कार्यालयः प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
E-mail id- adj-mundra@gov.in

A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/ADC/504/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ ADC/ ZDC/255/2026-27
C	**PASSED BY** जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	21.08.2026
E	**DATE OF ISSUE** जारी करने की तिथि	21.08.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/504/2025-Adjn-O/o Pr Commr-Cus-Mundra dated 21.02.2025
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**(i)** M/s. Unjha Psyllium (IEC: AAFFU5074P)

1. यहआदेश संबन्धित को निःशुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा,अहमदाबाद 380 009"
"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,
NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

(i) उक्त अपील की एक प्रति और A copy of the appeal, and
(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

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

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

BRIEF FACTS OF THE CASE

M/s. Unjha Psyllium (IEC: AAFFU5074P) (hereinafter also referred to as the “Importer”) having address as ‘Nr. Kalkamata Mandir, Vanagala Road, Unjha, Mahesana, Gujarat-384170’ is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) at Mundra Port by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry.

1.1 Intelligence gathered by the Directorate of Revenue Intelligence (DRI), (hereinafter referred to as 'DRI') indicated that M/s. Unjha Psyllium is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. As per said notification *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*.

Examination, Search, Seizure and Statements:

2. Acting upon the intelligence, the 15 containers covered under the Bill of Entry No. 5299424 dated 28.08.2024 filed by the importer M/s Unjha Psyllium at Mundra Custom House were tracked from the website of M/s Oceanic Star Line and primarily it was noticed that there were major discrepancies between the details mentioned in BL of Lading No. OSLSBL983/24 for Bill of Entry No. 5299424 dated 28.08.2024 and the tracking details downloaded from aforementioned website i.e. Name of the vessel, Shipped on Board date, etc. Accordingly, the import consignment covered under Bill of Entry No. 5299424 dated 28.08.2024 filed by the importer M/s Unjha Psyllium lying at M/s Mundhra CFS, AP & SEZ, Mundra was put on hold for examination by officers of DRI. The goods covered under Bill of Entry No. 5299424 dated 28.08.2024 were examined by officers of DRI on 25.09.2024 and 08.10.2024 and The proceedings of the examination were recorded under panchnama dated 25.09.2024 drawn at M/s. Mundhra CFS, AP & SEZ, Mundra.

3. During the investigation, a search was conducted at the office Premise of M/s Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) having office situated at 'Suit 20, 2nd Floor, Avishkar Complex, Ward-12/B, Plot No. 204, Gandhidham (Kutch) – 370201' under Panchnama dated 12.09.2024. During the Panchnama proceedings carried out at the said address, some e-mail correspondences relating to present investigation were resumed by the visiting officers of DRI on a reasonable belief that the same were required for DRI investigation. During the search, e-mail conversations were found in the e-mail address of the said delivery agent, in which it was explicitly stated that Bills of Lading were switched in some consignments, including Bill of Lading bearing no.

OSLSBL983/24. The e-mail communications by Eastern Shipping Co. Ltd., Sudan, in the conversation related to manipulation/forging of BLs were also sent to Shri Bharat Himmatlal Parmar on his company e-mail *brmgr@paramountsealink.com*, being the branch manager of M/s Paramount Sea Links Pvt. Ltd. Further, from the documents resumed during the search, two different Bill of Lading OSLSBL-983/24 and OSLPZUMUN3062624 both dated 26.06.2024 respect of 15 container nos. ALLU7001346, CBHU8569485, CBXU6647310, CBXU8209890, CLHU8189757, HHXU3116147, MSCU7533760, MZWU2119520, SVWU6307190, TCLU6992112, TRDU8653752, VSKU7860288, WSCU9271885, XHCU5238770, and YMLU8394795, were available. Shipped on board date on the said B/Ls was declared to be 26.06.2024 and 16.07.2024, respectively. Further, from the tracking of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) were 30.07.2024 vide Bill of Lading No. OSLPZUMUN3062624 from Sudan port terminal. Thus, it appeared that the Bills of Lading were switched/manipulated to avail the benefit of the subject notification. Accordingly, since it appeared that the subject consignment covered under the Bill of Entry No. 5299424 dated 28.08.2024, containing **420 MT** of Water Melon Seeds having declared assessable value of **Rs. 10,07,64,406/-** was liable for confiscation under the provisions of Customs Act, 1962, the same was put under seizure vide Seizure Memo dated 29.10.2024

4. During the course of investigation, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962 and some documents were collected as given below:

4.1 Statement of Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sea Links Pvt. Ltd., (Delivery Agent of Shipping Line i.e. M/s Oceanic Star Line), having address as 'Suit 20, 2nd Floor, Avishkar Complex, Ward-12/B, Plot No. 204, Gandhidham (Kutch) – 370201', was recorded under Section 108 of the Customs Act, 1962 on 10.09.2024 wherein he inter alia stated that he is working as Branch Manager of M/s Paramount Sea Links Pvt. Ltd. and M/s Oceanic Star Line is their principle and M/s Paramount Sea Links Pvt. Ltd. has been handling all shipping related activities in India i.e. Export and Import at Mundra Port since April, 2024 on behalf of M/s Oceanic Star Line; that 01 consignment of M/s Unjha Psyllium, has been received under the Bill of Lading No. OSLSBL-983/24 dated 26.06.2024 in respect of Container Nos. ALLU7001346,

CBHU8569485, CBXU6647310, CBXU8209890, CLHU8189757, HHXU3116147, MSCU7533760, MZWU2119520, SVWU6307190, TCLU6992112, TRDU8653752, VSKU7860288, WSCU9271885, XHCU5238770 and YMLU8394795. On being shown the tracking of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) were 30.07.2024 for Bill of Lading No. OSLPZUMUN3062624, from Sudan port terminal, he acknowledged the same and stated that per tracking of above said 15 containers the shipped-on board date was 30.07.2024 from Sudan which was mentioned at official website of Oceanic Star Line.

4.2 Statement of Shri Arvind Dharamshi Prajapati, Branch Manager of M/s Sea Consortium Shipping (I) Pvt.Ltd., Vessel Agent, having address as 'Office No. 206, 2nd Floor, Plot No. 13, Sector No.-8, Riddhi Siddhi Arcade, Gandhidham, Kutch-370201, was recorded under Section 108 of the Customs Act, 1962 on 12.09.2024 wherein he inter alia stated that his company acted as a shipping line operator, focusing on transporting containers rather than owning or trading goods. He described the operational handling of the containers at Mundra port, noting that they were unloaded, stored at designated yards, and subjected to customs inspections before being released after clearance and duty payments. He reiterated that his company merely coordinated with customs authorities and transporters, with no role in customs assessments. He denied any prior knowledge of illegal imports and expressed his commitment to transparency and cooperation in the investigation. He further provided container tracking data and other operational records, including the movement history of the containers, shipping schedules, and documents submitted by the importers. He emphasized that the said records adhered to industry standards and could be verified for accuracy.

4.3 Statement of Shri Romal Hasmukhbhai Patel, Authorize Person of M/s. Unjha Psyllium, 'Nr. Kalkamata Mandir, Vanagala Road, Unjha, Mahesana, Gujarat-384170', was recorded under Section 108 of the Customs Act, 1962 on 21.10.2024 wherein he inter alia stated that M/s Unjha Psyllium, incorporated in 2019, was engaged in processing and trading psyllium husk, powder, psyllium seeds, watermelon seeds, cumin seeds, fennel seeds, spices, and oil seeds. The company imported raw materials and exports processed goods worldwide while also catering to domestic market. He was working as an Export Import manager of the said importer, having responsibilities that included managing import/export documentation, overseas client communication, order placements, banking-related tasks, and ensuring smooth order execution under the company's instructions. On being asked about import of 15 containers of watermelon seeds covered under Bill of Lading No. OSLSBL98324 dated June 26, 2024, at Mundra Port, and apprised that he commercial invoice, packing list, bill of lading, and certificate of origin were all prepared on the same date, June 26, 2024, he stated that these were the documents sent by the overseas supplier, M/s Ibrahim Elhelali Import and Export Enterprises, based in Dubai. He further stated that The consignment of 15 containers was booked in late May 2024, with a delivery schedule set for June 2024. The agreed payment terms stipulated 100% payment against scanned copies of shipping documents upon vessel arrival. The documents provided by the supplier, dated June 26, 2024, were used to initiate customs clearance. However, the consignment was subsequently placed on hold by authorities. When the issue was raised with the supplier, the shipping line provided vessel tracking information on September 20, 2024. Further, on being shown the tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) were 30.07.2024 for Bill of Lading No. OSLPZUMUN3062624, from Sudan port terminal, he stated that all documents, including the bill of lading, packing list, and certificate of origin, were provided by the supplier, Mr. Ibrahim Elhelali, who handled both the Sudanese and Dubai operations. He maintained that M/s Unjha Psyllium adhered to all applicable standards and regulations for its import-export operations, and reiterated his willingness to cooperate with the investigation and provide any additional information or documents required by the authorities.

4.4 Statement of Shri Chavda Dilipsinh, G-Card Holder of M/s Unnati Cargo, Room No. 39, Maruti Nagar (Parth Residency), Mundra R/o- Dhufi, Nani, Kachchh, was recorded under Section 108 of the Customs Act, 1962 on 11.01.2025 wherein he inter alia stated that he knew about the Notification No. 05/2023 dated 05.04.2024 issued by DGFT which stipulates that before 30.06.2024, the import of watermelon seeds is free and after 30.06.2024 the import of watermelon seeds is Restricted. On being shown the two different Bill of Lading OSLSBL98324 and OSLPZUMUN3062624 both dated 26.06.2024 showing different ship on Board date 26.06.2024 and 14.07.2024 respectively in respect of 15 container nos.

ALLU7001346, CBHU8569485, CBXU6647310, CBXU8209890, CLHU8189757, HHXU3116147, MSCU7533760, MZWU2119520, SVWU6307190, TCLU6992112, TRDU8653752, VSKU7860288, WSCU9271885, XHCU5238770 and YMLU8394795, which were resumed from the office of the M/s Paramount Sea Links Pvt. Ltd. (***Delivery agent of M/s Oceanic Star Line***), he stated that he had no idea about any tempered/manipulated documents and stated that it appeared that someone had manipulated/forged the documents and had tried to show shipped on board date as before 30th June; and that if he had known in advance that the shipment was shipped on board after 30th June 2024, he would not have filed the Bill of Entry on behalf of the importer.

