114AA is applicable only in circumstances where export benefits are availed without exporting any goods. Even if, by any stretch of interpretation, Section 114AA is held to cover imports as well, it would apply only to those who make such mis-declarations for the "purposes of the Customs Act".

The purpose of the Customs Act is revenue augmentation and trade regulation or prohibition, among others. Hence, only the consignee (in the form of filing the statutory Bill of Entry under Section 46 of the Act) is responsible for making, signing or using, or causing to be made, signed or used, any declaration, statement or document that is false or incorrect in any material particular in the transaction of any business under this Act.

It is submitted that the Bill of Entry is a crucial document providing comprehensive details of the invoice and is filed with the Customs Department when goods are imported from another country. Several key and critical details are mandatorily declared by the importer. Such information, as provided in the Bill of Entry (BOE) by the importer, is to be brought to the attention of this office during the time of personal hearing.

The Noticee has relied on the following case laws:

- *Union of India vs. Kisan Ratan Singh*, 2020 SCC Online BOM 39, per K.R. Shriram, J.
- *Vivek Automobiles Ltd. vs. Indian Inc.*, (2009) 17 SCC 657.

12. That having found that the importer was guilty of committing various offences and penalties were imposed upon them under the relevant provisions, the imposition of penalty on Livro Shipping is both factually and legally unsustainable.

13. That the imposition of penalties upon Livro Shipping is unwarranted, as there is no evidence to demonstrate that Livro Shipping's actions contravened any statutory provisions or involved any act or omission concerning the confiscated goods. Furthermore, no evidence has been produced to establish that Livro Shipping had any knowledge that the goods mentioned in the Bill of Lading did not accurately represent the actual consignment imported.

In the absence of such knowledge, Livro Shipping cannot be attributed with *mens rea*. Therefore, the finding of liability lacks factual foundation and evidential support and hence deserves to be set aside.

**43.6** Shri Bhagirath Jyantil varmora vide letter dated 17.11.25 has submitted that he has no business relationship whatsoever with the company mentioned in the proceedings; that at no point he has engaged in any commercial dealings, financial transactions, contractual arrangements or indirect association with the said entity.further , he assured the department that there have been no transactions or activities from his side that could be linked to any unlawful,irregular or suspicious operation he stated that his business activities have always been conducted in a lawful, transperant and complaint manner;that he strictly adhere to all

statutory requirement. He further submit that there is no misunderstanding regarding his involvement and he clarified that he is in no way connected to the activities under investigation; that he remain willing to provide his further clarification or documentation if required by the department.

**43.7** Shri Mitesh Keshavji malstar vide his letter dated 8.12.2025 submitted that the Show Cause Notice issued to him proposing penalty under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962 is misconceived and untenable. His role was limited to that of a forwarder, wherein he merely transmitted documents and communications received from M/s Arcus Overseas to the Custom Broker, M/s Eiffel Logistics Pvt. Ltd. He was neither authorised nor required to verify nor approve the bill of entry checklist, and in fact, it was the importer alone who reviewed and approved the same. The notice does not point to any statutory provision mandating a forwarder to check material particulars of import documents, and therefore, discrepancies, if any, cannot be attributed to me.

The allegation that he had knowledge of mis-declaration of country of origin and collected cash in connection with the same is factually incorrect. He has categorically denied receiving any such cash, and records show that payments received were only towards forwarding-related charges such as agency fees, CFS handling, transport, lifting, and shipping line expenses. Supporting bills have been submitted. He requests that Shri Deep Sitapara be examined and that he will be permitted to cross-examine him, as payments received were purely for services rendered and had no nexus with any alleged knowledge of origin. His statement dated 01.04.2024 placed on record also merits due consideration.

The noticee itself acknowledges that He did not examine the checklist, which confirms the absence of any knowledge or intentional participation required to constitute abetment. No evidence has been produced to show that he knew of any incorrect particulars or that he aided mis-declaration. In absence of knowledge, invocation of Sections 112(b) and 114AA is unsustainable, and even penalty under Section 112(a) cannot be imposed as abetment cannot be presumed without proof. He consistently asserted that he was unaware of any Pakistani origin of goods, and no contrary material has been brought on record.

In view of these facts, He submit that he is not liable to penalty under Sections 112(a), 112(b) or 114AA of the Customs Act, 1962, and therefore pray that the Show Cause Notice be dropped.

#### **44. PERSONAL HEARING**

Following the principle of natural justice and the provisions laid down in the Customs Act, 1962, Opportunities of personal hearing in the case were given to the noticee on 29.10.2025, 13.11.2025 and 25.11.2025.

##### **44.1 1<sup>st</sup> PH on 29.10.2025:-**

No one appeared in the personal hearing fixed on 29.10.2025.

##### **44.2 2<sup>nd</sup> PH on 13.11.25.**

Shri Deep Sitapara, Shri Harish Kaila, Smt. ketuben Sherasiya, Smt. Dimpleben Bhoraniya, all partners appeared through video conference before me on behalf of Noticee No 01 (M/s Arcus Overseas), 02 (Shri Deep Sitapara), 04 (Shri Harish Kaila), 06 (Smt. ketuben Sherasiya) and 07 (Smt. Dimpleben Bhoraniya) and reiterated their earlier submission made vide letter dated 23.1.2025.

##### **44.3 3<sup>rd</sup> PH on 25.11.25**

Shri Amal Dave, Advocate appeared through video conference before me on 25.11.2025 on behalf of Noticee No 10 (M/s Tulsidas Khimji Pvt Ltd.) and Noticee No 16 (Shri Hardik Shah). He reiterated the submissions and contentions already placed in their written reply dated 13.01.25.

Shri Karansingh vaghela, Advocate appeared through video conference before me on 25.11.2025 on behalf of Noticee No 03 (Shri Maulik Atulbhai Shah) and 13 (Shri Atul Jaswanlal

Shah). He reiterated the submissions and contentions already placed in their written reply dated 09.11.25 .

Shri Deep Sitapara, Shri Nishank Bhoraniya and Shri Sachin Patel as a noticee no 02(Deep Sitapara), 15(Nishank Bhoraniya) and 05 (Sachin Patel) appeared before me through video conference on 26.11.2025 and reiterated their earlier submission made vide letter dated 23.1.2025.

Shri Vikas Mehta, Advocate appeared through video conference before me on 03.12.2025 on behalf of Noticee No 11(Shri Mitesh Keshavji Malstar) He reiterated the submissions and contentions already placed in their written reply dated 08.12.25

Ms Taranjeet Phull, Advocate appeared through video conference before me on 09.12.2025 on behalf of Noticee No 8 (M/s. Livro Shipping). She reiterated the submissions and contentions already placed in their written reply dated 03.02.2025.

#### **DISCUSSION AND FINDINGS**

**45.** I have carefully gone through the Show Cause Notice, relied upon documents, written submission of the noticees, personal hearing records and various legal provision available before me. The main issues involved in the case which are to be decided in the present adjudication are as under:-

- (i) Whether the declared classification under CTH 25191000/25199090 of the goods is liable to be rejected and the same is liable to be re-classified under CTH 98060000 of the Customs Tariff Act, 1975 or otherwise.
- (ii) Whether differential Customs duty totally amounting to Rs.32,00,88,143/- on the import of 11295.16 MT covered under above mentioned 36 Bills of Entry is liable to be demanded and recovered from them in terms of Section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962 or otherwise.
- (iii) Whether 11295.16 MT import goods valued at Rs.10,71,15,588/- as covered in the said Bills of Entry are liable for confiscation under Section 111(m) of the Customs Act, 1962 or out of these only 177.500MT of goods valued at Rs.14,70,079/- being found lying in the premises of the importer are liable for confiscation.
- (iv) Whether M/s Arcus Overseas is liable for penalty under Section 114A, 114AA and Section 117 of the Customs Act, 1962 or otherwise.
- (v) Whether the persons/companies/firms/Concerns mentioned in the Table of Para 58 of the SCN are liable for Penalties under the Customs Act, 1962 as proposed against their names or otherwise.

**46.** After having framed the main issues to be decided, I proceed to deal with each of the issue here-in below. The foremost issue before me to decide in this case is as to whether the goods imported by M/s Arcus Overseas (IEC: ABVFA366566N) are mis-classified under Customs Tariff Heading 25191000 & 25199090 and the same is required to be re-classified under Customs Tariff heading 98060000.

**47.** I find that in the present case the dispute of classification has arisen solely on the basis of origin of goods. The Government of India vide Notification No.05/2019-Customs dated 16.02.2019 has inserted a specific entry '9806 0000' in Customs Tariff Act, 1975 which stipulates that the all goods originating in or exported from the Islamic Republic of Pakistan shall be classifiable under Customs tariff Items '9806 0000' in Chapter 98 of Section XXI, in the First Schedule to the Customs tariff Act. This Show Cause Notice alleges that the goods imported vide afore said Bills of Entry were actually originated of Pakistan. Therefore, it is correctly classified under Customs tariff item-98060000.

**48.** I noticed that the allegation against the Noticee is that M/s Arcus Overseas had been importing the goods viz. Raw Magnesium Carbonate Lumps/Raw Magnesite Lumps/Natural Magnesium Carbonate (Magnesite) Lumps/ Magnesium Carbonate Lumps/Raw Magnesite Powder etc from Pakistan and clearing their import consignment from Customs in routine manner. It has also alleged that M/s Arcus Overseas had imported 37 consignments of Natural

Magnesite/Natural Magnesium carbonate which were actually sourced from Pakistan but were mis-declared in Customs documents as originating from Turkmenistan or Turkey to avoid the 200% Basic Customs duty applicable on goods of Pakistan origin under Notification No 05/2019-Customs. I find that out of these 37 Consignments, 01 import consignment of Rock Salt was imported from the Pakistan and paid total applicable duty on the said import consignment.

**49.** Acting on intelligence in relation to mis-declaration of Country of Origin of goods, I find that the import consignment covered under Bill of Entry No.9210015 dtd 13/12/2023 were seized under the seizure memo dated 28.12.2023 under Section 110 of Customs Act, 1962 by the DRI. The said Bill of Entry has been filed through Customs Broker and the details of the said Import consignment is as under.

Bill of Entry No. and date	Name of Importer	Container No.	Declared Descriptions	Found during examination
9210015 dated 13.12.2023	M/s Arcus Overseas, Survey No. 81/2, Plot no. 4P, Shop No.-14, first floor, Maruti chamber, Morbi	CINU3657370, MSCU6363524, TGHU0422024, WEDU6806737, WSCU6820575	Natural Magnesium Carbonate	Lumps of Natural Magnesium carbonate

**49.1** I find that M/s Arcus Overseas had filed BE No. 9210015 dated 13-12-2023 for import of "Magnesium Carbonate/Magnesite Lumps" in Container Nos. WSCU6820575, TGHU0422024, CINU3657370, MSCU6363524, WEDU6806737. In order to verify the country of origin of subject goods imported at Mundra port vide above mentioned containers, inquiries were made by the investigating agency from the Website of M/s Karachi International Container terminal Ltd. ([www.kictl.com](http://www.kictl.com)) and as per tracking of these containers inquiry section of [www.kictl.com](http://www.kictl.com), it is observed that these Containers, were loaded on vessel from Pakistan on 29.11.2023 and 30.11.2023 and for discharge at UAE on 04.12.2023. It is also observed that these Containers were having goods "Magnesite Lumps" as per above tracking details and the same loaded containers were shipped on another vessel from UAE to Mundra showing purchase from OSEVEH TRADELINK FZ-LLC. (A Dubai based Firm),

The Tracking screenshot of one of these containers viz. CINU3657370 is reproduced as under:



Owner	ACG	BL/Shipping Bill No.	KPEXSB90132291123
Container No.	CINU3657370	Container Size/Type	32/G1
Category	EXPORT	Status	XF
Vessel Name	OLYMPIA (DNB)	VIR No.	XAPW-0305-27112023
ETA	03-DEC-23 06:00 AM	ETD	04-DEC-23 06:24:00 PM
Discharge Port	N/A	Load Time	03-DEC-23 07:13:16 PM
DO issuance Date	N/A	DCO Expiry Date	N/A
GateIn Time	29-NOV-23 09:27:02 PM	GateOut Time	N/A
Origin	KARACHI	Destinations	JEBEL ALI
Custom Seal No.	N/A	Line Seal No.	00117
Security Seal No.		Other Seal No.	N/A
Custom Status	N/A	Current Position	Loaded on Vessel
Commodity	MAGNESITE LUMPS	Weight	30220
Weightment	Not Done	Scanning	Not Done
Present Hold	N/A		

**49.2** Further, I also noticed that M/s Arcus Overseas has imported one consignment of the subject goods under the B/E No 9107961 dated 7.12.2023 under Bill of Lading No.

ASLJEAMUN109523 dated 06.12.2023 containing 10 containers. The Details of the Containers are as under:-

Sr. No.	Container No.	Bill of Entry No. and date
1	CINU0135583	9107961 dated 07.12.2023 (Bill of Lading No. ASLJEAMUN109523 dated 06.12.2023)
2	CINU1601048	
3	CSUU2171081	
4	ECMU2160812	
5	MSCU3528472	
6	MSCU3552381	
7	PONU0008624	
8	TRLU3008110	
9	WEDU2965073	
10	WSCU6049724	

**49.3** I find in order to verify the country of origin of subject goods imported at Mundra port vide above mentioned containers, inquiries were made from the Website of M/s Karachi International Container terminal Ltd. ([www.kictl.com](http://www.kictl.com)) and tracking of these containers inquiry section of [www.kictl.com](http://www.kictl.com), The container tracking records available on inquiry section of said website were examined and printouts of container tracking records were taken. On inquiry, it revealed that 10 containers of goods imported under Bills of Entry No 9107961 dated 07.12.2023 were loaded from Karachi, Pakistan to Jebel Ali, United Arab Emirates. From the Bill of lading No ASL/KHI/JEA-1095/23 dated 27.11.2023 and invoice No SMS-0004 dated 18.10.2023 taken from the mobile phone/email of Shri Deep Sitapara, partner of M/s Arcus Overseas, I find enough evidence that these goods were supplied to M/s OSEVEH TRADELINK FZ-LLC from Pakistan. The Screen shot taken from the mobile phone/email of Shri Deep Sitapara, partner of M/s Arcus Overseas is summarised below.

<p><b>ANCHORAGE SHIPPING LINE</b></p> <p>Master &amp; Agent and Admin NATIONAL MINERALS SUPPLIERS RAPOOR BAHRIA CO-OPERATIVE HOLDING SOCIETY, BALLOO TOWN, 878 RIVER ROAD, KARACHI, PAKISTAN, MOBILE NO: + 923 36616000 EMAIL: <a href="mailto:nationalmineralssuppliers@hotmail.com">nationalmineralsuppliers@hotmail.com</a></p> <p>Customer Name and Address RAPOOR BAHRIA CO-OPERATIVE HOLDING SOCIETY, BALLOO TOWN, 878 RIVER ROAD, KARACHI, PAKISTAN, MOBILE NO: + 923 36616000 EMAIL: <a href="mailto:nationalmineralsuppliers@hotmail.com">nationalmineralsuppliers@hotmail.com</a></p> <p>Country Name (Name of Country) STEVEN TRADING PTE LTD PRINCIPAL: COMPAGNIE BREVILLE AL RAHMA INDUSTRIAL COMPLEX-72, P.O. BOX 10000, UNITED ARAB EMIRATES EMAIL: <a href="mailto:info@steven.com">info@steven.com</a> MOBILE NO: + 971 50544798</p> <p>Country Name (Name of Country) STEVEN TRADING PTE LTD PRINCIPAL: COMPAGNIE BREVILLE AL RAHMA INDUSTRIAL COMPLEX-72, P.O. BOX 10000, UNITED ARAB EMIRATES EMAIL: <a href="mailto:info@steven.com">info@steven.com</a> MOBILE NO: + 971 50544798</p>		<p>Print: AUL/KRI/JBA-1098/23</p> <p>Booking No:</p> <p>Customer Name ANCHORAGE SHIPPING LINE LLC OFFICE NO: 816 AL RUDAIKA AWARD BUILDING BLOCK 8, 11/2, JUMEIRAH ROAD DUBAI - UAE TEL: +971422344545 Email: <a href="mailto:info@anchorageshippingline.com">info@anchorageshippingline.com</a> <a href="mailto:importshb@anchorageshippingline.com">importshb@anchorageshippingline.com</a> <a href="http://www.anchorageshippingline.com">www.anchorageshippingline.com</a></p> <p>Country of Origin:</p> <p>Port/Location: Applyable only when document sent as Multimodal Transport Bill (see clause 1)</p> <p>Place of Delivery: Applyable only when document sent as Multimodal Transport Bill (see clause 1)</p>												
<p>Shipper Name (Name of Carrier) K-FREED PALKHRI</p> <p>Port/Location KARACHI, PAK, PK</p>		<p>Urgency No 41147</p> <p>Port/Location JEREC, AUS</p>												
<p><b>Particulars of Consignment/Carrier/Carrier Agent Not Responsible</b></p> <p>Container Number/No. of Container No. of Piece/Chemical Description of Goods 10 SHIPPER'S LOAD &amp; COUNTS LTD SULES SHIPPER'S LOAD, STOCK, WEIGHT, COUNT, SEAL/CARDO UNLOADING TO THE CARRIER CONTAINER FOR CONTAINER, ETC 10 BULKS NATURAL MAGNESIUM CARBONATE HS CODE: 28191000 T.S. NUMBER: FRI-0001-107462-00112222</p> <p>Term Weight Basis 250000.000 Net Weight 250000.000</p> <p><b>All Terminal Charges / Demurrage</b> <b>As at the port of discharge</b> <b>Destination as per Line's Tariff &amp;</b> <b>At the Account of Consignee</b></p> <p>CT / CT Freight Free/Paid NON-NEGOTIABLE</p>														
<p>CONTAINER NO CONT0010981/00198 CONT0010981/00198</p> <p>SEAL NO 000484 0002</p> <p>ENCLOSURE UNIT 1 1</p> <p>BLNR BULK</p>		<p>GT. WEIGHT MT. WEIGHT</p> <p>25000.000 25000.000 25000.000 25000.000</p>												
<p>Master B/L No. as per document by shipper but without responsibility of representation by Carrier (see clause 10)</p> <table border="1"> <tr> <td>Freight and Other Charges Freight Charge Other Charge Other Charge</td> <td>Freight Charge</td> <td>Freight</td> <td>Chances</td> <td>Prepaid</td> <td>Cont'd.</td> </tr> <tr> <td colspan="2">Container No. (see clause 7-9) Container No. (see clause 7-9)</td> <td colspan="4">Master B/L No. (see clause 10) KARACHI, PAK, PK 07/11/2008</td> </tr> </table>			Freight and Other Charges Freight Charge Other Charge Other Charge	Freight Charge	Freight	Chances	Prepaid	Cont'd.	Container No. (see clause 7-9) Container No. (see clause 7-9)		Master B/L No. (see clause 10) KARACHI, PAK, PK 07/11/2008			
Freight and Other Charges Freight Charge Other Charge Other Charge	Freight Charge	Freight	Chances	Prepaid	Cont'd.									
Container No. (see clause 7-9) Container No. (see clause 7-9)		Master B/L No. (see clause 10) KARACHI, PAK, PK 07/11/2008												
<p>Master B/L No. (see clause 10 and 11) Container No. (see clause 7-9)</p>			<p>Master B/L No. (see clause 10 and 11) Container No. (see clause 7-9)</p>											

**ATTACH SHEET**

**JOHNS & FONTAINES NO. DISCUSSION**

PRESENT: JOHN PAUL

CONTAINER NO	ITEM NO	PACKAGED (UNIT)	QTY	WEIGHT	NET WEIGHT		
MEC00045724/20-ED	00108	1	NET/PC	28000	100	28000	000
MEC02528472/20-ED	00102	1	NET/PC	28000	100	28000	000
MEC01355283/20-ED	00140	1	NET/PC	28000	100	28000	000
MEC02523281/20-ED	00208	1	NET/PC	28000	100	28000	000
POH0000620/20-ED	00000	1	NET/PC	28000	000	28000	000
EMD00121948/20-ED	00482	1	NET/PC	28000	000	28000	000
TRALUN00110/20-ED	00004	1	NET/PC	28000	000	28000	000
MEC00036081/20-ED	00548	1	NET/PC	28000	000	28000	000


**SOHAIL  
MINERALS SUPPLIERS**
**PACKING LIST**

SUPPLIER / EXPORTER / MANUFACTURER		INVOICE NO / DATE	INVOICE DATE
SOHAIL MINERALS SUPPLIERS HAROON BAHRIA CO-OPERATIVE HOUSING SOCIETY BALDIA TOWN HUR RIVER ROAD KARACHI		SMS-0004 CONTRACT NUMBER	18-10-2023 CONTRACT DATE
BUYER / IMPORTER / CONSIGNEE		DETAILS	
OSEVEH TRADELINK FZ-LLC FAMC2921, COMPASS BUILDING, AL SHORAAH ROAD, AL JAHRA INDUSTRIAL ZONE-FZ, RAS AL KHAIMAH, UNITED ARAB EMIRATES		FINANCIAL INSTRUMENT No. FBL-EXP-127463-20112023	
PRE-CARRIAGE	PLACE OF RECEIPT	DELIVERY TERMS & PAYMENT	DELIVERY TERMS
	KARACHI, PAKISTAN	100% ADVANCE PAYMENT	FOB
VESSEL / VOYAGE NO.	PORT OF LOADING	PORT OF DISCHARGES	FINAL DESTINATION
N-PRINS SAJWAN / 4794	KARACHI, PAKISTAN	JEBEL ALI, UAE	JEBEL ALI, UAE
ITEMS	DESCRIPTION	QTY (TON)	
1	MAGNESITE LUMPS	280.00	
<b>CONTAINER No's</b>			
	Net Weight	Gross Weight	PIcs
CINU0135583	28000.00	28000.00	BULK
CINU1601048	28000.00	28000.00	BULK
CSUU2171081	28000.00	28000.00	BULK
ECMU2160512	28000.00	28000.00	BULK
MSCU3528472	28000.00	28000.00	BULK
MSCU3552381	28000.00	28000.00	BULK
PONU0008624	28000.00	28000.00	BULK
TRLU3006110	28000.00	28000.00	BULK
WEDU2985073	28000.00	28000.00	BULK
WSCU6849724	28000.00	28000.00	BULK

**Declaration:**  
We declare that invoice shows the actual price of the goods described and that all particulars are true and correct.

SOHAIL MINERALS SUPPLIERS

Authorised Signature:



Plot 88 Street # 02 Sector # 03 HRCHS  
Nawab Colony Haji River Road Karachi

+92-336-1880090

[karachi@mineralsuppliers.com.pk](mailto:karachi@mineralsuppliers.com.pk)

**49.4** I find that Sohail Minerals suppliers, Pakistan had sold and stuffed the Magnesite Lumps vide invoice no. SMS No. 0004 dated 18.10.2023 to OSEVEH TRADELINK FZ-LLC and loaded at Karachi Port, Pakistan for discharge port UAE vide BL No. ASL/KHI/JEA-1095/23 dated 27.11.2023. Further these containers arrived at UAE and the same loaded containers were shipped on another vessel from UAE to Mundra, and M/s Arcus Overseas had filed the B/E no. 9107961 dated 07.12.2023 for these containers of NATURAL MAGNESIUM CARBONATE showing purchase from OSEVEH TRADELINK FZ-LLC.

**49.5** I find that Shri Deep Sitapara and Harsh Kaila both Partners of M/s Arcus Overseas, in their statements tendered before the DRI 22.12.2023 and 29.10.2024 respectively has confirmed that these 10 containers imported under B/E No. 9107961 dated 07.12.2023 were originated from Pakistan and were transshipped earlier to Jebel Ali, Port, UAE and than transshipped from Jebel Ali, Port, UAE to Mundra through a different vessel. Shri Deep Sitapara in his statement dated 22.12.2023 tendered before the DRI admitted that he had never placed any purchase order on suppliers in Turkmenistan or Turkey.

**49.6** I also observed from the statements of Shri Praveen Kumar, Senior Import Executive of M/s Livro Shipping Pvt Ltd wherein he confirmed the facts that the import made by 10 containers vide Bill of Lading ASLJEAMUN109523 were booked by shipper from his principal container line, M/s Anchorage Shipping Line and all the correspondence on behalf of his principal container line M/s Anchorage Shipping Line regarding the arrival of the containers in India was made by Shri Syed Sohaib Ali who was the citizen of Pakistan. Further, from the statement of Shri Yuvraj Jadeja, Branch Manager of M/s Livro Shipping Pvt Ltd and the copies of Invoices No SMS-004 dated 18.10.2023 issued by M/s Sohail Minerals Suppliers, Pakistan, Certificate of Origin No 2311868 dated 24.11.2023 issued by Agha Muhammad Ashraf of Pakistan, Goods Declaration Form GD-I No.2283 in respect of import of goods covered under Bill of Lading ASLJEAMUN109523 dated 6.12.2023, it is Crystal Clear that the goods covered

under B/E no 91079661(Bill of Lading ASLJEAMUN109523 dated 6.12.2023) pertaining to 10 containers had actually originated from Pakistan.

Summary of the movement of these goods from Pakistan to India is below:

Pakistan based supplier	BL No. and Loading port	Dubai based Receiver from Pakistan/Supplier to M/s Arcus Overseas	Containers details as per BL No. ASL/KHI/JEA-1095/23 dated 27.11.2023 and Invoice No. 0004 dated 18.10.2023	Brief on movement of goods from Pakistan to India	B/E no. date and Container No. filed in India by M/s Arcus Overseas
Sohail Minerals suppliers, Haroon Bharia co-operating housing society, Baladia Town, Hub River road, Karachi, Pakistan	ASL/KHI/JE A-1095/23, dated 27.11.2023 (RUD No.- 26), Loading port- Karachi, Pakistan	OSEVEH TRADELINK FZ-LLC, FAMC 2921, Compass Building, Al Shohada Road, Khamah, UAE	CINU0135583 CINU1601048 CSUU2171081 ECMU216081 2 MSCU3528472 MSCU3552381 PONU0008624 TRLU3008110 WEDU296507 3 WSCU604972 4	Sohail Minerals suppliers, Pakistan had sold and stuffed the Magnesite Lumps vide invoice no. SMS No. 0004 dated 18.10.2023 to OSEVEH TRADELINK FZ-LLC and loaded at Karachi Port, Pakistan for discharge port UAE vide BL No. ASL/KHI/JEA-1095/23 dated 27.11.2023. Further these containers arrived at UAE and the same loaded containers were shipped on another vessel from UAE to Mundra. Further these containers arrived at Mundra and M/s Arcus Overseas had filed the B/E no. 9107961 dated 07.12.2023 for these containers of NATURAL MAGNESIUM CARBONATE showing purchase from OSEVEH TRADELINK FZ-LLC	9107961 dated 07-12-2023 CINU0135583 CINU1601048 CSUU2171081 ECMU2160812 MSCU3528472 MSCU3552381 PONU0008624 TRLU3008110 WEDU2965073 WSCU6049724

**49.7** Thus, I find that the goods covered under Bills of Entry no 9210015 dated 13.12.2023 and 9107961 dated 07.12.2023 covering total 15 containers Originated from Pakistan.