5. <u>Evidences available on record, during the investigation</u>:

5.1 Details of the evidences available on record during the investigation carried out by the DRI, is as given below:

Description of document	**Details of the documents**	**Document date**
Bill of Lading bearing no. OSLSBL-983/24 dated 26.06.2024	Bill of Lading having shipped on board date 30.06.2024.	26.06.2024
Bill of Lading No. OSLPZUMUN3062624 dated 26.06.2024	Bill of Lading having shipped on board date 16.07.2024.	26.06.2024
tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024 downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment	tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) were 30.07.2024 for Bill of Lading No. **OSLSBL983/24**, from Sudan port terminal.	N/A

5.2 Email conversation- During the search proceedings, carried out at the premises of M/s. Paramount Sealink Pvt. Ltd., e-mail conversations between M/s Eastern Shipping Co. Ltd., Shipping Agent of M/s Oceanic Star Line in Sudan and M/s Paramount Sealink Pvt. Ltd., were found, which showed that B/Ls were switched in the subject consignments. Some of the relevant e-mails are as given below**:**

E-mail Date	**Sender Name, Designation, Firm Name**	**Receivers Name and E-mail IDs**	**Relevant portion of e-mail text**

31.07.2024	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd.	MOHIT KUMAR Paramount Sealink Pv.t Ltd., Gandhidham, impdocs@paramountsealink.com Branch Manager, Paramount Sealink brmgr@paramountsealink.com	Dear Paramount Team (Mundra Team) Cc Ashraf // Jeddah T/S team POD: MUNDRA Please find attached of Cargo Manifest, TDR and 7 DBL NO: OSLPZUMUN3012824 (4X20) OSLPZUMUN3012924 (3X20) OSLPZUMUN3056024 (15X40) OSLPZUMUN3062624 (15X40) OSLPZUMUN3062424 (15X40) OSLPZUMUN3062824 (5X40) OSLPZUMUN3086824 (11X20) Remark Dear Paramount Team (MUNDRA Team) Please note I will send to you the final Cargo Manifest and DBL ASAP , Please wait
14.08.2024	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd.	MOHIT KUMAR Paramount Sealink Pv.t Ltd., Gandhidham, impdocs@paramountsealink.com Branch Manager, Paramount Sealink brmgr@paramountsealink.com	Dear Paramount Team (Mundra Team) Please find Final a ached of 7 Switch BL NO: 9 BL NO : OSLPZUMUN3086824 replaced by Switch BL NO : OSLSBL-980/24 BL NO : OSLPZUMUN3056024 replaced by Switch BL NO : OSLSBL-981/24 BL NO : OSLPZUMUN3062424 replaced by Switch BL NO : OSLSBL-982/24 BL NO : OSLPZUMUN3062624 replaced by Switch BL NO : OSLSBL-983/24 BL NO : OSLPZUMUN3062824 replaced by Switch BL NO : OSLSBL-984/24 BL NO : OSLPZUMUN3012824 replaced by Switch BL NO : OSLSBL-989/24 BL NO : OSLPZUMUN3012924 replaced by Switch BL NO : OSLSBL-990/24
06.09.2024	MOHIT KUMAR Paramount Sealink Pv.t Ltd., Gandhidham, impdocs@paramountsealink.com	Tagwa Badri' Executive, Eastern Shipping Co. Ltd., tagwa@easternship.com	Dear Ms. Tagwa, Pls note we are going to file manifest as per a ached BL if any changes than pls confirm us in 30mint otherwise we will not be responsible for any cos and charges.
08.09.2024	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd.	MOHIT KUMAR Paramount Sealink Pv.t Ltd., Gandhidham, impdocs@paramountsealink.com	Dear Mohit, BL NO : OSLSBL-980/24 BL NO : OSLSBL-981/24 BL NO : OSLSBL-982/24 BL NO : OSLSBL-983/24 BL NO : OSLSBL-984/24 I have sent you the final documents

		Branch Manager, Paramount Sealink brmgr@paramountsealink.com	on Wed 8/14/2024 12:47 PM If any changes occur a er this, we as the POL or POD are not responsible The fines will be on the shipper or the consignee Thank you very much for your coopera on

6. Brief of investigation conducted and liability of imported goods for confiscation:

6.1 Whereas, investigation conducted by DRI revealed that the containers covered under Bill of Entry No. 5299424 dated 28.08.2024, were shipped beyond the cut-off date of 30.06.2024 specified in DGFT Notification No. 05/2023 dated 05.04.2024. E-mail conversations were found in the e-mail address of the said delivery agent, in which it was explicitly stated that Bills of Lading were switched in some consignments, including Bill of Lading bearing no. OSLSBL983/24. Further, from the documents resumed during the search, two different Bill of Lading OSLSBL-983/24 and OSLPZUMUN3062624 both dated 27.06.2024 respectively in respect of all 15 container nos. ALLU7001346, CBHU8569485, CBXU6647310, CBXU8209890, CLHU8189757, HHXU3116147, MSCU7533760, MZWU2119520, SVWU6307190, TCLU6992112, TRDU8653752, VSKU7860288, WSCU9271885, XHCU5238770 and YMLU8394795, were available. The e-mail communications by Eastern Shipping Co. Ltd., Sudan, in the conversation related to manipulation/forging of BLs were also sent to Shri Bharat Himmatlal Parmar on his company e-mail *brmgr@paramountsealink.com*, being the branch manager of M/s Paramount Sea Links Pvt. Ltd. During search carried out the Delivery Agent premises, some e-mail correspondences relating to present investigation were resumed by the visiting officers of DRI on a reasonable belief that the same were required for DRI investigation. During the search, e-mail conversations were found in the e-mail address of the said delivery agent, in which it was explicitly stated that Bills of Lading were switched in some consignments, including Bill of Lading bearing no. OSLSBL983/24. Further, from the documents resumed during the search, two different Bill of Lading OSLSBL-983/24 and OSLPZUMUN3062624 both dated 26.06.2024 respect of 15 container nos. ALLU7001346, CBHU8569485, CBXU6647310, CBXU8209890, CLHU8189757, HHXU3116147, MSCU7533760, MZWU2119520, SVWU6307190, TCLU6992112, TRDU8653752, VSKU7860288, WSCU9271885, XHCU5238770, and YMLU8394795, were available. Shipped on board date on the said B/Ls was declared to be 26.06.2024 and 16.07.2024, respectively. Further, from the tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) were 30.07.2024 for Bill of Lading No. OSLPZUMUN3062624, from Sudan port terminal. Thus, it appeared that the Bills of Lading were switched/manipulated to avail the benefit of the subject This deliberate manipulation of shipping documents was aimed at unlawfully availing the benefits under the DGFT Notification No. 05/2023. The investigation indicated that the importer, in collusion with representatives of Paramount Sea Links Pvt. Ltd. (***Delivery agent of M/s Oceanic Star Line***), orchestrated the falsification of relevant dates on the Bill of Lading to facilitate the clearance of restricted cargo. By doing so, the importer has failed to adhere to the conditions of DGFT Notification No. 05/2023, thereby violating the provisions of the Foreign Trade Policy 2023. From the investigation carried out, it is evident that Shri Bharat Parmar, as a branch Manager, was kept fully informed of all communications, as Shri Tagwa Badri, the marketing executive at M/s Eastern Shipping Co. Ltd., Sudan, had sent him the forged documents with e-mail. This constitutes a serious breach of regulatory compliance and evidences deliberate intent to mislead customs authorities.

6.2 The facts and evidence discussed above indicate that the Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with ‘shipped on board’ Bill of lading issued till 30th June 2024 shall be treated as ‘Free’ to import”. It means that all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on ‘Actual User’ basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024. However, as established in the preceding paras, M/s. Unjha Psyllium (IEC: AAFFU5074P), Nr. Kalkamata Mandir, Vanagala Road, Unjha, Mahesana, Gujarat-384170, illegally imported Watermelon Seeds under Bill of Entry No. 5299424 dated 28.08.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board on 30th July 2024 i.e. beyond the permissible date of 30th June 2024 using a forged Bill of Lading. Furthermore, it was revealed during the investigation that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. 5299424 dated 28.08.2024 having total quantity **420 MTs** and declared assessable value of **Rs. 10,07,64,406/- imported** by M/s. Unjha Psyllium are liable for confiscation under confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962.

7. Roles of persons/firms involved:

7.1 Role of the importer M/s Unjha Psyllium (Shri Romil Hasmukhbhai Patel, Import Export Manager):

M/s Unjha Psyllium, through its import export manager, Shri Romil Hasmukhbhai Patel, was well aware of the Import policy and Notification. M/s. Unjha Psyllium had imported watermelon seeds covered under Bill of Entry No. 5299424 dated 28.08.2024 in by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of entry is **420 MTs** having declared Assessable value of **Rs. 10,07,64,406/-** As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under **Section 112 (a) and 112 (b)** of the Customs Act, 1962. By not uploading the original documents as mandated during filing of Bill of Entry, the importer has attempted to mislead the department thereby rendering themselves liable to penalty under **Sec 114AA** of Customs Act, 1962.

7.2 Role of M/s Paramount Sea Links Pvt. Ltd. (Delivery agent of M/s Oceanic Star Line)

The facts and evidence gathered during the search, including email correspondences, clearly establish that M/s. Paramount Sea Links Pvt. Ltd. (***Delivery agent of M/s Oceanic Star Line***), deliberately colluded with representatives of M/s Oceanic Star Line and the supplier located in Sudan, to manipulate the actual dates on the Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. These actions reflect a blatant disregard for regulatory compliance and an intent to mislead the authorities. The deliberate acts and omissions by M/s. Paramount Sea Links Pvt. Ltd make them liable for penalties under **Section 112(b)** of the Customs Act, 1962. Furthermore, their involvement in the creation of forged Bills of Lading constitutes a violation that renders them liable to penalties under **Section 114AA** of the Customs Act, 1962.

7.3 Role of Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sea Links Pvt. Ltd.:

Shri Bharat Himmatlal Parmar, as the Branch Manager of M/s Paramount Sealinks Pvt. Ltd., a container line agent, was well-versed in the Import policy and Notifications. In his statement, Shri Parmar admitted to overseeing all operations of M/s Paramount Sealinks Pvt. Ltd., including documentation related to import-export activities as a container line agent. The facts and evidence gathered during the investigation, including the Bill of Lading and email correspondences, provide clear and compelling proof that M/s Paramount Sealinks Pvt. Ltd., acting on behalf of M/s Ocean Star Line, deliberately colluded with representatives from M/s Ocean Star Line and Mr. Tagva Badri, Marketing Executive of Eastern Shipping Co. Ltd., Sudan, to manipulate the dates on the Bill of Lading (B/L). Further, the tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) were 30.07.2024 for Bill of Lading No. OSLPZUMUN3062624, from Sudan port terminal, showed that in respect of the said 15 containers the shipped-on board date was 30.07.2024 from Sudan which was mentioned at official website of Oceanic Star Line. Thus, it was evident, that Shri Bharat Himmatlal Parmar had firsthand knowledge of the manipulation of the import documents at the end of shipping line. This deliberate manipulation aimed to facilitate the clearance of restricted cargo, in direct violation of established regulations governing the shipping and clearance of goods in India. During the investigation, it is clear that Shri Bharat Parmar, as the branch manager, was kept fully informed of all communications, as Shri Tagva Badri, the Marketing Executive at Eastern Shipping Co. Ltd., sent him the forged documents via email. These actions demonstrate a blatant disregard for regulatory compliance and a clear intent to mislead the authorities. The deliberate acts and omissions by Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sealinks Pvt. Ltd., make him liable for penalties under **Section 112(b)** of the Customs Act, 1962.

8. Relevant Legal provisions :

8.1. Import of Watermelon seeds falling under HS Code 12077090 was made from "Free" to "Restricted" for vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry under Section 3 and Section 5 of the FT(D&R) Act, 1992 read with Paragraph 1.02 and 2.01 of the Foreign Trade Policy (FTP), 2023 as amended from time to time. The Import of watermelon seeds is subject to Policy condition No. 4 of Chapter 12 of the ITC (HS) Classification.

8.2 Whereas vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry, it has been envisaged that *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*. As a corollary, all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024.

8.3 The other relevant policy provisions pertaining to the import of watermelon seeds along with relevant penalty provisions of the Customs Act, 1962 are as follows:

8.3.1 FTDR Act, 1992 :

Section 3 of the FTDR Act, 1992: ***Powers to make provisions relating to imports and exports*–**

(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

Section 5 of the FTDR Act, 1992: ***Foreign Trade Policy—***

The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, inlike manner, amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.

8.3.2 Foreign Trade Policy, 2023 :

Para 1.02: Amendment to FTP

Central Government, in exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, as amended from time to time, reserves the right to make any amendment to the FTP, by means of notification, in public interest.

Para 2.01: Policy regarding import /Exports of goods

(a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and

Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed under 'Regulatory Updates' at https://dgft. gov.in

(b) Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

8.3.3 Relevant Sections of the Customs Act, 1962 :

SECTION 112 of the Customs Acts. Penalty for improper importation of goods, etc.*- Any person, -*

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

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

shall be liable, -

(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 the greater;

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

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

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

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

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

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, shall be liable to a penalty not exceeding five times the value of goods.*

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... an option to pay in lieu of confiscation such fine as the said officer thinks fit."

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

9.1 Accordingly, Show cause Notice GEN/ADJ/ADC/504/2025-Adjn-O/o Pr Commr-Cus-Mundra dated 21.02.2025 was issued to M/s. Unjha Psyllium, wherein they were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why:

(a) The imported goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. 5299424 dated 28.08.2024 having total quantity **420 MTs** and declared Assessable value of **Rs. 10,07,64,406/-** should not be confiscated under Section 111 (d),111(m) and 111(o) of Customs Act, 1962.

(b) Penalty under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962 should not be imposed upon them.

9.2 Vide SCN dated 21.02.2025, M/s Paramount Sealink Pvt. Ltd. (*Delivery Agent working in India on behalf of M/s Oceanic Star Line*) were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed on M/s Paramount Sealink Pvt. Ltd. under Section 112(b) & 114AA of the Customs Act, 1962.

9.3 Further, vide SCN dated 21.02.2025, Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed on him under Section 112(b) of the Customs Act, 1962.

10.1 After considering the submissions of the noticees and personal hearing conducted in the impugned matter, the Order-in-Original No. MCH/ADC/ZDC/445/2025-26 dated 18.12.2025 was issued as follows:

(i). *I order to absolute confiscation of impugned goods i.e.* ***420 MTS "Watermelon Seed"*** *imported vide Bill of Entry no. 5299424 dated 28.08.2024 having value Rs.* ***10,07,64,406/- (Ten Crore Seven Lakh Sixty Four Thousand Four Hundred and Six only)*** *under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962.*

(ii). *I impose penalty of* ***Rs. 50,00,000/- (Rupees Fifty Lakh only)*** *on the importer M/s. Unjha Psyllium under Section 112 (a)(i) of the Customs Act, 1962.*

(iii). *I refrain from imposing penalty on the importer M/s. Unjha Psyllium under Section 112(b) of the Customs Act, 1962.*

(iv). *I impose penalty of* ***Rs. 2,00,000/- (Rupees Two lakh only)*** *on the importer M/s. Unjha Psyllium under Section 114AA of the Customs Act, 1962.*

(v). *I impose penalty of* ***Rs. 2,00,000/- (Rupees Two Lakh only)*** *on M/s Paramount Sealink Pvt. Ltd. under Section 112 (b) of the Customs Act, 1962.*

(vi). *I impose penalty of* ***Rs. 1,00,000/- (Rupees One Lakh only)*** *on the M/s. Paramount Sealink Pvt. Ltd. under Section 114AA of the Customs Act, 1962.*

(vii). *I impose penalty of* ***Rs. 25,000/- (Rupees Twenty Five Thousand only)*** *on Sh. Bharat Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd. Under section 112(b) of the Customs Act, 1962.*

10.2 Being aggrieved by Order-in-Original No. MCH/ADC/ZDC/445/25-26 dated 18.12.2025 (hereinafter referred to as "the said OIO"), the importer M/s. Unjha Psyllium, along with eight other similarly placed importers involved in identical facts and issues, preferred appeals before the Commissioner of Customs (Appeals), Ahmedabad. The said appeals were disposed of vide a common Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 (hereinafter referred to as "the OIA"), passed by the Commissioner of Customs (Appeals), Ahmedabad.

10.3 Vide the OIA, the learned Commissioner (Appeals), Ahmedabad, after condoning the delay in filing of the appeals, examined the submissions made by the appellants, including the contention regarding the option of redemption extended by the undersigned in the case of M/s. Shreeshiv Agri Impex LLP vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026, passed in compliance with the directions of the Hon'ble High Court of Gujarat vide Common Oral Order dated 29.01.2026 in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025. The learned Commissioner (Appeals) observed that the impugned order did not contain any detailed examination or findings on the legal submissions, judicial precedents, and contentions raised by the appellants in their defence reply, and accordingly set aside the said OIO and remanded the matter to the undersigned for de novo adjudication under Section 128A(3) of the Customs Act, 1962. The relevant observations of the learned Commissioner (Appeals) are reproduced below for ready reference:

"5.6 I find that the impugned order does not contain any detailed examination or findings on the aforesaid legal submissions, judicial precedents, and

contentions raised by the appellants as detailed in their defence reply. Since these issues have a direct bearing on the present cases, I am of the considered view that they require proper examination and adjudication by the original adjudicating authority.

5.7. Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A(3) of the Customs Act, 1962. In this regard, reliance is placed upon the judgment of the Hon'ble Gujarat High Court in Medico Labs [2004 (173) E.L.T. 117 (Guj.)], the judgment of the Hon'ble Bombay High Court in Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)], and the decisions of the Hon'ble Tribunal in Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del.)], wherein the appellate authority's power to remand under Section 128A(3) of the Customs Act, 1962 has been recognized.

5.8. In view of the foregoing discussion, the impugned orders are set aside and the matters are remanded to the adjudicating authority for de-novo adjudication in accordance with law. It is expressly clarified that no opinion or views have been expressed on the merits of the cases."

10.4 I find it pertinent to mention that the observation of the learned Commissioner (Appeals) at Paras 5.5 & 5.6 of the said OIA, that the said OIO did not contain any examination of the contention regarding redemption, has to be viewed in the context that the judicial precedent on this aspect was not a settled one at the time of passing of the said OIO on 18.12.2025. The said OIO dated 18.12.2025 was passed after affording due opportunity of personal hearing to the noticees, in compliance with the principles of natural justice. The Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 in the case of M/s. Shreeshiv Agri Impex LLP, being subsequent in time to the said OIO, had itself ordered absolute confiscation without extending any option of redemption. It was only pursuant to the Common Oral Order dated 29.01.2026 of the Hon'ble High Court of Gujarat, and the Addendum dated 10.02.2026 issued thereto, that the option of redemption came to be extended in the case of M/s. Shreeshiv Agri Impex LLP. The said development, being subsequent to the said OIO, was not available for consideration at the time of issuance of earlier OIO dated 18.12.2025, and the same now falls for consideration in the present de novo adjudication.

10.5 Further, in order to ascertain the correct scope and applicability of the said Order-in-Appeal, a letter bearing F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 was addressed to the Commissioner of Customs (Appeals), Ahmedabad, seeking clarification as to whether the setting aside of the impugned Orders-in-Original and the consequential remand for de-novo adjudication under Section 128A(3) of the Customs Act, 1962, is restricted only to the appellants specifically named in the said Order-in-Appeal, or whether the said Orders-in-Original stand set aside in their entirety, including in respect of all other noticees, if any, covered under the respective Orders-in-Original.

In response thereto, the Office of the Commissioner of Customs (Appeals), Ahmedabad vide their letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 has clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal and the issues arising from their respective appeals.

10.6 Further, RRA Section, Mundra Customs vide their email dated 24.07.2026, has informed that the said OIA dated 07.07.2026 has been accepted by the Committee of the Principal Commissioner/Commissioner(s) on 24.07.2026.

11. WRITTEN SUBMISSIONS:-

11.1 M/s. Unjha Psyllium (IEC: AAFFU5074P) submitted their earlier reply, wherein they have, *inter alia*, submitted that:

11.1.1 The Noticee submitted that acting upon specific intelligence gathered by DRI regarding importer importing Watermelon Seeds in contravention to the DGFT Notification No. 05/2023 dated: 05.04.2024 an investigation was initiated. In due course of investigation, a search was conducted at the premises of Paramount Sealink Pvt Ltd located at Suit No 20, Second floor Avishkar complex, Ward 12 B, Plot No. 204, Gandhi Dham, Kutch, Gujrat. It is submitted that the foundation of the entire case is based upon the Panchnama drawn at the premises of M/s Paramount Sealink Pvt Ltd however the said Panchnama is totally unreliable and inadmissible along with the statements and contents mentioned or drawn during it as the Panchnama dated: 12.09.2024 has Pancha 1: Shri Vikash Pandit whose sign can be found at every page however the Pancha – 2: is mentioned to be Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama however the signature on each page for P2 reveals name of one Shri Manoj Rathod. There is no record of Shri Manoj Rathod being called or being present during Panchnama much less him being pancha for the aforementioned Panchnama. This discrepancy questions the validity and legality of the document in its entirety. Therefore, the Panchnama in the said case has become non-est and hence cannot be relied or used in the said proceedings.