**50.** Now I come up to 34 Bills of Entry where importer and the other key persons involved in this conspiracy were attempting to camouflage the actual origin country of the subject goods by way of changing the route of transportation in documents and changing containers (Cross stuffing) at Jebel Ali Port, Dubai. The details of 34 B/Es are as under:-

Sr. No.	BE NUMBER	BE DATE	NAME OF THE IMPORTER	QUANTITY	UQC	SUPPLIER NAME (Dubai Based)
1	7102285	29/07/2023	ARCUS OVERSEAS	308	MTS	OSEVEH TRADELINK FZ-LLC
2	4048125	05-01-2023	ARCUS OVERSEAS	281.2	MTS	ENERGYA PETROCHEM FZE
3	4048126	05-01-2023	ARCUS OVERSEAS	420	MTS	ENERGYA PETROCHEM FZE

4	8597914	03-11-2023	ARCUS OVERSEAS	278500	KGS	OSEVEH TRADELINK FZ-LLC
5	7504414	24/08/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
6	4563883	09-02-2023	ARCUS OVERSEAS	309.2	MTS	ENERGYA PETROCHEM FZE
7	6129492	26/05/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
8	6405142	14/06/2023	ARCUS OVERSEAS	196000	KGS	OSEVEH TRADELINK FZ-LLC
9	4202737	16/01/2023	ARCUS OVERSEAS	281.16	MTS	ENERGYA PETROCHEM FZE
10	6702155	04-07-2023	ARCUS OVERSEAS	560	MTS	OSEVEH TRADELINK FZ-LLC
11	6702604	04-07-2023	ARCUS OVERSEAS	168000	KGS	OSEVEH TRADELINK FZ-LLC
12	7021195	24/07/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
13	8488350	27/10/2023	ARCUS OVERSEAS	278500	KGS	OSEVEH TRADELINK FZ-LLC
14	4243174	19/01/2023	ARCUS OVERSEAS	532	MTS	ENERGYA PETROCHEM FZE
15	8843750	20/11/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
16	5630055	22/04/2023	ARCUS OVERSEAS	415	MTS	ENERGYA PETROCHEM FZE
17	6960857	20/07/2023	ARCUS OVERSEAS	280	MTS	OSEVEH TRADELINK FZ-LLC
18	5809974	05-05-2023	ARCUS OVERSEAS	140	MTS	OSEVEH TRADELINK FZ-LLC
19	3720006	13/12/2022	ARCUS OVERSEAS	420	MTS	ENERGYA PETROCHEM FZE
20	9714036	25/07/2022	ARCUS OVERSEAS	560	MTS	K B I RAW MATERIALS TRADING L.L.C.
21	3024474	25/10/2022	ARCUS OVERSEAS	140	MTS	VERITAS ENERGY LLC
22	3213182	08-11-2022	ARCUS OVERSEAS	420	MTS	ENERGYA PETROCHEM FZE
23	3296511	14/11/2022	ARCUS OVERSEAS	280	MTS	ENERGYA PETROCHEM FZE
24	2099435	21/08/2022	ARCUS OVERSEAS	616	MTS	K B I RAW MATERIALS TRADING L.L.C.
25	2216606	29/08/2022	ARCUS OVERSEAS	28	MTS	K B I RAW MATERIALS TRADING L.L.C.
26	2091060	20/08/2022	ARCUS OVERSEAS	280	MTS	VERITAS ENERGY LLC
27	3476761	26/11/2022	ARCUS OVERSEAS	280	MTS	ENERGYA PETROCHEM FZE
28	3517776	29/11/2022	ARCUS OVERSEAS	280.06	MTS	ENERGYA PETROCHEM FZE
29	3418894	22/11/2022	ARCUS OVERSEAS	280	MTS	ENERGYA PETROCHEM FZE
30	3418901	22/11/2022	ARCUS OVERSEAS	560	MTS	ENERGYA PETROCHEM FZE
31	8903194	31/05/2022	ARCUS TRDX	56	MTS	WORLD BUSINESS TRADING FZC
32	9099225	14/06/2022	ARCUS TRDX	420	MTS	K B I RAW MATERIALS TRADING L.L.C.
33	9216544	21/06/2022	ARCUS TRDX	550	MTS	RELIANCE IMPEX GENERAL TRADING LLC
34	9316125	28/06/2022	ARCUS TRDX	137.5	MTS	RELIANCE IMPEX GENERAL TRADING LLC

**50.1** To understand how the subject goods arrived at Mundra Port from Karachi, Pakistan via Jebel Ali, Dubai, (through Cross Stuffing) I take up the example of Bill of Entry No 4202737 dated 16.01.2023 as mentioned in the Sr. No. 9 of table above.

**Bill of Entry No. 4202737**

From the evidences available on records, I find that The Stoners, having their address at Suite No. 1101, Aero Regent Park, Flot No. D-1, Block-F, North Nazimabad, Karachi, Pakistan, shipped ten (10) containers of *Natural Magnesium Carbonate* to Energyya Petrochem FZE, UAE, under Bill of Lading No. TAI/CGS/JEA/010-22 dated 24.12.2022. The cross-stuffing invoice No. JWSF10000058/19.01.2023 dated 06.01.2023, issued by JWS Shipping Services LLP, expressly refers to the aforesaid Bill of Lading i.e. TAI/CGS/JEA/010-22 dated 24.12.2022. The said invoice also mentions the Master Bill of Lading (MBL) No. ASCLJEAJAMUN2301760, which indicates that the goods were ultimately destined for Mundra Port.

Further, the cross-stuffing invoice reflects freight charges for movement from Karachi (KHI) to Jebel Ali (JEA) and from Jebel Ali to Mundra (MUN). On careful observation, it is seen that the goods arriving in the UAE from Pakistan were re-loaded into different containers through a cross-stuffing process, and thereafter shipped to Mundra on a different vessel.

The containers referred to in the cross-stuffing invoice subsequently arrived at Mundra Port, and **Bill of Entry No. 4202737 dated 16.01.2023** was filed by M/s Arcus Overseas for their clearance.

The correlation has been summarized as below:

BILL OF LADING FROM PAKISTAN TO JABEL ALI (IN RESPECT OF Pakistan Based Supplier)				Cross Stuffing Invoice of JWS shipping services, UAE			Containers imported vide BE No. 4202737 dated
Name of Supplier/sh ipper and load port	Destina tion agent address	No. of Contai ners and quanti ty	Consignee/ Notify party as per said BL and Mobile No.	Bill of Lading No. and port of loading of goods	Shipper and customer of JWS shipping services	Containers Total:10	16.01.2023 by M/s Arcus Overseas
The Stoners, Karachi Pakistan, Load port- Karachi ,Pakistan	JWS SHIPPIN G SERVICES LLC, UAE	10 containers 281.6 MTs	Energyya Petrochem FZE, UAE, Mob no.- 9327517443	TAI/CGS/JEA/010-22 DATED 24.12.2022, Port of loading - Karachi, Pakistan	Energyya Petrochem FZE, UAE, Customer- M/s Arcus Overseas	ASLU3676112 CRSU1290019 CSCU3027779 CSCU3028585 CSCU3031357 TCLU2359430 TCLU2472745 TRDU7719346 TRDU7769795	ASLU3676112 CRSU1290019 CSCU3027779 CSCU3028585 CSCU3031357 TCLU2359430 TCLU2472745 TRDU7719346 TRDU7769795

**50.2** The Screenshot of BILL OF LADING FROM PAKISTAN TO JABEL ALI (IN RESPECT OF Pakistan Based Supplier) BL NO. TAI/CGS/JEA/010-22 DATED 24.12.2022 and Cross Stuffing Invoice of JWS shipping services, UAE JWSF10000058/19.01.2023 and Job ref. JWSBKG000012/2023 are summarised below

## DRAFT BILL OF LADING

Consignor/Shipper <b>THE STONERS</b> Suite No. 811, 8 Floor, Anum Estate, 49 - DACHS, Shahra-e-Faisal, Karachi-75550, Pakistan. Suite No. 1101, Aero Regent Park, Plot No. D-1, Block F, North Nazimabad, Karachi-74700, Pakistan. Phone: +92 313 2753309 & +92 302 5559737	MTD/Bill/Lading Number TAI/CGS/JEA/010-22 Shipper's Reference		
Consignee (if 'To Order' to indicate) <b>TO THE ORDER OF:</b> <b>ENERGYA PETROCHEM FZE</b> R34BS33030, Jebel Ali JAFZA, Dubai, P.R. 112561, Dubai UAE. Ph: +91 9327517443			
Notify Party (No claim shall attach for failure to notify) <b>ENERGYA PETROCHEM FZE</b> R34BS33030, Jebel Ali JAFZA, Dubai, P.R. 112561, Dubai UAE. Ph: +91 9327517443			
Place of Receipt <b>KARACHI - PAKISTAN</b>	Port of Loading <b>KARACHI - PAKISTAN</b>	Freight Payable at: <b>DUBAI, UAE</b>	
Vessel <b>CAPE FULMAR - 006W</b>	Port of Discharge <b>JEBEL ALI-UAE</b>	Place of Delivery <b>JEBEL ALI-UAE</b>	No. of Bills of Lading <b>THREE (3)</b>
Marks and ID Contr No./ Seal No.	No. Pkgs (ref to clause 11)	STC - kind of packages/description of goods/instructions	NET WEIGHT (KGS)
IMTU3006361	02117	"10X20 FT FCL CONTAINERS SAID TO CONTAIN Natural Magnesium Carbonate (Magnesite) Lumps (Low Grade), H.S. Code: 2519.1000, Pakistan Origin - 281.16 M. Ton (Net Weight). F.I. No.: STB-EXP-021005-19122022. TOTAL 190 BAGS NET WEIGHT: 281,160.00 KGS GROSS WEIGHT: 281,600.00 KGS	28116
EMCLU6051424	02142		28116
MSCU6848530	02143		28116
ESU3950877	02128		28116
HLXU32275797	02139		28116
MEDU1889997	02104		28116
FCIU3763449	02112		28116
EGSU3012906	02141		28116
RRMU2406410	02131		28116
TLHUB140584	02118		28116
		14 DAYS FREE TIME AT POD"	
FCI/FCI CY/CY SAID TO CONTAIN SHIPPER'S LOAD STOW COUNT & SEAL FREIGHT COLLECT			
ALL DESTINATION HANDLING CHARGES ON CONSIGNEE'S A/C			
Note: The Merchant's attention is called to the fact that Clauses 10,11 and 12 of the Bill of Lading, the liability of the Carrier is, in most cases, limited in respect of loss of or damage to the goods and delay.		Excess Value Declaration: Refer to Clause 11 (8) & (9) on reverse	
Destination agent address: <b>JWS SHIPPING SERVICES L.L.C</b> P.O Box 12954, Office #508, 5th Floor, Montane Building, Karama, Dubai, UAE Tel: +971 42688808 ~ extn 203   Mob: +971 (0) 569962647 Email: honey@jwsshippingllc.com		Notified by the Carrier the goods in specified above in apparent good order and condition (unless otherwise stated) to be transported to such place as agreed, authorized or permitted hereunder and subject to all the terms and conditions appearing on the front and reverse of the Bill of Lading to which the Merchant agrees by accepting the Bill of Lading, any local privileges and customs notwithstanding. The particulars given above as stated by the shipper and the weight, measure, quantity, condition, contents and value of the goods are subject to the Carrier's WITNESS whereof one (1) original Bill of Lading has been signed. If not otherwise stated above, the same being accomplished the other(s), if any, to be void. If required by the Carrier one (1) original Bill of Lading must be surrendered.	
		Place and date of issue: KARACHI / 24.12.2022. Signed as Agent of the Carr	
		By: _____	

**Taiga**  
SHIPPING & LOGISTICS PTE LTD



ORIGINAL FOR RECIPIENT

## Tax Invoice

J.W.S SHIPPING SERVICES LLC  
 P.O Box 120554, Office #508, 5th Floor,  
 Montara Building, Karara, Dubai, UAE  
 Tel: +971 42688899  
 Office VAT ID (TRN): 10051202060003

Bill To:  
 Party Name: ENERGYYA PETROCHEM FZE  
 Address: P.O. BOX 42081, JAFZA DUBAI, UAE  
 MOBILE NO. 0569534401  
 EMAIL: Commercial@energypetrochem.com  
 Region: VAT ID (TRN)  
 DURAF: 10051251310003  
 Invoice Ref #: JWSFT600058/2023  
 Place of Supply: DURAF  
 Invoice Date: 19-Jun-2023

## Shipment Details For SEA FREIGHT IMPORT FCL

Vessel/Voyage: CAPE FLAMAR / ROMV  
 Arrived Date: 10/06/2023  
 Port of Loading: KARACHI CITY (PKY/C)  
 Port of Discharge: JEBEL ALI (AEI/A)  
 Origin Port: KARACHI CITY (PKY/C)  
 Place of Delivery: JEBEL ALI (AEI/A)  
 Shipper: ENERGYYA PETROCHEM FZE  
 Consignee: ARCUS OVERSEAS  
 CIN Reference: 1  
 Sales Person: Management  
 Container No.: 20' x 10' - ASLU0676112(20GP), TCUU215440N(20GP), VSBU2037746(20GP), CSCU13027729(20GP), TDUU7749795(20GP),  
 TDUU77194R(20GP), TCUU472745(20GP), CSCU1302859(20GP), CSUJ1290019(20GP), CSCU13611352(20GP)

Description of Service	Qty/UOM	Rate	Curr./Ex.Rate	Invoice Amount (FC)	Invoice Amount (HSR)	Taxable VAT Value Group	VAT	
							Rate	Amt.
1) OCEAN FREIGHT FROM KARACHI TO JEBEL ALI	10.000 / 20GP	135.019 USD	1.68500	1300.000	1,000.000	0.000 VAT 0%	0.000	0.000
2) CROSS STUFFING CHARGES	10.000 / 20GP	1030.000 USD	1.68500	10300.000	10,300.000	0.000 VAT 0%	0.000	0.000
3) OCEAN FREIGHT JEA TO MUNDRA	10.000 / 20GP	35.500 USD	1.68500	350.000	350.000	0.000 VAT 0%	0.000	0.000
4) MISCELLANEOUS OTHER CHARGES	10.000 / 20GP	195.410 USD	1.68500	1954.100	1,954.100	0.000 VAT 0%	0.000	0.000
				13,004.100	10,000			0.000

Tax Summary	Taxable Amt	VAT	
		%	Amount
VAT 0%	13,004.100	0.000	0.000

In Words: USD THIRTEEN THOUSAND NINE-HUNDRED FOUR AND 100 / 100 ONLY

Total Invoice : 13,004.100 USD

## Remarks

## Bank Details

A/C Name: J.W.S SHIPPING SERVICES LLC  
 A/C Number: 900 10 2000 20 500  
 IBAN: AE0601000000000000000000  
 Bank: BANK OF BARODA  
 Swift Code: BBRAAEAD

This is a system generated invoice, no signatures and stamp required.  
 In case of any dispute in the invoice, kindly return within 5 working days from the date of invoice at accounts@jwsshippingllc.com

J.W.S SHIPPING SERVICES LLC  
 P.O Box 120554, Office #508, 5th Floor, Montara Building, Karara, Dubai, UAE  
 T: +971 42688899 | F: +971 42330771 | E: info@jwsshippingllc.com | W: www.jwsshippingllc.com

Email is received on 08-07-2023.

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50.3 From the evidence discussed above in respect of BE No 4202737 dated 16.01.2023 filed by M/s Arcus Overseas, I Find that the subject goods were purchased by Energyya Petrochem FZE, UAE from the supplier the Stoners , Karachi, Pakistan containing 10 containers loaded from the Port ,Karachi. The Bill of lading number is shown as TAI/CGS/JEA/010-22 DATED 24.12.2022. The said goods were dispatched from the port Jebel Ali to Mundra mentioning

same Bill of lading Number in the tax invoice issued by the JWS Shipping Service. In the said cross stuffing invoice, the port of loading was also shown karachi, Pakistan. Hence, I find it enough evidence to establish that the goods imported under subject BE No 4202737 dated 16.01.2023 filed by M/s Arcus Overseas, were originated from Pakistan.

**50.4** On the basis of evidences available on records, I find that Shri Maulik Atulbhai Shah, operating from Dubai, procured the subject goods—Natural Magnesite Carbonate/Natural Magnesium Carbonate—from various suppliers in Pakistan, including The Stoners, MIB Industries, and Saifee Expo. He arranged for these goods to be shipped to the UAE, where they were subjected to cross-stuffing operations and thereafter transported to Mundra Port under fabricated documents. The consignments were falsely shown as supplied by UAE-based entities such as OSEVEH Tradelink FZ-LLC, Energyya Petrochem FZE, KBI Raw Materials Trading L.L.C., Reliance Impex General Trading LLC, World Business Trading FZC, and Veritas Energy LLC, with the country of origin deliberately mis-declared as Turkmenistan or Turkey.