11.1.2 The Panchnama records that one Shri Bharat was present during the Panchama at the premises and he admitted that he is the branch manager however the import related work including filing of IGM etc., is specifically handled by Shri Mohit Kumar. Thereafter during search, it was found that in this above-mentioned premises of Paramount Sealink Pvt Ltd there were total five computers which were installed and on being asked Shri Bharat informed the officers that they are using three email ids viz. impdocs@paramountsealink.com, billing@paramountsealink.com and mnr@paramountsealink.com for all the conversations relating to the import and export and other work being done at their premises . Shri Bharat provided the three email ids viz. impdocs@paramountsealink.com, billing@paramountsealink.com and mnr@paramountsealink.com to the officers and informed them that all of these three email ids were already opened at the computer system being used by Shri Mohit and Shri Mahesh at the time of Panchama. The officers then accessed those emails through the computer systems on which they were already logged in and made three files which were named as Made-up file-1 comprising of 488 Pgs., Made-up file-2 comprising of 472 Pgs. and Made-up file-3 comprising of 394Pgs., signatures of Sri Bharath were taken on every page of these made-up files and the signatures of Panchas were taken on the first and the last page of the files. The show Cause Notice brings out that during this search some emails were 'resumed'. However, it would be factually incorrect to state that these emails were resumed from the premises of Paramount Sealink as these emails were not available in printed format when the search was conducted. Instead, the printouts of these emails were taken during the Panchnama by the officers themselves and in gross violations of provisions laid down under section 138C of the Customs Act 1962.

The section 138C of Customs Act mandates that when such copies of any digital form are being recovered from any electronic device which is then to be relied or admitted as evidence during any proceedings under Customs Act it has to be done under a certain procedure and a certificate or statement certifying as to what has been recovered and what does the recovered document means has to be obtained from the one who is in regular possession of the device.

11.1.3 In the instant case the devices from which the printouts of these emails were recovered were being continuously used and were in possession of Shri Mohit and Shri Mahesh of Paramount Sealink Private Limited but no statement of theirs in this regard as to what are the contents of email and what they mean have been recovered from them. It is also necessary to highlight a fact that when Sri Bharath had informed the officers very explicitly that the import related work is being handled by Sri Mohit in particular at first, even then the officers have neither questioned Shri Mohit during the Panchama nor was any statement of Shri Mohit has been recorded or bought on record or relied at any stage in the investigation or in the SCN.

11.1.4 Noticee submitted that these printouts taken in the gross violation of section 138C cannot be relied as evidence as they are inadmissible because of non-following of the procedure laid down by the statute which is mandatory to bring out the legitimacy and truthfulness of the documents reliance in this case is placed in the following cases:

i. In Arjun Pandit Rao v. Kailash Kushanrao 2020 (7) SCC 1 (Civil Appeal No. 20825-20826 of 2017). It was held by Supreme Court regarding the contents of the 'Certificate' as: *"The certificate submitted under this provision constitutes particulars of those electronic records and identity inclusive of authorized signature of a person having official responsibility in relation to the management and operation of the relevant device."*
ii. The Supreme Court in the case of Anvar P.V. v. P.K. Basheer and Others (2014) 2017 (352) ELT 416 (SC) have held in the case of similarly worded provision of Section 65B Indian Evidence Act 1872 that such certification is an essential requirement for making any of such printouts admissible as evidence. *"Electronic Evidence - Admissibility of - Speeches, songs and announcements recorded using other instruments and by feeding them into a computer, CDs made*

therefrom and ***produced in court, without due certification*** *- Such CDs produced by way of secondary evidence,* ***not admissible in evidence, mandatory requirements of Section 65B of Indian Evidence Act, 1872 being not satisfied*** *-* ***Whole case set up*** *regarding corrupt practice using songs, announcements and speeches* ***fails."***(Highlighting Supplied)

iii. Further Reliance is placed on case of Jeen Bhavani International Versus Commissioner of Customs, Nhava Sheva-III (2023) 6 Centax 11 (Tri.-Bom) where in Para 12 it was held that: *"12.2………***No certificate whatsoever, as required under the provisions of Section 138C (2) was obtained***. It is settled proposition of law that if a certain act is to be done by a certain authority, in a particular manner, the same should be done in the manner in which it is ordained. There are no short cuts in investigation.* ***Without fulfilling the statutory requirements, subjecting the computer to forensic analysis is of no help and would not help the cause of Revenue. Therefore, we are of the considered opinion that the emails/documents etc retrieved in the instant case are not reliable evidence for the reasons cited above****.*

12.3 With regard to seizure of CPU and alleged data retrieved there from, the department has concluded that there was parallel set of invoices for the 21 Bills of Entry, wherein the actual invoice values have been shown, which were less than the declared invoice values. ***We find that the procedures laid down under section 138C have not been observed by the department, in addition to non mentioning of the details of the CPU, the place of installation in the premise, custodian of the CPU etc****. Therefore, we find that as per the ratio laid down in the above referred judgments,* ***the documents retrieved, lost their evidentiary value and cannot be relied upon*** *for upholding the charges of undervaluation of goods and demand of the differential duty."* (Highlighting Supplied)

This case was further upheld by Hon'ble Supreme Court in Commissioner of Customs, Nhava Sheva-III Versus Jeen Bhavani International (2023) 6 Centax 14 (S.C.)/2023 (385) E.L.T. 338 (S.C.)

wherein the appeal of the revenue was dismissed on merits after condonation of delay.

iv. Further reliance is placed on Junaid Kudia Versus Commissioner of Customs, Mumbai Import-II (2024) 16 Centax 503 (Tri.-Bom) wherein in Para 10 it was held: ***"10.*** *Upon perusal of the judgment of the Hon'ble Supreme Court in the case of Anvar P.V. (supra), we note that the Apex Court has categorically laid down the law that unless the requirement of Section 65B of the Evidence Act is satisfied, such evidence cannot be admitted in any proceedings.* ***We note that the Section 138C of the Customs Act is parimateria to Section 65B of the Evidence Act****.* ***Consequently, the evidence in the form of computer printouts, etc., recovered during the course of investigation can be admitted in the present proceedings, only subject to the satisfaction of the sub-section (2) of Section 138C ibid.*** *This refers to the certificate from a responsible person in relation to the operation of the relevant laptop/computer. After perusing the record of the case,* ***we note that in respect of the electronic documents in the form of computer printouts from the seized laptops and other electronic devices, have not been accompanied by a certificate as required by Section 138C(2) ibid as above. In the absence of such certificate****, in view of the unambiguous language in the judgment of the Hon'ble Supreme Court (supra),* ***the said electronic documents cannot be relied upon*** *by the Revenue for confirmation of differential duty on the appellant. In the present case, the main evidence on which, Revenue has sought to establish the case of undervaluation and misdeclaration of the imported goods is in the form of the computer printouts taken out from the laptops and other electronic devices in respect of which the requirement of Section 138C(2) ibid has not been satisfied.* ***On this ground, the impugned order suffers from uncurable error and hence, is liable to be set aside"*** (Highlighting Supplied)

This case was further upheld by Hon'ble Supreme Court in case of Commissioner of Customs, Mumbai Import-II Versus Junaid Kudia (2024) 16 Centax 504 (S.C.)/2024 (388) E.L.T. 529 (S.C.) where in the Hon'ble Supreme Court after condoning the delay and hearing the Ld.

ASG has dismissed the appeal of department and upheld the order of CESTAT, Mumbai.

11.1.5 A statement of Shri Romal Hasmukhbhai Patel partner of M/s Unjha Psyllium was recorded at Gandhidham Wherein in he was questioned regarding his nature of business and the import of 15 containers of 'Watermelon Seeds' covered under the present consignment vide B/L No. OSLSBL98324 dated: 26.06.2024 for which he had presented all the import related documents viz. Commercial Invoice, Packing List, Bill of Lading and COO Certificate as received by him directly from the foreign supplier. He was further shown some container tracking reports alleged to have been downloaded from website of 'Ocean Star Line' which was showing as 'Load Full' on 30.07.2024 to which he explained to the officers that he had received the said documents from Mr. Ebrahim Elhelali od Dubai who is contact person between the Sudanese supplier and him. He also stated that he had no idea about any alleged manipulation of B/L. The investigation has failed to bring out any knowledge of even second BL existing on part of the importer much less manipulation or forging or even involvement of the importer in any such process if believed to be true.

11.1.6 Further the SCN is conveniently silent about the tracking report submitted by the importer which is issued by 'Eastern Shipping Co Ltd.' which affirms the deposition and declaration of the importer that the goods have been loaded on vessel on 26.06.2024. This silence on part of the SCN issuing authority displays non-application of mind and eagerness to propose confiscation of the imported goods and penal consequences thereof.

11.1.7 Further statement of Shri Bharat Branch Manager of Paramount Sealink was recorded wherein he has stated that he had received all the documents pertaining to import through email and he does not know as to why the B/L were switched and he had communicated the B/L to Consignee / CHA as received by him. He was further questioned about the tracking details downloaded from the website showing as 'Load Full' on 30.07.2024 to which he has replied that from tracking it appears that the Shipped-on board appears to be 30.07.2024. However, nowhere he has been found admitting as to why and who has manipulated the B/L. It appears that a deliberate attempt to get it admitted that the B/L has been manipulated / forged has been made by the investigators since Shri Bharat during the panchnama has revealed that he is the Manager and all import related work is looked after by Shri Mohit and not him whereas in the statement it appears as if he himself is handling all the work of import in person which is not the fact in present case. Also his opinion regarding the tracking is utterly baseless as the goods have not directly arrived from Sudan to Mundra but they have been transhipped and the possibility of further sharing of B/L to Indian agent only after receiving of goods at port of transshipment or even after goods leaving the port of transshipment is a valid possibility which has been not brought out or considered. He was also not asked as to why the tracking details of the consignment provided by 'Eastern Shipping Co Ltd.' display that the containers were indeed loaded on 26.06.2024 and why the discrepancies are there. Hence, it appears that his statement is in contradiction to his own depositions made during panchnama and facts on record and thus is totally unreliable and inadmissible.

11.1.8 From perusal of the Original B/L submitted by the Importer and 'Verify Copy' of B/L recovered from the email of the it is evident that the name of the Vessel and Voyage No etc. are different in both the Bs/L for which no clarification has been brought on record either through statements or through evidences as to why the details are different and in which vessel the goods have sailed. The investigating officer / agency has not taken the efforts / pain to even write an email to the office of shipper at Port of Loading or to the exporter asking them about the details as to on which vessel the consignment has left and on what date the containers were handed over to the shipping line by the exporter to prove the case of department.

11.1.9 The Noticee submitted that the entire case is built upon the assumptions and presumptions of Shri Bharat Himmatlal Parmar the executive of Paramount Sealink Pvt Ltd and Shri Arvind Dharamshi Prajapati of M/s Sea Consortium Shipping (l) Pvt Ltd who have allegedly admitted that the original B/L submitted by the importer to the Customs Authorities 'seems/appear' to be manipulated by someone. Hence, it is of essence to cross-examine them so as to confirm if the said statements are the true and voluntary and if so who has carried out the manipulation of the B/L as the B/L were directly received by them through their principal company on e-mail and it is not the case that importer or CHA or Broker has supplied them the alleged manipulated copy of B/L. The reliance in this case is placed on:

i. Andaman Timber 2015 (324) E.L.T. 641 (S.C.), where in the Hon'ble Apex Court has laid down the law in Para 6 held that:

*"**6.** According to us, not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee. **It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority. As far as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the appellant themselves to explain as to why their ex-factory prices remain static.** It was not for the Tribunal to have guess work as to for what purposes the appellant wanted to cross-examine those dealers and what extraction the appellant wanted from them."* (Highlighting Supplied)

ii. Mahek Glazes Pvt Ltd. 2014 (300) E.L.T. 25 (Guj.) Para 6

*"**6.** Having heard learned counsel for the parties, we are inclined to interfere on the short ground of serious breach of principles of natural justice in the process of passing final order of adjudication. We say so because the adjudicating authority, though categorically informed by the representative of the petitioners that the petitioners are serious about exercise of their right to cross-examination and further that any meaningful participation in the adjudicating proceedings can take place only after such cross-examination is granted, the authority proceeded to decide such request only along with the final order of adjudication.*

> *Whether the petitioners had a right to seek cross-examination in the facts of the present case, is not our brief at the moment. We, therefore, refuse to comment on the petitioners' insistence for cross-examination or authority's reluctance to grant it.* ***What we, however, find is that the petitioners had at least a right to be told whether such application is being granted or refused before final order was passed. When the petitioners prayed for cross-examination and reasonably expected that the same would be granted, they cannot be expected to participate in the adjudicating proceedings up to the final stage. In other words, without dealing with and disposing of the petitioners' application for cross-examination, the adjudicating authority could not have finally adjudicated the issues. If he was of the opinion that the request for cross-examination was not tenable, by giving reasons, he could have rejected it. We wonder what would have happened, if he was inclined to accept such a request. In such a situation, he himself could not have finally disposed of the show cause notice proceedings. In either case, the petitioners had a right to know the outcome of their application****."* (Highlighting Supplied)

It is a settled law that the cross-examination has to be granted to the notice even in quasi-judicial adjudications and as ratio laid down by the Hon'ble Apex Court in Andaman Timer (supra) it is not for the quasi-judicial authority to have 'guess work' as to for what reasons the cross-examination is being sought. However, from the reasons cited above the need for cross-examination becomes evident as it is the only pathway to obtain the answers to the series of unknowns left in the investigation.

11.1.10 The Noticee submitted that although the statements to the extent of admission of saying that it 'appears' someone has manipulated the B/L have been recorded and brought out in the investigation no piece of evidence on record has been brought to establish as to who has manipulated the B/L and on whose instruction such act was performed. Therefore, solely based on some statements based on assumptions and presumptions which were got recorded no liability can be brought out on the noticee and thus the SCN is liable to be dropped.

11.1.11 The Noticee submitted that the noticee is called upon to Show cause as to why the goods should not be confiscated u/s 111(d),(m) and (o) and penalties should not be imported u/s 112(a),(b) and 114AA of the Customs Act, 1962.

i. The goods were imported with due compliance of law and in compliance of the DGFT policy stating that the melon seeds are freely importable if Shipped on Board Date is before 30.06.2024.

ii. It is submitted that the goods so imported by the importer are neither in contravention to any Act within India nor are prohibited for import under Customs Act or any other Act. Hence, no provisions of 111(d) can be said to have been violated by the importer.

iii. It is submitted that there is not even allegation of the goods imported to be mis-declared in any form i.e. quantity, description, quality, etc. brought out in entire proceedings or in the SCN. Hence, no confiscation liability can be arrived at u/s 111(m) of the Customs Act.

iv. It is also submitted that the only condition of importing 'melon seeds' under free category was laid down in the DGFT Circular which stated that if the 'Ship on Board' date on the B/L is on or before 30.06.2024 then the import of 'Melon Seeds' is to be treated as free. The only documents including B/L found with the importer is the one which was submitted to the Customs Authorities and is dated as well as has 'Ship on Board' date prior to 30.06.2024. Hence there exists no reason to bring in confiscatory provision of Section 111(m) of Customs Act.

v. Therefore, there being no violation of any of the provisions of the Customs Act, 1962 there arises no reason to arrive at confiscation under any of the provisions of Section 111 as proposed in the SCN and the imported goods placed under seizure are liable to be released and allowed to be cleared from the Customs.

11.1.12 The Noticee submits that penalty u/s 112(a) cannot be imposed on the noticee as no act, omissions or commission on the part of the noticee has been brought out in the SCN which would render the goods liable for confiscation under Section 111 of the Customs Act, 1962. Also Penal liability u/s 112 (b) cannot be brought on to the importer as the goods are still lying in the custody of the customs and hence there was no possession, carrying, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with imported goods by the importer or any other person.

11.1.13 The noticee further submits that there can be no penalty imposed / mulcted on the noticee as proposed in the SCN since no confiscation can be arrived at in the view of the submissions (supra) and there is no violation of provisions of Section 112(a) and or 112(b) of the Customs Act, 1962.

11.1.14 As regards proposition of penalty u/s 114AA of the Customs Act, 1962 it is submitted that the issue was well clarified under 27th report of the Parliamentary Committee whereby it was specified that Section 114AA is being specifically introduced to battle with the increased bogus exports to gain the incentives and benefits under various schemes by exporters and that this section is not being incorporated to deal with the cases of imports. Reliance in this case is placed upon:

i. SRI KRISHNA SOUNDS AND LIGHTINGS 2019 (370) E.L.T. 594 (Tri. - Chennai) where in the Hon'ble Tribunal has found and held:
*"**6.** The Ld. AR has submitted that the Commissioner (Appeals) has set aside the penalty under Section 114AA for the reason that penalty has been imposed by the adjudicating authority under Section 112(a) and therefore there is no necessity of further penalty under Section 114AA. I find that this submission is incorrect for the reason that in the impugned order in paras 7 and 8, the Commissioner (Appeals) has discussed in detail the provision with regard to Section 114AA. It is seen stated that **as per the Taxation Laws (Amendment) Bill, 2005, introduced in Lok Sabha on 12-5-2005, the Standing Committee has examined the necessity for introducing a new Section 114AA**. **The said Section was proposed to be introduced consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border.** The said Section envisages enhanced penalty of five times of the value of the goods. The Commissioner (Appeals) has analyzed the object and the purpose of this Section and has held that in view of the rationale behind the introduction of Section 114AA of the Customs Act and the fact that penalty has already been imposed under Section 112(a), the*

appellate authority has found that the penalty under Section 114AA is excessive and requires to be set aside. Thus, the penalty under Section 114AA is not set aside merely for the reason that penalty under Section 112(a) is imposed. After considering the ingredients of Section 114AA and the rationale behind the introduction of Section 114AA, the Commissioner (Appeals) has set aside the penalty under Section 114AA.

***7. On appreciating the evidence as well as the facts** presented and after hearing the submissions made by both sides, **I am of the view that the Commissioner (Appeals) has rightly set aside the penalty under Section 114AA since the present case involves importation of goods and is not a situation of paper transaction.** I do not find any merit in the appeal filed by the department and the same is dismissed. The cross-objection filed by respondent also stands dismissed."(Highlighting Supplied)*

ii. Arun Kumar Kuwar Versus Principal Commissioner of Customs, New Delhi (2024) 20 Centax 123 (Tri.-Del) (Principal Bench) where in it was held:

*"13 .... **The purpose behind introduction of Section 114 AA was to punish those people who availed export benefits without exporting anything which according to the learned Counsel for the appellant is not the case here**. The provisions of section 114 AA provides for imposition of penalty on a person who knowingly or intentionally make, sign, uses or causes to be made any declaration, statement or documents, which is false or incorrect in any material particular in the transaction of any business for the purpose of the Act. From the statement of Shri Ravinder Singh (as quoted above), we find that the manipulation in the documents were done by the Dubai Branch of the shipping line at the behest of the actual supplier. **There is no evidence to link the appellant with the said manipulation done at Dubai office**. The shipping line has not been roped in the present proceedings. The revenue has not substantiated the charge of connivance of the appellant with the illegal import rather he was instrumental in ascertaining the correct valuation of the impugned goods. **We, therefore, do not find any justification for***

imposition of penalty under section 114AA of the Act." (Highlighting Supplied)

iii. A.V. Global Corporation Pvt. Ltd. Versus Commissioner of Customs, (Import & General), New Delhi (2024) 25 Centax 37 (Tri.-Del) wherein it was held:

"***7.*** *Coming to the penalty imposed under 114 AA the objective of section 114AA as was subsequently incorporated, is apparent from 27th report of the Standing Committee on Finance (2005) which proposed this new section consequent to the deduction of several cases of fraudulent export where the exports were shown only on paper and no goods crossed the Indian boarder. The Committee opined introducing provisions of levying penalty upon 5 times the value of goods as a right deterrent* ***the Constitution Bench of Hon'ble Supreme Court in the case of Kalpana Mehta v. Union of India in Civil Writ Petition No.558 of 2012 has held that the Parliamentary Committee Report is to be considered to see the purpose for which a statutory provision has been brought in. Since provision 114 AA is against the fraudulent exporters we hold that the same is wrongly invoked for penalizing the Customs House Agent****. We draw our support from the decision of this Tribunal in the case of* ***World-Wide Cargo v. CCE, Bangalore reported in 2022 (379) E.L.T. 120 (Tri.-Bang).*** *In the light of the above discussion,* ***we hold that penalty even under 114AA has wrongly been imposed upon the appellant-CHA, same is liable to be set aside.***" (Highlighting Suplied)

Therefore, in view of the above no penalty u/s 114AA of Customs Act, 1962 can be imposed on the noticee.

11.2 Pursuant to the remand, **M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of M/s. Unjha Psyllium and the other similarly placed noticees, vide letter dated 17.07.2026**, has, inter alia, submitted as under:-

11.2.1 That consequent upon the OIA dated 07.07.2026 setting aside the said OIO and remanding the matter, there subsists, as on date, no order of confiscation or penalty against the importer, while the goods continue to remain confiscated and uncleared at Mundra Port since the year 2024.