**50.5** Evidence recovered from the mobile phones and email accounts of Shri Deep Sitapara and Shri Harsh Kaila both partners of M/s Arcus Overseas confirms that all consignments imported in 2022 and 2023 were sourced from Pakistan and that 34 consignments were routed through cross-stuffing in the UAE. WhatsApp groups such as "Energyya & Sahama" and "Energyya & Amir Bhai" were used by Shri Maulik Shah, Shri Deep Sitapara, Ahmed, Amir Mimon (a Pakistani national), and others to coordinate these operations. Communications reveal detailed planning regarding container manipulation, alteration of seal numbers, and creation of a fictitious transportation route to conceal the true origin of the goods. Email records recovered from the device of Shri Bhagirath Varmora further corroborate that cross-stuffing was handled and supervised by Shri Maulik Shah (also using the alias *Ravi Shah*).

**50.6** In his voluntary statement dated 22.12.2023, Shri Deep Chandulal Sitapara admitted that all 36 consignments were imported by him from Pakistan and that he paid USD 45 per MT to Shri Maulik Shah towards cross-stuffing charges. He confirmed that cross-stuffing in the UAE was undertaken specifically to avoid detection by Customs authorities and that the consignments were shipped to India under newly fabricated documents. It was also found that M/s Arcus Overseas, represented by Shri Sitapara and Shri Harsh Kaila, mis-declared the country of origin in all such imports. Test reports from a Morbi-based laboratory circulated by Shri Kaila to buyers further revealed that the goods were openly described as being of Pakistani origin, as such material enjoyed high demand in the Morbi market.

**50.7** The investigation further reveals that Shri Maulik Shah created a fictitious Indian entity, M/s J K Tradelink, and used multiple identities, mobile numbers, and email IDs—including *jktradelink@gmail.com*—to manage procurement from Pakistan, cross-stuffing in Dubai, and subsequent shipment to Mundra. He used the names of various UAE-based firms to generate false invoices for both the Pakistan-UAE and UAE-India legs of the transactions and collected commissions through these entities. All associated costs were borne by Shri Deep Sitapara, who financially benefited by paying only 5% customs duty instead of the approximately 200% duty applicable to goods of Pakistani origin, thereby causing a substantial loss of revenue to the Government.

**Applicability of the Extended Period of Limitation under Section 28(4) of the Customs Act, 1962:**

**51.1** The present Show Cause Notice has been issued under the provisions of Section 28(4), therefore it is imperative to examine whether the section 28(4) of Customs Act, 1962 has been rightly invoked or not. The relevant legal provisions of Section 28(4) of the Customs Act, 1962 are reproduced below: -

*"28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.—*

*(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—*

*(a) collusion; or*

*(b) any willful mis-statement; or*

*(c) suppression of facts."*

*by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.*

The term "relevant date" For the purpose of Section 28 ibid, has been defined in Explanation 1, as under:

*Explanation 1 . - For the purposes of this section, "relevant date" means,-*

*(a) in a case where duty is 21/not levied or not paid or short-levied or short-paid], or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;*

*(b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;*

*(c) in a case where duty or interest has been erroneously refunded, the date of refund;*

*(d) in any other case, the date of payment of duty or interest.*

**51.2** I find that with the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f 08.04.2011, it was the obligatory on the part of the importer to declare the actual country of origin and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of clearance of the imported goods, the importer appears to have indulged in mis-declaration and mis-classification by way of suppression of facts and wilfully mis-declared and mis-classified the imported goods with intent to evade the payment of applicable Customs duties.

**51.3** The facts and evidences placed before me clearly state that the importer has wilfully indulged in mis-stating and suppressing the fact that the goods were of Pakistan origin. The importer had mis-declared the country of Origin of such goods covered under the said Bills of Entry as Turkey. The importer got cleared the import consignments on payment of Customs Duty at the rate of BCD@5%, whereas, in terms of Notification No. 05/2019-Customs dated 16.02.2019, the import goods is covered under residual entry of CTH 98060000 and attracts BCD@200%. Had the DRI not initiated investigation into the matter, the importer would have succeeded in his manipulations and the evasion of duty could not have been unearthed.

**51.4** In the present case, invocation of the extended period of limitation under Section 28(4) of the Customs Act, 1962 is fully justified, as the investigation has established a deliberate and well-planned scheme of mis-declaration and suppression adopted by the noticee with the clear intention of evading the applicable Basic Customs Duty of 200% prescribed under Notification No. 05/2019-Cus dated 16.02.2019. The digital evidence retrieved from the mobile phone of Shri Deep Sitapara, statements of the partners, and corroborating documents establish that

36 consignments of Natural Magnesium Carbonate / Magnesite Lumps imported in the past were, in fact, sourced from Pakistan but were systematically mis-declared as originating from countries other than Pakistan. I find that WhatsApp chat groups ("Energya," "Energya & Amir Bhai," etc.) revealed the communications with Pakistani suppliers, videos showing loading operations at Karachi, and discussions on concealment of Pakistan origin. Further invoices and packing lists issued by Pakistani suppliers in the name of UAE entities clearly show that the goods were originated from Pakistan. The cross-stuffing invoices issued by JWS Shipping Services LLC, Dubai, directly linked Pakistan Bills of Lading to the containers ultimately received at Mundra Port. The shipping line tracking data confirmed that goods were loaded from Pakistan. These records clearly show that the consignments were routed through the UAE to obtain fabricated Certificates of Origin from the Dubai Chamber of Commerce to falsely represent the goods as non-Pakistan origin. These facts demonstrate that goods were deliberately mis-declared by hiding the origin of the same. The repeated mis-declaration across all 36 consignments and the pattern of suppression and falsification clearly constitute fraud, collusion, wilful mis-statement, and suppression of material facts within the meaning of Section 28(4) of the Customs Act, 1962.

**51.5** I notice that Section 28(4) of the Customs Act provides that where any duty has not been levied, or has been short-levied, due to collusion, wilful mis-statement, or suppression of facts by the importer with intent to evade payment of duty, the proper officer may issue notice for recovery within five years from the relevant date. For invocation of this extended period, the following conditions must be satisfied:

- there must be wilful mis-statement or suppression of facts;
- the importer must have knowledge of the true nature of the goods or facts suppressed; and
- there must be a clear intent to evade payment of duty.

**51.6** In the present case, the evidence on record clearly establishes the fulfilment of all these conditions. The goods were repeatedly imported and cleared by-misdeclaring/suppressing the fact that the goods were actually Pakistan Origin. I find that the modus operandi was systematic and calculated. It is further noticed that none of the parties voluntarily disclosed the true facts. The real nature of the goods and the ownership structure came to light only through the detailed DRI investigation. These facts establishes that material information which was necessary for correct assessment was knowingly withheld from the Department. I find that "suppression of facts" means deliberate concealment of material particulars with intent to evade duty. The facts of the present case squarely satisfy this definition. The acts of the importers cannot be seen as mistakes or misunderstandings; it demonstrates mens rea and conscious concealment. These acts clearly show a deliberate intention to hide the true nature of the goods. These actions prove a planned and intentional method which was adopted with the intention to evade legitimate customs duty.

**51.7** In view of the above, I find it appropriate to invoke the extended period under Section 28(4) of the Customs Act, 1962, for recovery of legitimate government duties. Accordingly, the differential duty is recoverable under the extended period prescribed in Section 28(4), along with interest under Section 28AA of the Customs Act, 1962.

**Determination of duty under section 28(8) Customs Act,1962 read with Section 28(4) of Customs Act,1962**

**52.** In foregoing paras, I have held that the goods imported by M/s Arcus Overseas are correctly classifiable under tariff Item 9809 00 00 of the first schedule of Customs Tariff, 1975, therefore, the importer is liable to pay the differential duty with the applicable rate at the material time in respect of all the 36 Bills of Entry in terms of Section 28(8) read with Section 28(4) of Customs Act, 1962 as tabulated below:-

B/E No.	Date	Declared Assessable Value (Rs.)	BCD Payable @200% (Rs.)	SWS payable @10% (Rs.)	IGST Payable @28% (Rs.)	Total Customs Duty payable (Rs.)	Total Customs Duty paid (Rs.)	Differential Duty payable (Rs.)

8903194	31-05-2022	560840.9	1121681.74	112168.2	502513.42	1736363.33	60430.00	1675933.33
3720006	13-12-2022	4005157	8010313.5	801031.4	3588620.45	12399965.3	431556.00	11968409.30
9099225	14-06-2022	4234296	8468591.78	846859.2	3793929.12	13109380.1	456246.00	12653134.08
9216544	21-06-2022	5181498	10362996.74	1036300	4642622.54	16041919	558307.00	15483611.95
9316125	28-06-2022	1295375	2590749.18	259074.9	1160655.63	4010479.73	139577.00	3870902.73
9714036	29-07-2022	4986520	9973040	997304	4467921.92	15438265.9	537298.00	14900967.92
3024474	25-10-2022	1425377	2850754.2	285075.4	1277137.88	4412967.5	153585.00	4259382.50
3213182	08-11-2022	4093075	8186149.66	818615	3667395.05	12672159.7	441029.00	12231130.67
3296511	14-11-2022	2728717	5457433.1	545743.3	2444930.03	8448106.44	294020.00	8154085.44
2099435	21-08-2022	5415753	10831506.84	1083151	4852515.06	16767172.6	583548.00	16183624.59
2216606	29-08-2022	246170.6	492341.22	49234.12	220568.867	762144.209	26526.00	735618.21
2091060	20-08-2022	2735229	5470458	547045.8	2450765.18	8458268.98	294721.00	8173547.98
3476761	26-11-2022	2689642	5379283.7	537928.4	2409919.1	8327131.17	289809.00	8037322.17
3517776	29-11-2022	2690218	5380436.4	538043.6	2410435.51	8328915.55	289870.00	8039045.55
3418894	22-11-2022	2689642	5379283.7	537928.4	2409919.1	8327131.17	289809.00	8037322.17
3418901	22-11-2022	5379284	10758567.4	1075857	4819838.2	16654262.3	579617.00	16074645.34
4048125	05-01-2023	2732236	5464471.2	546447.1	2448083.1	8459001.42	294398.00	8164603.42
4048126	05-01-2023	4080864	8161727.96	816172.8	3656454.13	12634354.9	439713.00	12194641.88
4202737	16-01-2023	2736752	5473503.04	547350.3	2452129.36	8472982.71	294886.00	8178096.71
4243174	19-01-2023	5178375	10356749.24	1035675	4639823.66	16032247.8	557970.00	15474277.82
4563883	09-02-2023	2975527	5951053.56	595105.4	2666071.99	9212230.91	320613.00	8891617.91
5630055	22-04-2023	3733814	7467627.7	746762.8	3345497.21	11559887.7	402319.00	11157568.68
5809974	05-05-2023	1432874	2865747	286574.7	1283854.66	4436176.36	154392.00	4281784.36
6129492	26-05-2023	2890721	5781441.64	578144.2	2590085.85	8949571.66	311476.00	8638195.66
6405142	14-06-2023	2027875	4055750	405575	1816976	6278301	218503.00	6059798.00
6702155	04-07-2023	5559650	11119300.5	1111930	4981446.62	17212677.2	599053.00	16613624.17
6702604	04-07-2023	1667895	3335790.16	333579	1494433.99	5163803.17	179717.00	4984086.17
6960857	20-07-2023	2687518	5375036.46	537503.6	2408016.33	8320556.44	289581.00	8030975.44
7021195	24-07-2023	2675909	5351818.16	535181.8	2397614.54	8284614.51	288330.00	7996284.51
7102285	29-07-2023	2943500	5886999.96	588700	2637375.98	9113075.94	317163.00	8795912.94
7504414	24-08-2023	2704932	5409863.9	540986.4	2423619.03	8374469.32	291457.00	8083012.32
8488350	27-10-2023	2418609	4837217.9	483721.8	2167073.62	7488013.31	260605.00	7227408.31
8597914	03-11-2023	2491101	4982202.64	498220.3	2232026.78	7712449.69	268417.00	7444032.69
8843750	20-11-2023	2347101	4694202.28	469420.2	2103002.62	7266625.13	252901.00	7013724.13
9107961	07-12-2023	2314043	4628086.76	462808.7	2073382.87	7164278.3	249338.00	6914940.30
9210015	13-12-2023	1159499	2318998.5	231899.9	1038911.33	3589809.68	124937.00	3464872.68
		107115588	214231175.7	21423118	95975567	331629860	1154171	32008814
36 B/E							7	3

**53. Confiscation of the goods under section 111 (m) of the customs act, 1962:** I find that the Show Cause Notice proposes confiscation of the imported goods under the provisions of Section 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below:-

*(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;*

**53.1** The said section provides that *"any goods which do not correspond in respect of value or in any other particular with the entry made under this Act, or in respect of which any material particular has been mis-declared in the Bill of Entry or other document, shall be liable to confiscation."* Thus, any incorrect or false declaration of material particulars such as description, classification, or value attracts confiscation of the goods imported under such declaration. This provision allows for confiscation of any goods that have been mis-declared in the Bill of Entry or other import documents in respect of description, classification, value, or any other detail relevant to duty assessment. In above paras, I have hold that the subject import goods were mis-classified and mis-declared with respect to its description (CTH & Country of Origin) with intent to avoid the payment of BCD@200% and other duties as per provisions of Customs Act, 1962. Had the DRI not started investigation, the importer will become successful in their objectives. Therefore, I hold that the goods imported under 36 B/Es

as per table of para 52 above are liable for confiscation under Section 111(m) of the Customs Act, 1962.

**53.2 Imposition of Redemption Fine:** As the impugned goods are found to be liable for confiscation under Section and 111(m) of the Customs Act, 1962, I find that it necessary to consider whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the goods imported under the 36 Bill of Entry as per table of para. The Section 125 ibid reads as under:-

*"Section 125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods, by paying redemption fine.

**53.3** Since the goods imported vide 36 Bills of Entry are not physically available for confiscation, I find that the redemption fine cannot be imposed in respect of the said 36 BEs.

**53.4** I find that the during the search at the premises of M/s Arcus overseas, 177.500 MT of goods valued of Rs. 14,70,079/- found physically in the storage area and they have not provided any evidences that the goods have procured from the local market. These 177.500 MT of goods valued of Rs. 14,70,079/- found physically are liable for confiscation under Section 111(m) of the Customs Act, 1962 and redemption fine is liable to be imposed on the said confiscated goods. I hold accordingly.

**54. With regards to Cross Examination sought by the Noticees:**

**(i).** M/s Arcus Overseas, Shri Deep Sitapara, Shri Harsh Kaila, Shri Sachin Patel, Smt.Ketuben Sherasiya, Smt.Dimpleben Bhoraniya, Shri Divy Sherasiya and Shri Nishank Bhoraniya vide their submission dated 27.11.2025 sought cross-examination of Shri Praveenkumar Senior Import Executive, Shri Yuvraj Jadeja, Shri Chandan Gangadharan Nair, Shri Mahi Pratap Sahi, Shri Mitesh Keshavi Malastar, Shri Atul Shah, Shri Bhagirath Varmora, and Shri Fayaz Ahmed. Further, in their written submission/defense reply dated 23.01.2025 have also sought cross examination of Shri Deep Sitapara, Shri Harsh Kaila, Shri Sachin Patel, Shri Yuvraj Jadeja and Shri Mitesh Malstar. Moreover, they also sought cross examination of various Panchas who were present during the course of search and Panchnamas. Cross-examination of Shre Deep sitapara was also sought by Shri Mitesh Keshavi Malastar vide his submission dated 8.12.2025.

**(ii)** I find that Shri Deep Sitapara and Shri Harsh Kaila, both partners of M/s Arcus Overseas were present during the Panchnama Proceedings carried out at the office premises on 21.12.2023 and on being asked by visiting officers of DRI, they informed that their firm i.e. M/s Arcus Overseas is engaged in import of "Natural Magnesium carbonate" Originating from Pakistan via Jabel Ali (Dubai) since 2022 and also informed the officers that there are five partners in the firm. And the other partners are Shri Sachin Patel, Smt.Ketuben Sherasiya, Smt.Dimpleben Bhoraniya, Further Shri Deep Sitapara in his statement tendered before DRI on 22.12.2023 has categorically admitted that he is handling the work related import, accounting and bargaining to the supplier and he used to discuss the rate with overseas suppliers. He also stated that Smt.Ketuben Sherasiya, Smt.Dimpleben Bhoraniya are sleeping partners surprisingly, he (Deep Sitapara) has sought cross-examination of other partners i.e. Shri Harsh Kaila, Shri Sachin Patel and others. In another surprise, in the submission dated 23.1.2025 filed by M/s Arcus Overseas where in the Partners i.e. Shri Deep sitapara, Shri Harsh Kaila and Shri Sachin Patel had sought cross examination of each other without any substantive reasons and also the sleeping partners i.e Smt.Ketuben Sherasiya, Smt.Dimpleben

Bhoraniya have sought cross-examination of another partners Shri Harsh Kaila and Shri Sachin Patel.

**(iii)** I find that the investigating agency DRI have sincerely carried out investigation and based their case on various corroborative evidences. When there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross examination.

**(iv)** I find that the investigating agency DRI have diligently carried out their investigation which is corroborated by irrefutable evidences gathered and scrutinised during the investigation process. In the present case, the act of mis-classification of impugned imported goods, and mis-statement of facts by way of submitting invalid Country of Origin certificates has been repeatedly admitted by Shri Deep Sitapara, Shri Harsh Kaila and Shri Sachin Patel and records like bills of lading, copy of parallel invoices/packing list recovered during the investigation, container tracking status from M/s Karachi International Container Terminal Ltd([www.kictl.com](http://www.kictl.com)) are sufficient evidence on record which proves that the goods were originated in Islamic Republic of Pakistan. In their written submission dtd 23.01.2025 and 27.11.2025, they have sought cross-examination of such persons who are very close to them which shows that their request for seeking the cross-examination has sole reason to delay the adjudication proceedings. Therefore, I observe that at this stage no purpose would be served to allow cross-examination of such persons as requested by M/s Arcus Overseas, Shri Deep Sitapara, Shri Harsh Kaila, Shri Sachin Patel, Smt.Ketuben Sherasiya, Smt.Dimpleben Bhoraniya, Shri Divy Sherasiya and Shri Nishank Bhoraniya as the same would only unnecessarily protract the proceedings.

**(v)** I find that denial of Cross-examination does not amount to violation of principle of natural justice in every case. Further, it is a settled position that proceeding before the quasi-judicial authority is not at the same footing as proceedings before a court of law a court of law and it is the discretion of the authority as to which request of cross examination to be allowed in the interest of natural justice.

**(vi)** I find that the request for cross examination has been made at the final stage of the proceedings. This appears to be a delaying tactic intended to prolong the adjudication process without any substantive justification. As discussed under foregoing paragraphs, the findings are not solely based on the statements of these individuals but are supported by examination of goods, searches at the premises of concerned firms/persons, digital evidences etc. and even admissions made by the requesting noticees themselves. I find that each noticee was given ample opportunity to present their defense, access all relied-upon documents (RUDs), and participate in personal hearings. The noticees were afforded full opportunity to defend themselves during hearings, this satisfied principles of audi alteram partem.

**(vii)** It is further noted that none of the applicants has retracted their statements recorded under Section 108 of the Customs Act, 1962. The statements remain voluntary, consistent, and corroborated by independent documentary and scientific evidence. Even after issuance of the Show Cause Notice, the applicants have not disputed the findings of the investigation or any of the connected statements. The present request for cross-examination was made after issuance of the Show Cause Notice, clearly appears to be an afterthought, devoid of any new or justifiable grounds. As the applicants have themselves accepted these facts and never retracted their statements, I find no necessity for cross-examination of the witnesses sought. Noticees own uncontroversial confessional statements constitute direct and primary evidence of the conspiracy, mens rea, and duty evasion. While Section 138B mandates relevance and admissibility of statements, it does not confer an absolute right to cross-examination in quasi-judicial proceedings, which are not akin to court trials under the Evidence Act, 1872. Cross-examination is an element of procedural justice, not a sine qua non of natural justice, and may be denied where statements are corroborated by independent evidence. The detailed information provided by the Noticees leaves no doubt that they were one of the key individuals involved in the cartel responsible for importing goods into India with the intent to evade legitimate government taxes in the form of Customs Duty. Further, it is a settled position that proceedings before the quasi-judicial authority is not at the same footing as proceedings before a court of law and it is the discretion of the authority as to which request of cross examination

to be allowed in the interest of natural justice. I also rely on following case-laws in reaching the above opinion:-

- a. **Poddar Tyres (Pvt) Ltd. v. Commissioner** - 2000 (126) E.L.T. 737:- wherein it has been observed that cross-examination not a part of natural justice but only that of procedural justice and not 4 'sine qua non'.
- b. **Kamar Jagdish Ch. Sinha Vs. Collector** - 2000 (124) E.L.T. 118 (Cal H.C.):- wherein it has been observed that the right to confront witnesses is not an essential requirement of natural justice where the statute is silent and the assessee has been offered an opportunity to explain allegations made against him.
- c. **Shivom Ply-N-Wood Pvt. Ltd. Vs Commissioner of Customs & Central Excise Aurangabad** - 2004(177) E.L.T 1150(Tri.-Mumbai):- wherein it has been observed that cross-examination not to be claimed as a matter of right.
- d. Hon'ble Andhra Pradesh High Court in its decision in **Sridhar Paints v/s Commissioner of Central Excise Hyderabad** reported as 2006(198) ELT 514 (Tri-Bang) held that: ..... denial of cross-examination of witnesses/officers is not a violation of the principles of natural justice, We find that the Adjudicating Authority has reached his conclusions not only on the basis of the statements of the concerned persons but also the various incriminating records seized. We hold that the statements have been corroborated by the records seized (Para 9)
- e. Similarly in **A.L Jalauddin v/s Enforcement Director** reported as 2010(261)ELT 84 (mad) HC the Hon High court held that; "....Therefore, we do not agree that the principles of natural justice have been violated by not allowing the appellant to cross-examine these two persons: We may refer to the following paragraph in AIR 1972 SC 2136 = 1983 (13) E.L.T. 1486 (S.C.) (Kanungo & Co. v. Collector, Customs, Calcutta)".
- f. **In the case of Patel Engg. Ltd. vs UOI** reported in 2014 (307) ELT 862 (Bom.) Hon'ble Bombay High Court has held that;
- g. "Adjudication — Cross-examination — Denial of—held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances — Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors — Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated." [para 23]
- h. **In the case of Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda** [2002 (142) E.L.T. 640 (Tri.-Mumbai)], Tribunal observed at Para 17 that— "Natural Justice — Cross-examination — Confessional statements — No infraction of principles of natural justice where witnesses not cross-examined when statements admitting evasion were confessional."
- i. **In the case of Commissioner of Customs, Hyderabad v. Tallaja Impex** reported in 2012 (279) ELT 433 (Tri.), it was held that— "In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross-examination cannot be claimed as a matter of right."
- j. **Hon'ble Tribunal in the case of P. Pratap Rao Sait v/s Commissioner of Customs** reported as 1988 (33) ELT (Tri) has held in Para 5 that: "The plea of the learned counsel that the appellant was not permitted to cross-examine the officer and that would vitiate the impugned order on grounds of natural justice is not legally tenable."

From the above discussion, I find the request for cross-examination is devoid of merit. It is unnecessary in view of the admitted facts, corroborated evidence, noticees own admissions, scientific findings, and was also filed belatedly after accepting the material facts.

#### **ROLE AND CULPABILITY PLAYED BY VARIOUS PERSONS/FIRMS AND PENAL CONSEQUENCES THEREOF-**

## 55. Role and Culpability of M/s Arcus Overseas:-

**55.1** The investigation has conclusively established that the importer, M/s Arcus Overseas, deliberately mis-declared the country of origin of the imported goods and thereby evaded the applicable customs duty. The documentary evidence recovered from the mobile phone, email records, and WhatsApp communications of Shri Deep Chandulal Sitapara, Partner of the importing firm, coupled with his voluntary confessional statements and other corroborative materials, clearly demonstrates that the importer knowingly and intentionally cleared the offending/smuggled goods in collusion with the overseas suppliers/consignors. It is evident that M/s Arcus Overseas was actively concerned with the purchase, sale, and handling of such mis-declared goods. Since the differential customs duty amounting to ₹32,00,88,143/- (Rupees Thirty-Two Crore Eighty Thousand One Hundred Forty-Three Only) was evaded through fraud, collusion, suppression of facts, and willful mis-statement, the importer is liable to penalty under **Section 114A** of the Customs Act, 1962. Further, M/s Arcus Overseas, through its partner Shri Deep Chandulal Sitapara, knowingly and intentionally made, signed, and used false import documents (including Bills of Entry, Certificates of Origin, and related papers) containing material mis-statements regarding country of origin, tariff classification, and other particulars for the purpose of evading customs duty. Accordingly, they are also liable to a separate penalty under **Section 114AA** of the Customs Act, 1962.

**55.2** Further, IEC records show the importer's registered address as Shop No. 14, First Floor, Survey No. 81/2, Plot No. 4, Timbdi, Morbi, while they continued using this outdated address in import documents despite shifting their actual business operations to Plot No. 4, Survey No. 132/P, 8A NH, Near Shreeji Gold Ceramics, Lalpar, Morbi. This new address was never updated in DGFT records, and Shri Deep Chandulal Sitapara admitted that they had vacated the earlier premises years ago. The importer failed to inform their Customs Broker or the Customs/DGFT authorities, thereby violating Para 2.15 of the Handbook of Procedures and Section 46 of the Customs Act, 1962. Consequently, they have rendered themselves liable to a separate penalty under **Section 117** of the Customs Act, 1962.

### **55.3 The Noticee (concerned to M/s. Arcus Overseas) have made the following defence submissions which are required to addressed/discussed here.**

**A.** The contention of the noticee that the SCN is issued on assumptions and presumptions is wholly untenable and contrary to the material facts established during investigation.

The SCN is based on a comprehensive body of evidence, including (i) voluntary statements recorded under Section 108 of the Customs Act, 1962, (ii) electronic communications retrieved from mobile devices, (iii) documentary evidence relating to procurement, transportation, and cross-stuffing of goods, and (iv) commercial documents procured from overseas entities involved in the supply chain. The investigation has revealed a systematic modus operandi employed by the noticee and associated persons to deliberately conceal the Pakistani origin of the goods.

**B.** The allegation that statements were recorded "under pressure" is an afterthought and devoid of merit.

Statements under Section 108 are admissible unless retracted at the earliest opportunity and unless the noticee discharges the burden of proving coercion. The noticee neither retracted the statements contemporaneously nor produced any material indicating coercion. Further, bald allegations of pressure, without substantiation, cannot invalidate statements recorded under statutory authority. The statements relied upon in the SCN are detailed and corroborated by independent evidence, leaving no room for doubt regarding their veracity.

**C.** The assertion that no primary or corroborative evidence exists to establish the Pakistani origin of the goods is factually incorrect.

The investigation has brought on record multiple strands of corroborative evidence, including:

- procurement details communicated by Pakistani suppliers;
- shipping instructions and logistics-related correspondence proving movement of goods from Pakistan to UAE;
- admission of the key persons regarding cross-stuffing at UAE solely for the purpose of masking the true origin;
- commercial documents showing fabricated origins (Turkey/Turkmenistan) inconsistent with the physical characteristics and procurement trail of the goods;
- internal WhatsApp groups used for coordinating sourcing specifically from Pakistan; and
- the noticee's own communication to buyers describing the goods as "Pakistan origin" ..

**D.** The contention that no reliance can be placed on the statements of co-accused is legally untenable.

Proceedings under the Customs Act, 1962 are *civil in nature* and are not governed by strict rules of evidence applicable to criminal trials. Section 108 of the Customs Act empowers officers to summon persons and record statements which are admissible as evidence, including those of co-noticees or co-conspirators. It is well-settled through various decisions of the Hon'ble Supreme Court and High Courts that statements of co-accused/co-noticees are *admissible, relevant, and can be relied upon*, particularly when such statements are voluntarily given and are materially corroborated by independent evidence.

In the present case, the statements of co-accused persons are not isolated or uncorroborated; they are fully supported by objective evidence such as WhatsApp chats, email correspondences, foreign supplier documents, cross-stuffing records, mobile data, and commercial invoices. These corroborations reinforce the truthfulness of the statements and conclusively establish the coordinated acts of mis-declaration and origin concealment. Therefore, the reliance placed on co-accused statements, along with documentary and digital evidence, is fully justified and legally sustainable.

**E.** The contention that reliance on statements recorded during the investigation violates Section 138B of the Customs Act is misconceived and unsustainable.

Section 138B governs the admissibility of statements in *criminal prosecutions*, whereas adjudication under the Customs Act is civil/quasi-judicial in nature. It is a settled legal position that statements recorded under Section 108 of the Customs Act are admissible and reliable evidence in adjudication proceedings even without formal compliance of Section 138B, provided they are voluntary, truthful, and corroborated by independent material.