11.2.2 That Watermelon Seeds are not "prohibited goods" under the Customs Act, 1962 or any other law for the time being in force, and are, at the highest, "restricted" goods post 30.06.2024, entitled to release/redemption, relying upon the judgment of the Hon'ble Punjab & Haryana High Court in *Shree Balaji Industries v. Additional/Joint Commissioner of Customs* [2024 (387) E.L.T. 294 (P&H)] and the judgment of the Hon'ble Supreme Court in *Commissioner of Customs v. Atul Automations Pvt. Ltd.* [2019 (1) SCC, Civil Appeal No. 1057 of 2019].

11.2.3 That in the identical case of M/s. Shreeshiv Agri Impex LLP — involving the same goods, the same DGFT Notification No. 05/2023 dated 05.04.2024, the same Mundra Custom House and the same Adjudicating Authority — the Hon'ble High Court of Gujarat, vide Common Oral Order dated 29.01.2026, had directed reconsideration of the matter, pursuant to which the option of redemption was extended vide Addendum dated 10.02.2026, restricting the redemption fine to approximately 10% of the value of the goods, and the goods in that case have accordingly been released. It was contended that the present noticees deserve similar treatment.

11.2.4 That the goods, being an edible agricultural commodity, have been lying uncleared for nearly two years and are deteriorating in quality, moisture content and marketability, exposing them to fungal infestation and total loss, warranting expeditious disposal in terms of Section 110(1A) of the Customs Act, 1962, failing which the noticees would continue to suffer crippling losses on account of mounting demurrage, detention and ground rent charges, for which, it was contended, the Department's own delay in adjudication was responsible.

11.2.5 The Authorised Representative has accordingly prayed for immediate release of the goods on terms identical to those extended in the case of M/s. Shreeshiv Agri Impex LLP, and for conclusion of the de novo adjudication in a time-bound manner.

PERSONAL HEARING

12. M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of the Importer M/s. Unjha Psyllium, vide the very same letter dated 17.07.2026, has categorically stated that they "***do not want any personal hearing and issues may be decided on merit,*** *on urgent basis to avoid further delay and loss to impugned importers given the nature of the goods and the mounting daily losses*." Accordingly, the noticees have expressly waived their right to personal hearing in the de novo proceedings.

DISCUSSION AND FINDINGS

13. I have carefully gone through the facts of the case, the Show Cause Notice dated 21.02.2025, the noticees' written submissions, the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 passed by the Commissioner of Customs (Appeals), Ahmedabad, and the fresh submission dated 17.07.2026 by M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of the Importer M/s. Unjha Psyllium, filed post-remand. Thus, I find that the principles of natural justice have been duly complied with, and I now proceed to examine, de novo, the issues involved in the present case in the light of the available records, statutory provisions, applicable law, judicial precedents, and the specific directions contained in the OIA dated 07.07.2026.

13.1 I have gone through the letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 issued by the Office of the Commissioner of Customs (Appeals), Ahmedabad, whereby, in response to this office's letter F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 seeking clarification on the scope of the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026, it has been clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal dated 07.07.2026 and the issues arising from their respective appeals. Since M/s. Unjha Psyllium, is one of the appellants specifically named in the said Table-I, the impugned Order-in-Original stands set aside only in respect of M/s. Unjha Psyllium and not in respect of any other noticee covered under the said Order-in-Original No. MCH/ADC/ZDC/445/2025-26 dated 18.12.2025. Accordingly, the matter is required to be adjudicated de-novo only qua M/s. Unjha Psyllium, in accordance with the directions of the Hon'ble Appellate Authority.

13.2 I now proceed to decide the issues framed in the instant SCN, which, on remand, stand at large before me. On careful perusal of the SCN, the case records, the said OIO, the OIA and the fresh submission, I find that the following issues require determination:--

(i) Whether the imported goods i.e. "Water Melon Seed" are liable for confiscation under section 111(d), 111(m) and 111(o) of the customs Act, 1962 or otherwise;

(ii) Whether penalties should not be imposed on M/s. Unjha Psyllium, under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962 or otherwise;

14. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually for analysis in light of facts, submissions, and circumstances of the case, provisions of the Customs Act, 1962 and nuances of various judicial pronouncements.

15. Confiscation of Goods under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962:

15.1 I find that M/s. Unjha Psyllium (Importer) imported Watermelon seed in fifteen containers under Bill of Entry no. 5299424 dated 28.08.2024 and Bill of Lading no. OSLSBL-983/24 dated 26/06/2024. Based on intelligence gathered by DRI, Gandhidham that importer is indulged into illegal import of Watermelon Seeds (Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade. The proceedings of the examination were recorded under panchnama dated 25.09.2024 drawn at M/s. Mundhra CFS, AP & SEZ, Mundra.

15.2.1 I found that during the course of investigation, two different bills of lading were found during the search at premises of M/s. Paramount Sea Links Pvt. Ltd. The details are as under:-

Table-A

Bill of lading No.	**OSLSBL-983/24**	**OSLPZUMUN3062624**

Vessel Name	SUNSET X	SIDHRA AHLAM
Voyage No.	2423	2406
B/L issue date	26.06.2024	26.06.2024
Ship on board Date	26.06.2024	16.07.2024
Total no. of containers	15	15
B/L Issued by	Gulf Gate Shipping Company limited	Eastern Shipping Company

15.2.2 I observed that during the search at the premises of M/s. Paramount Sealink Pvt. Ltd. on dated 12.09.2024, above mentioned two different Bill of Lading OSLSBL-983/24 and OSLPZUMUN3062624 both dated 26.06.2024 respect of 15 container nos. ALLU7001346, CBHU8569485, CBXU6647310, CBXU8209890, CLHU8189757, HHXU3116147, MSCU7533760, MZWU2119520, SVWU6307190, TCLU6992112, TRDU8653752, VSKU7860288, WSCU9271885, XHCU5238770, and YMLU8394795, were found.

Shipped on board date in the Bill of Lading OSLSBL-983/24 and OSLPZUMUN3062624 both dated 26.06.2024 was declared as 26.06.2024 and 16.07.2024 respectively.

15.2.3 I also observed that the tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024, which were downloaded from Oceanic Star Line (OSL) official website star-liners.com/track-my-shipment in which shipped on board date (Load Full) was 30.07.2024 for Bill of Lading No. OSLPZUMUN3062624, from Sudan port terminal.

15.2.4 I find that the tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024 downloaded from Oceanic Star Line (OSL) official website shows shipped on board date (Load Full) as 30.07.2024, Whereas on perusal of BL No. OSLSBL983/24 received from Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan through mail dated 14.08.2024 wherein the ship on board date is mentioned as 26.06.2024.

Accordingly, I find that the contradictory facts demonstrate that the Bill of Lading (BL) was manipulated/forged to clear the restricted goods.

15.2.5 From the above, it is evident that the Bill of Entry no. 5299424 dated 28.08.2024 filed with BL no. OSLSBL 983/24 dated 26.06.2024 shipped from Port Sudan/loaded full on 30.07.2024. Accordingly, the goods are shipped after the due date 30.06.2024.

Further, BL no. OSLPZUMUN3062624 dated 26.06.2024 found during the search shows shipped on board date as 16.07.2024 and as per tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024 for BL no. OSLPZUMUN3062624 shows the shipped on board date as 30.07.2024, therefore the BL no. OSLPZUMUN3062624 is forged and goods are loaded after the due date 30.06.2024.

It indicates that said BLs were manipulated/forged by falsely indicating a 'Shipped On Board' date prior to June 30, 2024 in order to facilitate the clearance of 'Restricted' goods. This action contravenes the provisions of notification no. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category. Based on the vessel tracking data and Bill of Lading details, there is clear evidence of manipulation to unlawfully clearance of restricted goods.

15.3 E-mail conversation:-

15.3.1 The e-mail conversation recovered during search conducted at the office Premise of M/s. Paramount Sealink Pvt. Ltd. under Panchnama dated 12.09.2024 indicated that various communications were made between officials of M/s Eastern Shipping Co. Ltd. and M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) to manipulate the Bill of Lading for clearance of subject goods covered under Bill of Entry no. 5299424 dated 28.08.2024.

15.3.2 Upon careful examination of email correspondence specifically the messages sent and received by Mr. Tagwa Badri (Marketing executive, Eastern Shipping Co. Ltd. Sudan) to M/s. Paramount Shipping Pvt. Ltd. The relevant emails are as follows:-

- 31.07.2024 : Dear Paramount Team (Mundra Team) Please find attached of Cargo Manifest, TDR and 7 DBL NO: OSLPZUMUN3012824 (4X20), OSLPZUMUN3012924 (3X20), OSLPZUMUN3056024 (15X40), **OSLPZUMUN3062624 (15X40)** ,OSLPZUMUN3062424 (15X40),

OSLPZUMUN3062824 (5X40), OSLPZUMUN3086824 (11X20), Dear Paramount Team (MUNDRA Team) , Please note I will send to you the final Cargo Manifest and DBL ASAP , Please wait.

- 14.08.2024:- Dear Paramount Team (Mundra Team) , Please find Final a ached of 7 Switch BL NO, BL NO : OSLPZUMUN3086824 replaced by Switch BL NO : OSLSBL-980/24, BL NO : OSLPZUMUN3056024 replaced by Switch BL NO : OSLSBL-981/24, BL NO : OSLPZUMUN3062424 replaced by Switch BL NO : OSLSBL-982/24, **BL NO : OSLPZUMUN3062624 replaced by Switch BL NO : OSLSBL-983/24**, BL NO : OSLPZUMUN3062824 replaced by Switch BL NO : OSLSBL-984/24, BL NO : OSLPZUMUN3012824 replaced by Switch BL NO : OSLSBL-989/24, BL NO : OSLPZUMUN3012924 replaced by Switch BL NO : OSLSBL-990/24.
- 06.09.2024 :- Dear Ms. Tagwa, **Pls note we are going to file manifest as per attached BL** if any changes than pls confirm us in 30mint otherwise we will not be responsible for any cost and charges.
- 08.09.2024:- Dear Mohit, BL NO : OSLSBL-980/24,BL NO : OSLSBL-981/24, BL NO : OSLSBL-982/24, **BL NO : OSLSBL-983/24**, BL NO : OSLSBL-984/24, I have sent you the final documents on Wed 8/14/2024 12:47 PM If any changes occur a er this, we as the POL or POD are not responsible. The fines will be on the shipper or the consignee Thank you very much for your cooperation

On perusal of the email communication dated 31.07.2024, sent by M/s Eastern Shipping Co. Ltd., Sudan to M/s Paramount Sealink Pvt. Ltd. under the subject "please find attached cargo manifest, TDR and 7 DBL no. ………… **OSLPZUMUN3062624 (15X40**),…………. and dear paramount team please note I will send you the final cargo manifest and DBL ASAP", contained the Cargo Manifest and Draft BL details including BL No. **OSLPZUMUN3062624**. This establishes that the draft BLs relating to the consignment were first informed on 31.07.2024 and vide subsequent email dated 14.08.2024 the earlier BL no. OSLPZUMUN3062624 Switched by BL No. OSLSBL 983/24.