In the present case, the statements relied upon in the SCN are not the sole evidence; they are materially corroborated by WhatsApp chats, email trails, foreign supplier documents, cross-stuffing records, shipping documents, and digital extractions recovered during investigation. Therefore, reliance on such statements is well within the legal framework.

Further, the plea for cross-examination is not a matter of right in adjudication proceedings. Cross-examination is warranted only when the adjudicating authority forms the opinion that the statement is the *sole* basis of the demand and that denial of cross-examination would cause prejudice. In this case, the evidence is multidimensional and documentary in nature. Statements are only one of several corroborative evidences, and therefore, cross-examination is not necessary for ensuring natural justice. The Hon'ble Supreme Court has repeatedly held that cross-examination is not mandatory where there is independent corroborative evidence.

Hence, the reliance placed on the statements in the SCN is legally sound, and the demand for cross-examination is without merit.

**F.** The claim that WhatsApp printouts or mobile data extracted during investigation cannot be relied upon is misconceived and contrary to law.

Proceedings under the Customs Act are *quasi-judicial* and are not governed by the strict rules of evidence under the Indian Evidence Act. Electronic records, including WhatsApp chats, emails, and mobile data, are fully admissible as evidence when collected in accordance with established procedures.

In the present case, the digital evidence forms only one component of a broad set of corroborated material that includes:

- Statements of the noticees and co-conspirators admitting procurement from Pakistan and explaining the modus operandi of cross-stuffing in UAE;
- Commercial invoices, Pakistani Bills of Lading, cross-stuffing invoices, and Master Bills of Lading showing uninterrupted movement of the same goods from Karachi to Jebel Ali and thereafter to Mundra;
- Email correspondences detailing cross-stuffing charges, shipment routing, and instructions issued by key persons;
- Test reports and buyer communication confirming that the goods were sold as *Pakistan-origin* in the domestic market;
- Data recovered from multiple devices, all mutually corroborating the same chain of events.

Thus, the WhatsApp printouts and mobile evidence are not standalone or isolated—they are amply supported by independent documentary evidence that conclusively establishes the concealment of origin and evasion of duty. Electronic records recovered during investigation were extracted in accordance with the procedures contemplated under Section 138C of the Customs Act, 1962 read with Section 65B of the Indian Evidence Act. The SCN relies not on isolated chats but on a continuous chain of communications among the key persons coordinating sourcing from Pakistan, arranging cross-stuffing in UAE, manipulating seal numbers, and fabricating country-of-origin documents. These digital records corroborate the statements under Section 108 and align precisely with physical movement patterns of the consignments. Accordingly, the reliance placed on WhatsApp/mobile data by the Department is legally valid, procedurally sound, and strongly corroborated by multiple independent sources, leaving no room for the noticee's contention.

#### **G. Cross-Examination of Panch Witnesses is Not Required**

The noticee's demand for cross-examination of panch witnesses has no legal basis. Panchas merely witness the drawing of the panchnama; they do not offer expert opinions or incriminating statements. The denial of cross-examination of panch witnesses does not vitiate proceedings, since the panchnama is only a record of what was found and done at the time of search/seizure. In the present case, the panchnama is further corroborated by documentary and digital evidence, making cross-examination unnecessary and irrelevant. Hence, the demand for cross-examination is devoid of merit.

#### **56. Role and Culpability of Shri Deep Sitapara, Partner of M/s. Arcus Overseas**

**56.1** The investigation established that Shri Deep Chandulal Sitapara, Partner of M/s Arcus Overseas, handled all import-related activities, including placing orders, price negotiation, and finalizing deals with overseas suppliers. To evade the 200% Basic Customs Duty applicable on goods of Pakistan origin, he deliberately mis-declared the country of origin as Turkmenistan or Turkey and paid duty at only 5%. Evidence recovered from his mobile phone, WhatsApp chats, emails, and his own admissions shows that he conspired with Pakistan- and UAE-based associates to manipulate the actual origin of the goods by routing shipments through Pakistan-UAE-India, using cross-stuffing, changing container/seal numbers, fabricating COO documents, and submitting false import papers. These acts were aimed at misleading Customs authorities and concealing the true origin of the goods.

**56.2** Further, it was revealed that all 36 consignments imported in 2022-23 were actually supplied from Pakistan and shipped to UAE entities before being re-exported to India as part

of the scheme managed jointly by Shri Sitapara and his associate, Shri Maulik Atulbhai Shah. WhatsApp groups, email trails, and statements of the importer and its partners confirm that Shri Sitapara knowingly mis-declared and mis-classified the consignments to evade duty, paid for cross-stuffing to avoid detection, coordinated document fabrication, and suppressed the identity of actual Pakistani shippers. His deliberate acts amount to mis-declaration, abetment of duty evasion, manipulation of documents. Accordingly, he has rendered himself liable to penalty under **Sections 112(a), 112(b) and 114AA** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

#### **57. Role and Culpability of Shri Maulik Atubhai Shah:**

**57.1** The investigation established that the goods imported by M/s Arcus Overseas were actually of Pakistani origin, supplied by entities such as M/s Pakistan Integrated Stone Corporation, M/s Sohail Mineral, M/s Swat Minerals, M/s Bailey Trading Co., and M/s The Stoner Pakistan. However, none of these suppliers appeared in the import documents filed at Mundra. Instead, the Bills of Entry showed UAE-based entities—including M/s OSEVEH Tradelink FZ-LLC, M/s Energyya Petrochem FZE, M/s Veritas Energy LLC, KBI Raw Materials Trading LLC, Reliance Impex General Trading LLC and M/s World Business Trading FZC—as the suppliers. Evidence from WhatsApp chats, invoices, and bills of lading recovered from Shri Deep Sitapara's mobile phone revealed that Shri Maulik Atulbhai Shah was the central figure managing the procurement from Pakistan, arranging cross-stuffing in UAE, receiving payments, creating fabricated documents, and forwarding all export records through the WhatsApp group "Arcus-Osveh Docs." These materials conclusively show that the declared UAE suppliers were merely front entities and that the documents submitted to Customs were intentionally mis-representing the true origin of the goods.

**57.2** Further evidence, including bills of lading for the Karachi–Dubai leg, WhatsApp chats, email records, and statements recorded under Section 108 of the Customs Act, confirmed that the goods were routed from Pakistan to UAE and then shipped to Mundra after cross-stuffing arranged by Shri Maulik Shah. He created false invoices, COOs, and other documents, operated a front firm (M/s JK Tradelink) for handling Pakistan-origin shipments, ignored multiple summonses, and remained non-cooperative throughout the investigation. His deliberate acts of mis-declaration, document fabrication, concealment of actual origin, and abetment of duty evasion rendered the goods liable for confiscation under Section 111(m) of the Customs Act. Consequently, Shri Maulik Atulbhai Shah is liable to penalties under **Sections 112(a), 112(b), 114AA**, and separately under **Section 117** for non-compliance with summons and obstructing the investigation. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

**57.3** The Noticee have made the following defence submissions which are required to be addressed/discussed here:

**A.** The defence submissions regarding WhatsApp communications, logistical coordination, and digital exchanges are wholly misconceived. The investigation has not relied on mere existence of chats or digital correspondence, but on *corroborated electronic evidence* recovered from the devices of key persons, matched with shipping documents, foreign invoices, cross-stuffing records, and statements recorded under Section 108. Unlike the noticee's claim, the WhatsApp groups and emails were not used merely for "routine logistics"; they contain specific discussions on routing, mixing of goods, and handling consignments linked to mis-declared Pakistan-origin cargo. The contention that the noticee's involvement was limited to benign commercial coordination is contradicted by the consistent evidentiary record showing deliberate structuring of consignments, engagement in documentation flow, and participation in supply-chain steps directly tied to mis-declaration.

**B.** The Noticee has submitted that declarations made before foreign authorities, routine cross-stuffing practices, or handling of documents absolve the noticee of liability. The SCN demonstrates conscious facilitation in documentation, invoice management, and coordination of shipments that were later found to be mis-declared in respect of origin. The plea that errors are attributable to third parties is untenable where the noticee is shown to have operational control, knowledge of the supply chain, and active involvement in the process that rendered the goods liable to confiscation. The noticee's reliance on summons-related correspondence or inability to travel does not weaken the evidentiary basis either; repeated requests for video appearance cannot substitute compliance with statutory summons nor do they extinguish liability under Sections 112(a), 112(b), 114A, or 114AA. Moreover, the jurisprudence cited by the noticee is inapplicable as those cases involved absence of evidence, whereas here both documentary and electronic records substantiate deliberate involvement.

**C.** Under the Customs Act, particularly Sections 112(a), 112(b), 111(m), and 114AA, liability is attracted not only by direct authorship of false declarations but also by participation, facilitation, or knowing use of false or misleading documents. The investigation has produced sufficient material—digital records, operational communications, payment coordination trails, and cross-referenced shipment data—establishing the noticee's knowledge and involvement. The absence of proceeds of offence or the claim of routine commercial activity does not override the statutory standard, which is satisfied when a person participates in the chain of actions rendering goods liable to confiscation. Accordingly, the department submits that the defence lacks merit and that penalties and confiscation proposed in the SCN are fully justified.

**58. Role and Culpability of Shri Harsh Kaila, Partner of M/s. Arcus Overseas:**

**58.1** The investigation established that Shri Harsh Kaila, an active partner of M/s Arcus Overseas, was directly involved in the scheme to evade the 200% customs duty applicable on goods of Pakistani origin. In connivance with overseas suppliers and associates, he participated in mis-declaring the country of origin as Turkmenistan or Turkey and clearing the goods at only 5% duty. Evidence from WhatsApp groups, digital records, and statements shows that he was fully aware of and actively coordinated the deliberate splitting of the transportation route—from Pakistan to UAE and then UAE to India—along with container manipulation and seal changes to conceal the true origin of the consignments.

**58.2** Further, Shri Harsh Kaila admitted that all 36 consignments imported in 2022–23 were of Pakistani origin and that mis-declaration and mis-classification were knowingly carried out by the firm. He actively participated in WhatsApp groups such as "Arcus-Osveh Docs," "Energuya & Sahama," and "Energuya & Amir Bhai," where he engaged with Pakistani suppliers and monitored the cross-stuffing operations in UAE. He even created a separate WhatsApp group, "Arcus," where he promoted the goods to buyers by highlighting that they originated from Pakistan, demonstrating his complete knowledge of the actual origin. His deliberate acts of mis-declaration, document fabrication, and facilitation of duty evasion render the goods liable to confiscation under Section 111(m) and make him liable to penalty under **Sections 112(a), 112(b), and 114AA** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

**59. ROLE AND CULPABILITY OF SHRI SACHIN PATEL, SMT. KETU DIVYA SHERASIYA, SMT. DIMPLE BHORANIA, OTHER PARTNERS OF M/S ARCUS OVERSEAS**

**59.1** The investigation revealed that Shri Sachin Patel, Smt. Ketu Divya Sherasiya, and Smt. Dimple Bhorania were partners of M/s Arcus Overseas. Evidence discussed in the preceding paragraphs demonstrates that the firm imported goods of Pakistani origin and, in connivance with key facilitator Shri Maulik Atulbhai Shah, the declared suppliers, and other associates, deliberately mis-declared the country of origin in Bills of Entry and import documents to evade the differential customs duty. In his statement, Shri Sachin Patel admitted that, as partners, they were collectively responsible for payment of the differential duty. By knowingly engaging

in the import, documentation, and clearance of goods whose origin was mis-declared, all three partners abetted the evasion of duty, rendering the goods liable for confiscation under Section 111(m) of the Customs Act, 1962, and making themselves individually liable to penalty under **Sections 112(a), 112(b), and 114AA** for use of false and incorrect import documents, including invoices, packing lists, certificates of origin, and other related papers. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

**59.2** Furthermore, although summons were issued to Smt. Ketu Divya Sherasiya and Smt. Dimple Bhorania on 22.12.2023 under Section 108 of the Customs Act, 1962, both failed to appear for recording of statements. Instead, they furnished evasive and unsatisfactory replies, claiming to be inactive partners and denying awareness of the imports from Pakistan to Mundra. Such non-cooperation and deliberate withholding of information were clearly intended to obstruct and defeat the investigation, constituting contravention of Section 108. Accordingly, Smt. Ketu Divya Sherasiya and Smt. Dimple Bhorania have also rendered themselves separately liable to penalty under **Section 117** of the Customs Act, 1962.

## 60. ROLE AND CULPABILITY OF M/S LIVRO SHIPPING

**60.1** The investigation established that M/s Livro Shipping Agency, Gandhidham, an associate of M/s Anchorage Shipping Line, Dubai, acted as the container line for the consignments covered under the relevant Bills of Entry and Bills of Lading. After the imposition of 200% BCD on goods originating from Pakistan (effective from 16.02.2019), M/s Arcus Overseas imported goods of Pakistani origin while mis-declaring the country of origin. Evidence revealed that M/s Livro Shipping played a key role in facilitating this mis-declaration by manipulating transport documents to conceal the true origin. The Bills of Lading were deliberately arranged to show the port of loading as Turkmenistan/Turkey instead of Karachi, Pakistan, though the goods actually originated in Pakistan, as admitted by Shri Deep Chandulal Sitapara and corroborated by container-tracking records from the Karachi International Terminal. These actions demonstrate the active connivance of the importer, the container line, and the shipper in mis-declaring origin and evading customs duty.

**60.2** Based on the above evidence, it is clear that M/s Livro Shipping Agency, in association with M/s Anchorage Shipping Line, Dubai, knowingly participated in the mis-classification and mis-declaration of the imported goods and thereby abetted evasion of customs duty. By suppressing the true origin and arranging falsified transport routes and documentation—including manipulated Bills of Lading, Certificates of Origin, and other import documents containing incorrect material particulars—they aided the importation of goods liable to confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, M/s Livro Shipping Agency rendered themselves liable to penalty under **Sections 112(a) and 112(b)** for abetting the smuggling of goods, and under **Section 114AA** for knowingly causing the creation and use of false import documents. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

## 60.3 DISCUSSION ON WRITTEN SUBMISSION FILED BY LIVRO SHIPPING

**A.** At the outset, it is noted that Livro Shipping cannot be absolved of responsibility merely by projecting itself as a passive delivery agent. The facts on record clearly indicate that the Noticee was in possession of, and actively used, the Bill of Lading and other transport documents forming the foundation of the import declaration. Once the Noticee undertook activities such as compiling details for filing of IGM, issuing Delivery Orders, and facilitating release of cargo, it assumed statutory obligations under the Customs Act, 1962. Any person who participates in the chain of import-related documentation, particularly in matters directly impacting the determination of port of loading, description of goods, or country of origin, is “a

person in relation to the goods" as envisaged under Section 112. The Noticee's attempt to distance itself from responsibility is therefore legally untenable.

**B.** The Noticee's contention that penalty under Section 112(a)/(b) requires mens rea and that such intent is absent is also misconceived. The material on record shows that the Bill of Lading used for IGM compilation contained altered/incorrect particulars regarding the port of loading and Country of Origin; nevertheless, Livro Shipping proceeded with the documentation without seeking any clarification from the importer, carrier or Customs. The continued reliance on documents that were facially inconsistent with the actual movement of the consignment demonstrates omission and facilitation of acts rendering the goods liable for confiscation under Section 111. Under Section 112(a), even an omission that enables or assists improper importation attracts liability. Hence, once the underlying import documents were inaccurate and the Noticee's actions contributed to their use in the customs process, the statutory ingredients for penalty stand fulfilled.

**C.** Likewise, the Noticee's defence regarding inapplicability of Section 114AA is unfounded. The said provision covers any person who "knowingly or intentionally makes, signs, uses or causes to be made, signed or used" any declaration or document that is false or incorrect in any material particular. Livro Shipping's role in transmitting and utilising the Bill of Lading containing incorrect particulars for the purpose of IGM filing directly attracts the mischief of Section 114AA. The provision is not confined only to exporters or cases of bogus exports, as claimed; it applies to *any* transaction of business under the Customs Act where false documentation is used. Since the Noticee's actions facilitated the utilisation of incorrect import documentation, the proposal for penalty under Sections 112 and 114AA is fully justified and sustainable in law.

## **61. ROLE AND CULPABILITY OF M/S EIFFEL LOGISTICS PVT.LTD.**

**61.1** I find that M/s. Eiffel Logistics Pvt. Ltd. (Customs Broker) did not maintain any direct interface or verification mechanism with the importer, M/s. Arcus Overseas. The statements of Shri Maheep Pratap Shahi of M/s. Eiffel Logistics Pvt. Ltd., clearly establish that all import documents were received through Shri Mitesh Keshvji Malstar of M/s. Blackfinn Shipping and Logistics (forwarder). It is further evident that the Customs Broker neither verified the authenticity of the documents independently nor ensured that the documents were received from a duly authorised representative of the importer.

**61.2** I further observe that Shri Mitesh Keshvji Malstar (Managing Director of M/s. Blackfinn Shipping and Logistics) in his statement dated 01.04.2024, has admitted that he was not authorised by the importer to handle or submit import documents and that no valid authorisation had been issued to him by M/s. Arcus Overseas. Despite this, M/s. Eiffel Logistics Pvt. Ltd. accepted documents routed through him and proceeded with filing of Bills of Entry. The investigation had already revealed the fact that Shri Mitesh Keshvji Malstar was aware that the goods in question were of Pakistan origin and he was charging certain amount for facilitating the imports. Such conduct show their conscious disregard of statutory obligations cast upon a Customs Broker. I find that the acts and omissions of M/s. Eiffel Logistics Pvt. Ltd. abetted the improper clearance of goods. The intermediary and the blind reliance on documents supplied by an unauthorised person, who was aware of the Pakistan origin of the goods, amounts to an act of omission which rendered the goods liable to confiscation. Accordingly, the M/s. Eiffel Logistics Pvt. Ltd. is liable for penalty under **Section 112(a)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

## **62. ROLE AND CULPABILITY OF M/S TULSIDAS KHIMJI PVT.LTD**

**62.1** I find that the Customs clearance of the impugned consignments was also carried out by the Customs Broker, M/s. Tulsidas Khimji Pvt. Ltd., on the basis of documents provided

by the importer. The investigation has not brought on record any evidence to show that the Customs Broker had prepared, altered or fabricated these documents, or had any role in procuring the same. The statement of the authorised representative of M/s. Tulsidas Khimji Pvt. Ltd., does not disclose any knowledge of the actual country of origin of the goods or any involvement in the modus operandi of mis-declaration. It is evident that the Bills of Entry were filed only after preparation and approval of the checklists by the importer and on the basis of documents supplied to them. It is further observed that the Customs Broker had no interaction with the overseas suppliers and was not involved in the logistics, routing of goods through the UAE or the activity of cross-stuffing.

**62.2** I also note that Shri Deep Sitapara, Partner of M/s. Arcus Overseas, in his statement dated 22.12.2023, had stated that the Customs Broker M/s. Tulsidas Khimji Pvt. Ltd. was not aware of the actual country of origin of the goods and that no discussion regarding Pakistan origin was ever held with them. This statement of the importer himself clearly refutes any allegation of knowledge, connivance or abetment on the part of the Customs Broker. In the absence of any evidence, the allegation that M/s. Tulsidas Khimji Pvt. Ltd. was involved in or had knowledge of the mis-declaration of country of origin remains unproven.

**62.3** I further observe that tracking of containers or verification of upstream transshipment details is **not a statutory obligation cast upon a Customs Broker under the Customs Act, 1962 or the Customs Broker Licensing Regulations**, and cannot be treated as a determinative factor for imputing knowledge of mis-declaration. In this regard, Shri Chandran Gangadharan Nair, authorised representative of M/s. Tulsidas Khimji Pvt. Ltd., in his statement dated 21.02.2024, has stated that they checked only the ETA (Expected Time of Arrival) status of the vessel for filing and clearance purposes, and that transshipment details were not displayed on the ICEGATE portal at the relevant stage. In the absence of any contrary evidence, no adverse inference can be drawn against the Customs Broker on this count. In this statement, Shri Nair also stated that Bills of Entry were filed by them as per documents/details provided by Importer.

**62.4** In view of the above, I find that there is no evidence available on record to establish that M/s. Tulsidas Khimji Pvt. Ltd. had knowledge of the mis-declaration of country of origin or had abetted the offence in any manner. The essential requirements for imposition of penalty under Sections 112 or 112b of the Customs Act, 1962 are therefore not satisfied in respect of the said Customs Broker. Mere filing of Bills of Entry on the basis of documents provided by the importer, which were not forged on their face, cannot by itself attract penal liability. Accordingly, I hold that the proposal for imposition of penalty on M/s. Tulsidas Khimji Pvt. Ltd. is not sustainable and the same is liable to be dropped.

### **63 ROLE AND CULPABILITY OF SHRI MITESH KESHAVJI MALSTAR, MANAGING DIRECTOR OF M/S. BLACKFINN SHIPPING AND LOGISTICS:-**

**63.1** The investigation establishes that Shri Mitesh Keshavji Malstar, Managing Director of M/s Blackfinn Shipping and Logistics, acted as the forwarder for M/s Arcus Overseas and was closely involved in the filing of 22 Bills of Entry. All import documents were first received by him and then forwarded to the Customs Broker, M/s Eiffel Logistics Pvt. Ltd., for filing. The CHA sent the checklist to Shri Malstar for verification, and he, in turn, forwarded it to the importer for confirmation before approving the final filing. Despite this central role, he failed to verify the material particulars—including the country of origin—before approving the Bills of Entry for filing, even though he was obligated to ensure the correctness of the declarations submitted through the EDI system.

**63.2** Further, the statement of Shri Deep Chandulal Sitapara revealed that Shri Malstar became aware of the mis-declaration of the country of origin and still continued facilitating clearance, even allegedly collecting ₹20,000 per container in cash for the same. His involvement in forwarding incorrect documents, approving checklists containing false particulars, and enabling the filing of manipulated Bills of Entry amounts to active abetment in mis-declaration and evasion of customs duty. Consequently, Shri Mitesh Keshavji Malstar

has rendered himself liable to penalties under **Sections 112(a) and 112(b)** for abetting the smuggling of goods liable to confiscation under Section 111(m), and also under **Section 114AA** for knowingly causing the use of import documents containing false material particulars. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

### **63.3 POINT WISE DISCUSSION ON WRITTEN SUBMISSION FILED BY MITESH KESHAVJI MALSTAR**

**A.** The noticee's contention that the Show Cause Notice is misconceived is not borne out by record. Even though he describes himself merely as a forwarder, the investigation reveals that he acted as an intermediary facilitating the movement of import consignments, coordinated operational arrangements, handled documentation flow, and interacted between the importer and the Custom Broker. Such a role, irrespective of nomenclature, carries responsibility under Customs law, particularly when knowledge or facilitation of mis-declaration comes to light. Forwarding agents cannot absolve themselves merely by claiming they were "postmen", when facts indicate they were privy to commercial arrangements linked to import processes.

**B.** His assertion that he never had knowledge of mis-declaration and that payments received were only service-related is contradicted by the statements recorded during investigation, including those of co-noticees, which point to his awareness of the true origin of goods and his role in receiving amounts in cash. His denial cannot eclipse corroborative material indicating that he was aware of the sensitive nature of consignments. The SCN has also relied on statements given under Section 108, which have evidentiary value unless rebutted through cogent evidence.

**C.** Further, his emphasis that he did not examine the checklist only reinforces the fact that he acted with disregard to statutory procedures while facilitating import operations. A person engaged in forwarding activities, who handles handover and receipt of documents, is expected to exercise due diligence. Willful tolerance or deliberate avoidance of verification also constitutes abetment under Section 112(a) and 112(b), particularly when doing so facilitates evasion or mis-declaration. The absence of active scrutiny, despite being functionally placed to detect irregular documentation, supports the allegation that he aided the offence by omission.

### **64. ROLE AND CULPABILITY OF SHRI BHAGIRATH JAYANTILAL VARMORA, PARTNER OF M/S. M G MICRON.**

**64.1** The investigation reveals that Shri Bhagirath Jayantilal Varmora, Partner of M/s M G Micron, was not only a purchaser of Pakistan-origin Natural Magnesium Carbonate/Raw Magnesium Lumps from M/s Arcus Overseas, Morbi, but also an active participant in the import chain. Evidence from WhatsApp chats in the group "*Energyya & Amir Bhai*", e-mail communications on his ID *bhagirath.varmora@gmail.com*, and documents shared among the conspirators establish that he was fully aware that the goods originated in Pakistan and were routed via UAE to disguise their origin. Invoices, Bills of Lading, and other export documents clearly showing Pakistan origin were shared with him, and Shri Maulik Shah regularly informed him about operational steps such as cross-stuffing at UAE and preparation of fabricated documents showing "Turkmenistan/Turkey" as the Country of Origin. The material demonstrates that he, along with suppliers/consignees and their associates, consciously devised and executed the plan to mis-declare the Country of Origin by artificially splitting the transport route from Pakistan-India into Pakistan-UAE-India to facilitate clearance at Mundra Port.

**64.2** Based on the above, it is evident that Shri Bhagirath Jayantilal Varmora knowingly participated in and abetted the mis-declaration of material particulars in import documents, resulting in suppression of the actual Country of Origin and rendering the goods liable for

confiscation under Section 111(m) of the Customs Act, 1962. His continued involvement in the handling, documentation, and clearance of goods that he knew were liable to confiscation attracts penal liability under **Section 112(a)** for abetment and Section **112(b)** for knowingly dealing with such goods. Further, although he previously imported similar goods in the name of his own firm, he subsequently used M/s Arcus Overseas as a conduit to continue procuring Pakistan-origin goods while influencing the filing of false Country-of-Origin documents. By knowingly being concerned with the use of false and fabricated documents, he has also rendered himself liable to penalty under **Section 114AA** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

#### **64.3 DISCUSSION ON WRITTEN SUBMISSION FILED BY SHRI BHAGIRATH JYANTILAL VARMORA.**

**A.** Shri Bhagirath Jyantilal Varmora's letter dated 17.11.2025 contains a bare denial of any involvement with the entity under investigation and asserts that he has never engaged in commercial, financial or contractual dealings with the said firm. These generalised assertions, unsupported by evidence, cannot be accepted at face value, particularly when material gathered during investigation indicates otherwise. The inquiry has revealed references to his name, business credentials, telephonic interactions and transactional linkages which contradict the sweeping denial now advanced. A mere self-certifying statement of "no involvement" does not extinguish his accountability when *prima facie* indicators of association have surfaced.

**B.** His claim that he has always conducted business lawfully and transparently is noted; however, such declarations hold no evidentiary value unless substantiated through records. Compliance cannot be assumed merely because it is proclaimed. His failure to address specific facts emerging from statements, seized documents and digital trails weakens his defence and suggests an attempt to distance himself without explanation rather than disprove the linkages detected.

#### **65. ROLE AND CULPABILITY OF SHRI ATULBHAI SHAH, PROPRIETOR OF M/S J K TRADELINK.**

**65.1** The investigation establishes that Shri Atulbhai Shah, Proprietor of M/s J K Tradelink, Ahmedabad, was a buyer of Pakistan-origin Natural Magnesium Carbonate/Raw Magnesium Lumps from M/s Arcus Overseas, Morbi and actively participated in the import activity through e-mail communications. Documentary evidence, including invoices, Bills of Lading and other export documents shared on the e-mail IDs *info@jktradelink.in* and *export@jktradelink.in* by Pakistani suppliers, confirms that he was fully aware of the Pakistan origin of the goods. An Excel sheet recovered from the mobile phone/e-mail of Shri Deep Chandulal Sitapara detailing "Magnesium Actual Costing" indicates commission payable to M/s J K Tradelink in connection with the import of Pakistan-origin goods, thereby demonstrating Shri Atulbhai Shah's active role in arranging and facilitating the export of the subject goods from Pakistan. The evidence further reveals that he, along with suppliers/consignees and other associates, conspired to mis-declare the Country of Origin by artificially splitting the transport route from Pakistan-India into Pakistan-UAE-India to suppress the true origin of the goods.

**65.2.** In view of the above, it confirms that Shri Atulbhai Shah, Proprietor of M/s J K Tradelink, knowingly abetted the mis-declaration of material particulars in the import documents, resulting in suppression of the actual Country of Origin and rendering the goods liable to confiscation under **Section 111(m)** of the Customs Act, 1962. By participating in and facilitating the clearance of goods that he knew were supported by incorrect and doubtful documents, he has rendered himself liable to penalty under **Section 112(a)** for abetment and **Section 112(b)** for dealing with goods liable to confiscation. His deliberate participation in the routing and documentation arrangement, despite clear knowledge that the goods originated in

Pakistan, firmly establishes his complicity in the offence. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

**65.3** The Noticees, made the following defence submissions which are required to be addressed/discussed here:

**A.** The defence plea that the firm *M/s J.K. Tradelink* was registered in his name without his knowledge, and that he had no involvement in its business or import activities, is wholly unsubstantiated and contrary to the evidence gathered during investigation. A proprietorship firm, by law, has no separate legal identity from its proprietor; therefore, the claim that the firm operated entirely without the proprietor's knowledge is neither credible nor legally tenable. Records obtained from statutory authorities, including registration details, KYC documents and firm-linked communications, clearly establish that the noticee's identity, credentials and authorization were used for business operations, including imports of Natural Magnesium Lumps. Under the Customs Act, a proprietor cannot escape liability by merely asserting ignorance of activities carried out in his own name. Whether the son handled day-to-day affairs or operated from abroad is immaterial to statutory accountability. The relevant question is whether the firm in the noticee's name participated in imports that resulted in mis-declaration—an aspect fully established from documents, emails, financial trails and digital communications recovered during investigation.