I observe that the switch BL was generated and shared on 14.08.2024 and shipped on Board date on switch BL was mentioned as 26.06.24, the switched BL was shared after more than 45 days from shipped on board date i.e. 26.06.2024. Hence, it is impossible for the SOB date of 26.06.2024 to be genuine.

I find that the earlier BL was shared on 31.07.2024 and switch BL was shared on 14.08.2024 and further tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024 shows that goods are shipped on board on 30.07.2024. Accordingly, I hold that goods covered under B/E no. 5299424 dated 28.08.2024 was loaded only on 30.07.2024.

Ongoing through the entire documentary trail—including email correspondences, tracking data, and statements, I find that the BLs were manufactured subsequently to misrepresent the original shipping date and acted in concert to suppress the actual shipping details and present manipulated documents before Customs.

Accordingly, It is evident that details in Bills of lading have been manipulated/forged to facilitate the clearance of restricted goods by falsely claiming eligibility period as stipulated in Notification No. 05/2023 dated 05.04.2024 issued by DGFT and the goods covered under Bill of Entry no. 5299424 dated 28.08.2024 were shipped beyond the time limit prescribed under DGFT Notification No. 05/2023.

15.4 I also find that during statement were recorded by DRI, the bills of lading Nos. OSLPZUMUN3062624 and OSLSBL 983/24 and tracking details of the containers of Bill of Entry no. 5299424 dated 28.08.2024 obtained from the site of Oceanic group and e-mail conversations (as discussed above) were presented to (i) Shri Bharat Parmar, (Branch Manager, M/s. Paramount Sea Links Private Limited) (ii) Shri Chavda Dilipsinh, G-Card Holder of M/s Unnati Cargo after analyzing they admitted in their statements that shipped on board date and Bill of Lading details have been manipulated in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

15.5 I consider statements of noticees as material evidence in this case. It is relevant here to refer to some landmark judicial pronouncements on the issue of acceptability and evidentiary value of statements recorded under provisions of section 108 of the Act.

i. The Hon'ble Supreme Court in the case of **Romesh Chandra Mehta** and in the case of **Percy Rustomji Basta** has held "*that the provisions of Section 108 are judicial provisions within which a statement has been read, correctly recorded and has been made without force or coercion. The provisions of Section 108 also enjoin* *that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence".*

ii. The Hon'ble Supreme Court in the case of **Badaku Jyoti Svant** has decided that "*statement to a customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct"*.

iii. Hon'ble Punjab and Haryana High Court in the case of **Jagjit Singh** has decided that *"It is settled law that Customs Officers were not police officers and the statements recorded under Section 108 of the Customs Act were not hit by Section 25 of the Evidence Act. The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in the matter of Ram Singh, in which it is held that recovery of opium was from accused by officers of Narcotic Bureau. Accused made confession before said officers. Officers of Central Bureau of Narcotics were not police officers within the meaning of Section 25 and 26 of the Evidence Act and hence, confessions made before them were admissible in evidence".*

15.6 In view of the foregoing discussion, I find that the statements recorded by DRI under the provisions of Section 108 of the Act form reliable evidence in the case supporting the charge of mis-declaration of import documents and submission of forged/manipulated Bills of lading.

15.7 I find M/s. Unjha Psyllium (Noticee no. 1) through their advocate, in their written submission alleged that the panchnama dated 12.09.2024 drawn at the premises of M/s Paramount Sealink Pvt Ltd is totally unreliable and inadmissible. They contend that the Pancha – 2: is mentioned as Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama however the signature on each page for P2 reveals name of one Shri Manoj Rathod. This discrepancy questions the validity and legality of the document in its entirety. Therefore, the Panchnama in the said case has become non-est and hence cannot be relied or used in the said proceedings.

The above said panchnama proceedings dated 12.09.2024 was performed by the officers of DRI, Gandhidham. Therefore, a letter was addressed to Additional Commissioner, DRI Gandhidham, on 13.10.2025, requesting for clarification in the said matter. A reply in this matter was received from the DRI vide letter dated 12.11.2025. The gist of the same is re-produced below:-

"In this regard, it is to clarify that "Pancha 2: who is mentioned to be Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama has made signature on each page of Panchnama as "Shri Manoj Rathod". Further, it is to submit that the name mentioned at the beginning of Panchnama dated 12.09.2024, which is Shri Rukhi Manubhai Chhagan S/o Shri Manubhai Chhagan, is as per his document (Adhar Card), however his nick name is "Manoj" and therefore, he used to sign as "Manoj Rathod". "Manoj Rathod" is the signature of Shri Rukhi Manubhai Chhagan. A statement of Panch-2 (Shri Rukhi Manubhai Chhagan) clarifying the same has been enclosed alongwith copy of his Adhar Card).

In view of the above, it is to submit that the facts of the Pnachnama dated 12.09.2024 drawn at the office premise of M/s. Paramount Sealink Pvt. Ltd. having address at Suit No. 2, 2 Floor, Avishkar Complex, Ward-12B, Plot no. 204, Gandhidham are true and correct".

(Statement of Panch-2)

मैं रुखी मनु भाई छगन यह सत्यापित करता हूँ कि 12 सितम्बर 2024 की पंचनामा की दौरान मैं उपस्थित था और मैंने ही पंच-2 के रूप में हस्ताक्षर किये हैं। यह पंचनामा पैरामाउन्ट कम्पनी ऑफिस में बनाया गया था और मैं पूरे समय पंच के रूप में उपस्थित था सारी कार्यवाही मेरे सामने हुई मेरा आधार कार्ड में नाम रुखी मनु भाई छगन है और मेरे घर का नाम मनोज है। मनोज राठौर (Manoj Rathod.) मेरा हस्ताक्षर है। मैं (Manoj Rathod) नाम से हस्ताक्षर करता हूँ और इस पंचनामा में किये हुये हस्ताक्षर मेरे ही हैं।

Manoj Rathod.
03/11/2025
(Rukhi Mano Bhai Chhagan)

Based upon a thorough review of the record and the evidence presented herein, I conclude that the allegation raised by the importer (Notice No. 1) lacks merit. This claim is not supported by any factual data or verifiable documentation, rendering it baseless.

15.8 <u>Cross Examination sought by the Noticees:</u>

(i) I find that M/s. Unjha Psyllium (Noticee no. 1) through their advocate, have requested for cross-examination of Shri Bharat Parmar, Branch Manager, M/s. Paramount Sealink (Noticee no. 3) and Shri Arvind Dharamshi Prajapati of M/s. Sea Consortium Shipping (l) Pvt Ltd.

(ii) 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. I find that their request for cross-examination is baseless and an attempt to delay the adjudication proceedings.

(iii) Further, it is a settled position that 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."

Upon comprehensive review of the record, including the established facts, the corroborated documentary evidence presented, I find that request for cross-examination is devoid of legal or procedural merit. Accordingly, the application requesting to conduct of cross-examination is hereby denied.

15.9.1 I find that in the written submissions, the Noticee contended that the printouts of emails were obtained during panchnama is "gross violation" of Section 138C of the Customs Act, 1962.

In this context, relevant section 138C(4) of the Customs Act, 1962 is reproduced below:

(4)In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,-

(a)identifying the document containing the statement and describing the manner in which it was produced;

(b)giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c)dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

15.9.2 I further relied upon a landmark ruling of the Supreme Court in case of "**Additional Director General Adjudication, Directorate of Revenue Intelligence v. Suresh Kumar and Co. Impex Pvt. Ltd. & Ors.** (2025 INSC 1050) dated 20.08.2025":

"Keeping the aforesaid in mind, we are of the view and, more particularly, considering the Record of Proceedings duly signed by the respondents, including the various statements of the respondents recorded under Section 108 of the Act, 1962, that there was due compliance of Section 138C(4) of the Act, 1962.

When we say due compliance, the same should not mean that a particular certificate stricto senso in accordance with Section 138C(4) must necessarily be on record. The various documents on record in the form of record of proceedings and the statements recorded under Section 108 of the Act, 1962 could be said to be due compliance of Section 138C (4) of the Act, 1962".

15.9.3 In this context, I find that printouts of email communications were taken on-site printing and under panchnama dated 12.09.2024 wherein Sh. Bharat Parmar, Branch Manager of M/s. Paramount Sealink Pvt. Ltd. was present during the entire process of panchnama. He acknowledged and affixed his signature on every single page of three made-up files before investigating officers and independent panchas. In view of the above, in this case, the mandatory requirement of authentication under section 138C (4) has been substantially complied with.

15.10.1 I find that the Noticee, in their written submission, alleged that the entire case is built upon the assumptions and presumptions of Shri Bharat Himmatlal Parmar and Shri Arvind Dharamshi Prajapati of M/s Sea Consortium Shipping (l) Pvt Ltd. Further, I find that the Noticee has relied upon various case laws in their detailed written submissions, however, I find that the **Hon'ble Supreme Court of India in case of Ambica Quarry Works vs. State of Gujarat & Others [1987(l) S.C. C. 213]** observed that *"the ratio of any decision* must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."

15.10.2 Further in the case of **Bhavnagar University vs. Palitana Sugar Mills (P) Ltd. 2003 (2) SCC 111, the Hon'ble Apex Court** observed *"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."*

15.10.3 I rely upon following judgments from various courts:-

The **Hon'ble Supreme Court in CC Madras V/s D Bhuramal – [1983 (13) ELT 1546 (SC)]** has held that "The department is not required to prove the case with mathematical precision but what is required is the establishment of such a degree of probability that a prudent man may on its basis believe in the existence of the facts in issue." Further in the case of **K.I. International Vs Commissioner of Customs, Chennai reported in 2012 (282) E.L.T. 67 (Tri. - Chennai)** the Hon'ble CESTAT, South Zonal Bench, Chennai has held as under: -

"Enactments like Customs Act, 1962, and Customs Tariff Act, 1975, are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives. Evidence Act not being applicable to quasi-judicial proceeding, preponderance of probability came to rescue of Revenue and Revenue was not required to prove its case by mathematical precision. Exposing entire modus operandi through allegations made in the show cause notice on the basis of evidence gathered by Revenue against the appellants was sufficient opportunity granted for rebuttal. Revenue discharged its onus of proof and burden of proof remained un-discharged by appellants. They failed to lead their evidence to rule out their role in the offence committed and prove their case with clean hands. No evidence gathered by Revenue were demolished by appellants by any means".