**B.** The noticee's further contention that he lacked mens rea and therefore cannot be penalized under Section 112 is similarly unsustainable. Sections 112(a) and 112(b) do not require proof of personal execution of import formalities; participation by act, omission or authorization that renders goods liable to confiscation is sufficient. By permitting use of his name, identity and proprietorship structure for business involving international imports, the noticee enabled the transactions under scrutiny and is therefore squarely responsible for the acts undertaken in the name of his proprietary concern. The claim that he is uneducated or unaware of English cannot absolve him from statutory obligations when his credentials were actively used for commercial activities. The reliance on case laws concerning absence of evidence is misplaced, as the present matter is substantiated by documents linked to the firm, usage of its email IDs, operational records, statements under Section 108 and corroborated electronic evidence. Thus, liability under Section 112 is clearly attracted, and the request to drop proceedings on the grounds of alleged ignorance or non-participation is devoid of merit.

## **66. ROLE AND CULPABILITY OF SHRI SHERASHIYA DIVYA RAMESHBHAI, MARKETING MANAGER OF M/S. ARCUS OVERSEAS**

**66.1** The investigation establishes that Shri Sherashiya Divya Rameshbhai, Marketing Manager of M/s Arcus Overseas, Morbi, was actively involved in the firm's operations and knowingly participated in the scheme to evade 200% customs duty applicable on Pakistan-origin goods. Evidence reveals that M/s Arcus Overseas, with his involvement, deliberately mis-declared the Country of Origin as *Turkmenistan* or *Turkey* and paid duty at the concessional rate of 5%, while the goods were, in fact, exported from Pakistan. WhatsApp communications, calls and other digital evidence show that he, along with suppliers, buyers and associates, conspired to manipulate the origin of the goods by intentionally splitting the transport route from Pakistan-India into Pakistan-UAE-India so as to disguise the actual origin.

**66.2** Further, Shri Sherashiya Divya Rameshbhai was an active member of WhatsApp groups such as "Energuya & Amir Bhai," "Energuya & Sahama," and "Arcus," where Pakistani suppliers regularly shared information about the export of Pakistan-origin goods, cross-stuffing in the UAE, and onward movement to India. He participated in planning and coordinating these activities and also promoted the goods to buyers by explicitly referring to their Pakistan origin, clearly demonstrating his knowledge of the true origin. By intentionally supporting the preparation, use and approval of import documents containing false material

particulars—including incorrect Certificates of Origin and Bills of Entry—he has abetted evasion of customs duty and rendered the goods liable for confiscation under **Section 111(m)**. Accordingly, he is liable to penalty under **Sections 112(a), 112(b) and 114AA** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

#### **67. ROLE AND CULPABILITY OF SHRI NISHANK BHORANIA, PARTNER OF M/S VALUCE GLAZE**

During the investigation, it emerged that Shri Nishank Bhoraniya acted as a key middleman for the import operations of M/s Arcus Overseas, Morbi, and was closely associated with Shri Maulik Shah. As admitted by Shri Deep Sitapara, Nishank played a crucial role in facilitating the importation of Pakistan-origin goods by introducing him to Maulik Shah and guiding him in the process of mis-declaring the Country of Origin, leveraging his own prior import experience. Evidence from emails, WhatsApp chats and other digital records shows that he was actively involved in coordinating the movement of goods from Pakistan to Mundra via Dubai and knowingly participated in the conspiracy to evade 200% customs duty by falsely declaring Turkmenistan/Turkey as the origin and splitting the shipment route from Pakistan-India into Pakistan-UAE-India. Nishank was also a member of WhatsApp groups such as "Arcus," "Energyya & Amir Bhai," and "Energyya & Sahama," where Pakistan-based suppliers shared details of export, cross-stuffing and onward shipment, clearly demonstrating his full knowledge and involvement. By knowingly supporting and participating in the preparation, signing and use of import documents—including Bills of Entry and Certificates of Origin—containing false material particulars, he abetted the smuggling and duty evasion, rendering the goods liable to confiscation under Section 111(m) and making himself liable for penalties under **Sections 112(a), 112(b) and 114AA** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act where ever, penalty under Section 112(a) of Act, is to be imposed.

#### **68. ROLE AND CULPABILITY OF SHRI HARDIK SHAH, EMPLOYEE OF M/S TULSIDAS KHIMJI PVT. LTD**

Shri Hardik Shah had facilitated the introduction of M/s Arcus Overseas, Shri Maulik Atulbhai Shah, and Shri Deep Sitapara to the Customs Broker M/s Tulsidas Khimji Pvt. Ltd. Despite being summoned, he did not appear before the DRI for recording his statement. His non-compliance with statutory proceedings and failure to cooperate with the investigation constitute acts and omissions attracting liability, and accordingly, it confirms that he has rendered himself liable to penalty under Section 117 of the Customs Act, 1962.

#### **69. In view of the above discussion and findings, I hereby pass the following order:-**

**-:O R D E R:-**

- (i) I reject the declared classification under CTH 25191000, 25199090 of 11295.16 MT import goods valued at Rs. 10,71,15,588 as covered in said 36 Bills of Entry of the imported goods and order to re-classify them under CTH 98060000 of Customs Tariff Act, with consequential duty.
- (ii) I confirm the demand of differential customs duty amounting to **Rs. 32,00,88,143/- (Rupees Thirty Two Crore Eighty Eight Thousand One Hundred and Forty Three Only)** on the import of 11295.16 MT covered under above mentioned 36 Bills of Entry of Raw Magnesium Lumps/Raw Magnesite Lumps/Natural Magnesium Carbonate Lumps and order to recover from them in terms of Section 28(8) read with Section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962.

(iii) I hold that 11295.16 MT import goods valued at Rs.10,71,15,588 as covered in said Bills of Entry are liable for confiscation under Section 111(m) of the Customs Act, 1962. Since the subject goods have been cleared in the past and are not available for confiscation, I refrain from imposing any redemption fine under Section 125 of the Customs Act, 1962.

(iv) I hold that 177.500 MT of goods valued at Rs. 14,70,079/- found lying at premises of the importer are liable for confiscation under Section 111(m) of the Customs Act, 1962. However, I give option to M/s Arcus Overseas to redeem the goods on payment of Rs.4,00,000/- (Rs. Four Lakhs Only) under Section 125 of the Customs Act, 1962.

(v) I impose a penalty of Rs. 32,00,88,143/-, equivalent to the duty amount confirmed at para (ii) above, upon M/s Arcus Overseas under Section 114A of the Customs Act, 1962.

(vi) I impose a penalty of Rs. 1,00,00,000/- (Rupees One Crore only) upon M/s Arcus Overseas under Section 114AA of the Customs Act, 1962.

(vii) I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon M/s Arcus Overseas under Section 117 of the Customs Act, 1962.

#### **A. ORDER IN RESPECT OF OTHER PERSONS/FIRMS**

I hereby impose penalties equivalent to the amounts specified in Columns (3),(4),(5) and (6) of the Table appended below, upon the respective persons named in Column (2) thereof:-

<b>Sr. No.</b>	<b>Name (S/Shri/Ms/Smt/ M/s)</b>	<b>Penalty U/S 112(a) RS</b>	<b>Penalty U/S 112(b)RS</b>	<b>Penalty U/S 114AA)RS</b>	<b>Penalty U/S 117RS</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>
1	Shri Deep Chandulal Sitapara	50,00,000/- (Rs. Fifty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
2	Shri Maulik Atulbhai Shah	50,00,000/- (Rs. Fifty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	Rs.2,00,000/- (Rs. Two Lakhs Only)
3	Shri Harsh Kaila	40,00,000/- (Rs. Forty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
4	Shri Sachin Patel	30,00,000/- (Rs. Thirty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
5	Smt. Ketu Ben Sherasiya	30,00,000/- (Rs. Thirty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	Rs.1,00,000/- (Rs. One lakh Only)
6	Smt. Dimple Ben Bhoraniya	30,00,000/- (Rs. Thirty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	Rs.1,00,000/- (Rs. One lakh Only)
7	M/s Livro shipping	20,00,000/- (Rs. Twenty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
8	M/s Eiffel Logistics	Rs.10,00,000/- (Rs Ten Lakhs Only)	Don't Impose	-	-
9	M/s Tulsidas Khimji Pvt. Ltd.	Don't Impose	Don't Impose	-	-

10	Shri Mitesh Keshavji Malstar	Rs.25,00,000/- (Rs. Twenty Five Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
11	Shri Bhagirath Jayantilal Varmora	Rs.25,00,000/- (Rs. Twenty Five Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
12	Shri Atul Jaswantlal Shah, Proprietor of M/s JK Tradelink	20,00,000/- (Rs. Twenty Lakhs Only)	Don't Impose	-	-
13	Shri Divya Rameshbhai Sherasiya	40,00,000/- (Rs. Forty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
14	Shri Nishank Bhoraniya	40,00,000/- (Rs. Forty Lakhs Only)	Don't Impose	Rs.10,00,000/- (Rs Ten Lakhs Only)	-
15	Shri Hardik Shah	-	-	-	Rs.2,00,000/- (Rs. Two Lakhs Only)

70. This order is issued without prejudice to any other action that can be taken against any persons/firms/noticees under this Act or any other law for the time being in force.


10/12/25

(Nitin Saini)

Commissioner of Customs, Mundra.

F.No: GEN/ADJ/COMM/580/2024-Adjn-O/o Pr. Commr- Cus-Mundra

DIN: 20251271MO000000AF01

**TO****By Speed Post/E-mail****LIST OF NOTICEES:-**

- M/s Arcus Overseas**, (Business address)- Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi-363642;(Email-[deep.arcusoverseas@gmail.com](mailto:deep.arcusoverseas@gmail.com) & [arcus.overscas@gmail.com](mailto:arcus.overscas@gmail.com)).
- Shri Deep Chandulal**, Sitapara, B-401, Welcome Pride, Opp. Krishana School, Ravapar Road, Morbi, Gujarat-370625;(Email- [dcsitapara003@gmail.com](mailto:dcsitapara003@gmail.com)).
- Shri Maulik Atulbhai Shah**, 2888, Sudarshan Nagar, opp. GHB Office, GHB, Chandkheda, Ahmedabad-382424; (Email-[info@jktradelink.in](mailto:info@jktradelink.in), [export@jktradelink.in](mailto:export@jktradelink.in), [shahmaulik263@gmail.com](mailto:shahmaulik263@gmail.com))
- Shri Harsh Kaila**, (Business address)- Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi-363642;(Email- [harsh.arcusoverseas@gmail.com](mailto:harsh.arcusoverseas@gmail.com), [harshkaila7599@gmail.com](mailto:harshkaila7599@gmail.com), )
- Shri Sachin Patel**, (Business address)- Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi-363642;(Email- [sachinpatel99251@gmail.com](mailto:sachinpatel99251@gmail.com),
- Smt. Ketu Ben Sherasiya**, (Business address) Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi-363642 (Email- [deep.arcusoverseas@gmail.com](mailto:deep.arcusoverseas@gmail.com), )

**7. Smt. Dimple Ben Bhoraniya**, (Business address)- Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi-363642; (Email- [deep.arcusoverseas@gmail.com](mailto:deep.arcusoverseas@gmail.com))

**8. M/s Livro shipping**, DBZ South 137-A, First Floor, AU Small Finance building, Opp. Punjab Radiators, Gandhidham-Kutch-370201; (Email- [linerops1.guj@livroshipping.com](mailto:linerops1.guj@livroshipping.com), )

**9. M/s Eiffel Logistics**, Opp. Sindhu Bagh Garden, Office No. 02, Plot no. 06, Ward7-B, Time Square-2, First Floor, Gurukul Area, Gandhidham, Kutchh, Gujarat-370201;(Email- [effilogistics@gmail.com](mailto:effilogistics@gmail.com), )

**10. M/s Tulsidas Khimji Pvt. Ltd.**, 313-314, Dev Nandan Mega Mall, Opp. Sanyas Ashram, Near M J Library, Ashram Road, Ahmedabad-380009;(Email- [amdmanager@tkpl.in](mailto:amdmanager@tkpl.in), )

**11. Shri Mitesh Keshavji Malstar**, Office no. 2, first Floor, Time square 2 Building, opp. Sindhu Baugh Garden, Gurukul Area, Gandhidham, Kuchh-370201; (Email- [miteshsorathiya88@gmail.com](mailto:miteshsorathiya88@gmail.com), )

**12. Shri Bhagirath Jayantilal Varmora**, Plot No. 1, Survey no. 144 P1 P2, Shraddha industrial Estate, Jetpar, Pipli road, Morbi-363630; (Email- [bhagirath.varmora@gmail.com](mailto:bhagirath.varmora@gmail.com), )

**13. Shri Atul Jaswantlal Shah**, Properitor of M/s JK Tradelink, 2888, Sudarshan Nagar, opp. GHB Office, GHB, Chandkheda, Ahmedabad-382424; (Email- [info@jktradelink.in](mailto:info@jktradelink.in), [export@jktradelink.in](mailto:export@jktradelink.in)).

**14. Shri Divya Rameshbhai Sherasiya**, (Business address)- Plot No. 4, Survey No. 132P, 8A National Highway, Near CG Gold Ceramic, Lalpar, Morbi-363642.(Email- [divy.arcusoverseas@gmail.com](mailto:divy.arcusoverseas@gmail.com), )

**15. Shri Nishank Bhoraniya**, Sanjeevni Palace, Near Ganga Darshan Appartment, beside Canal Road, At Rawapar, Morbi, Gujarat-370625, (Email- [nishankbhorania@gmail.com](mailto:nishankbhorania@gmail.com), )

**16. Shri Hardik Shah**, 313-314, Dev Nandan Mega Mall, Opp. Sanyas Ashram, Near M J Library, Ashram Road, Ahmedabad-380009. (Email- [amdmanager@tkpl.in](mailto:amdmanager@tkpl.in), )

Copy to:

- (i) The Chief Commissioner of Customs, CCO, Gujrat Customs Zone, Ahmedabad.
- (ii) The Additional Director, Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit, Plot No. 5 & 6, Ward-5A, Near Vinayak Hospital, Adipur-370205.
- (iii) The Deputy Commissioner of Customs, EDI Section, Mundra Customs
- (iv) The Deputy Commissioner of Customs, Legal/Prosecution, Mundra Customs.
- (v) The Deputy Commissioner of Customs, Recover/TRC, Mundra Customs
- (vi) Guard file/Office Copy.