15.11 As per my detailed findings in para 15.2, 15.3 and 15.4 above, the impugned goods did not fulfill the condition outlined as per the provisions of notification no. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category. However, evidence established that the importer intentionally submitted manipulated/forged Bills of Lading in a deliberate attempt to facilitate the customs clearance of restricted goods unlawfully.

15.12 I also find that it is a fact that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of the Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make proper & correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with

Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and after self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

15.13 From the above, I find that the Noticee has violated Sub-Section (4) and 4(A) of Section 46 of the Customs Act as they have mis-declared and mis-classified the goods and evaded the payment of applicable duty. I find that the Noticee was required to comply with Section 46 which mandates that the importer filing the Bill of Entry must make true and correct declarations and ensure the following:

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

15.14 I find that the Show Cause Notices propose confiscation of goods under the provisions of Section 111 (d), 111(m) and 111(o) of the Customs Act, 1962. Provisions of Sections are re-produced herein below:

111. Confiscation of improperly imported goods, etc.- goods are liable for confiscation:-

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(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]

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

In view of the facts and evidence discussed above, I find that Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import". All consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024. However, as established in the preceding paras, M/s. Unjha Psyllium (IEC: AAFFU5074P), illegally imported Watermelon Seeds under Bill of Entry No. 5299424 dated 28.08.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board on 30th July 2024 i.e. beyond the permissible date of 30th June 2024 using a forged Bill of Lading. Furthermore, from the investigation carried out, I find that the importer deliberately withheld critical information from Customs Authorities and failed to disclose that the goods were shipped on board after the specified date of 30th June 2024. The importer failed to comply with the condition of DGFT notification no. 05/2023-Cus dated 05.04.2024, which rendered the subject goods prohibited, hence, contravened the provisions of Section 46 of the Customs Act, 1962. I find that Bills of lading provided were forged /manipulated to meet the requirement of notification no. 05/2023-Cus dated 05.04.2024. This deliberate manipulation confirms malafide intention of noticee's. These acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111 (d), 111(m) and 111(o) of the Customs Act, 1962.

16. Option of redemption under Section 125 of the Customs Act, 1962:

16.1 I find that this is the specific aspect on which the Commissioner (Appeals) has remanded the matter, and on which the noticees have placed reliance on the outcome in the case of M/s. Shreeshiv Agri Impex LLP. I find that Section 125 of the Customs Act, 1962 provides 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... an option to pay in lieu of confiscation such fine as the said officer thinks fit."*
> *"(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending."*

16.2 I find that the Hon'ble Punjab & Haryana High Court, in *Shree Balaji Industries v. Additional/Joint Commissioner of Customs* [2024 (387) E.L.T. 294 (P&H)], *in the case of* ***Shree Balaji Industries [2024 (387) E.L.T. 294 (P&H.)]*** vide order dated 06.06.2023, has directed to release the watermelon seeds. The relevant portion of that order is reproduced below for reference:

> *"23. In the present case, the Watermelon seeds are restricted goods but they cannot be treated as prohibited goods and in the absence of any permission/ authorization for DGFT, provisional release can be done as per the judgment of the Hon'ble Supreme Court passed in Commissioner of Customs's case (supra). Moreover, during the pendency of this writ petition, report from Plant and Quarantine Department has come in favour of the petitioner as regards Watermelon Seeds and in the case of Red Kidney Beans, they have*

been ordered to be released provisionally subject to conditions as per order dated 23.02.2023 (Annexure P-1). The order with the same conditions can be passed in this case as well as the Watermelon Seeds do not fall under the "prohibited" category and they fall under the "restricted" category as per notifications dated 26.04.2021 and 21.06.2022. The provisional release can be ordered subject to final decision taken by the Adjudicating Authority under Section 105 of the Customs Act, 1962.

24. Keeping in view the above observations, writ petition is allowed and order dated 23.02.2023 (Annexure P-1) is set aside qua Watermelon Seeds with direction to the respondent to pass provisional release order of Watermelon Seeds as per conditions imposed in the case of "Red Kidney Beans" under order dated 23.02.2023, within a period of one week."

16.3 I find that in the similar case of M/s. Shreeshiv Agri Impex LLP — involving the same goods (Watermelon Seeds), the same DGFT Notification No. 05/2023 dated 05.04.2024, and the same Mundra Custom House — the Hon'ble High Court of Gujarat, vide Common Oral Order dated 29.01.2026 passed in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025, directed reconsideration of the matter in light of the judgment in *Shree Balaji Industries* (supra). In compliance thereof, vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 issued to M/s. Shreeshiv Agri Impex LLP, extended the option of redemption of the confiscated goods under Section 125(1) of the Customs Act, 1962, specifically observing that the issue therein was related to the violation of the DGFT Notification governing import of watermelon seeds by producing a forged Bill of Lading, but the goods were declared correctly as Watermelon Seed, and accordingly restricted the redemption fine to approximately 10% of the value of the goods.

16.4 I find that the facts of the present case are squarely similar to those in M/s. Shreeshiv Agri Impex LLP — the goods, the DGFT Notification, the Custom House, and the modus operandi of manipulating the "shipped on board" date on the Bill of Lading while correctly declaring the goods as Watermelon Seeds, being common to both cases. No distinguishing feature has been brought on record to warrant a different treatment being meted out to the present noticee. Consistency of adjudication in respect of similarly placed importers involved in the same modus operandi before the same Custom House requires that the present case be treated on a similar footing, particularly since the Department has itself, in the parallel case, accepted the goods to be restricted goods and has actually released them on redemption.

16.5 Accordingly, I find that the importer M/s. Unjha Psyllium is entitled to redeem the confiscated goods of Bill of Entry No. 5299424 dated 28.08.2024 i.e. Watermelon Seeds, on payment of redemption fine under Section 125 of the Customs Act, 1962.

17. Penalties on M/s. Unjha Psyllium:

17.1 I find that the Show Cause Notices propose penalty on **M/s. Unjha Psyllium** under the provisions of Section 112(a), 112(b) and 114AA of the Customs Act, 1962. Provisions of Sections are re-produced herein below:

***SECTION 112 of the Customs Acts**. **Penalty for improper importation of goods, etc.**- Any person, -*

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

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

shall be liable, -

(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 the greater;

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

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

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

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

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

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, shall be liable to a penalty not exceeding five times the value of goods.*

17.2 Role and culpability of M/s. Unjha Psyllium:

M/s. Unjha Psyllium was well aware of the Import policy and Notification No. 05/2023 dated 5th April, 2024 issued by the DGFT. M/s. Unjha Psyllium had imported watermelon seeds covered under BL No. OSLSBL-983/24 dated 26.06.2024 in Bill of Entry no. 5299424 dated 28.08.2025, by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of Entry is 420 MTs having Assessable value of Rs. 10,07,64,406/-. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after

30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. Accordingly, as discussed in foregoing paras, the acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. I find that the evidences clearly indicating malafide intention on their part in respect of the imported goods warranting imposition of penalty under Section 112 (a) (i) as the fact of non-compliance of conditioned outlined in the Notification No. 05/2023-Cus dated 05.04.2024 issued by DGFT. Result is that proposal to impose penalty under Section 112 (a)(i) is correct and sustainable in law.

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 on M/s. Unjha Psyllium under Section 112(b) of the Customs Act, 1962.

I find that the SCN proposed imposition of penalty on the Importer under Section 114AA of the Customs Act, 1962. I find that in spite of well aware of import policy and conditioned outlined in the notification no. 05/2023-Cus dated 05.04.2024 issued by DGFT. Accordingly, I find that the importer M/s. Unjha Psyllium has knowingly and wilfully filed the bill of entry with forged Bills of Lading with the clear intention to import the restricted cargo in direct violation of established regulations. As it is the obligation of the firm to ensure that proper and correct documents are maintained and as forged Bill of Lading was created which constitutes the violation. By manipulating and forging Bills of Lading in collusion with their supplier and shipping line and filing import documents which were false and incorrect in material particulars. Accordingly, it is evident that M/s. Unjha Psyllium **knowingly and intentionally made, signed, used and/or caused to be made, signed or used** import documents and related papers that were **false or incorrect in material particulars** for the purpose of illegally importing the subject goods. Therefore, I find that importer is also liable for **penal action under Section 114AA** of the Customs Act, 1962.

18. I find it pertinent to mention that the present de-novo adjudication is confined to M/s. Unjha Psyllium alone, since the appeal culminating in the OIA dated 07.07.2026 was filed by the importer, M/s. Unjha Psyllium, against Order-in-Original No. MCH/ADC/ZDC/445/2025-26 dated 18.12.2025. The penalties imposed vide the said Order-in-Original on M/s. Paramount Sealinks Pvt. Ltd., and Shri Bharat Himmatlal Parmar, Branch Manager of M/s. Paramount Sealink Pvt. Ltd., are not affected by the OIA.

19. In view of the above facts of the case and findings on record, I pass the following order:-

ORDER

(i). I order to confiscate the impugned goods i.e. **420 MTS "Watermelon Seed"** imported vide Bill of Entry No. 5299424 dated 28.08.2024 having value Rs. **10,07,64,406/- (Rupees Ten Crore Seven Lakh Sixty Four Thousand Four Hundred and Six only)** under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962. However, I give an option to the importer, M/s. Unjha Psyllium, to redeem the confiscated goods on payment of redemption fine of **Rs. 1,00,00,000/- (Rupees One Crore only)** under Section 125 of the Customs Act, 1962. In terms of Section 125(3) of the Customs Act, 1962, the option for redemption shall be exercised within a period of one hundred and twenty days from the date of receipt of this order, failing which the said option shall become void, unless an appeal against this order is pending.

(ii). I impose penalty of **Rs. 50,00,000/- (Rupees Fifty Lakh only)** on the importer M/s. Unjha Psyllium, under Section 112 (a)(i) of the Customs Act, 1962.

(iii). I refrain from imposing penalty on the importer M/s. Unjha Psyllium under Section 112(b) of the Customs Act, 1962.

(iv). I impose penalty of **Rs. 2,00,000/- (Rupees Two lakh only)** on the importer M/s. Unjha Psyllium under Section 114AA of the Customs Act, 1962.

20. This order is passed in compliance with Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 and is issued without prejudice to any other action which may be contemplated against the importer or any other person under the provisions of the Customs Act, 1962 and the rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

21. The Show Cause Notice bearing no. GEN/ADJ/ADC/504/2025-Adjn dated 21.02.2025 stands disposed in above terms qua M/s. Unjha Psyllium.

Digitally signed by
Dipakbhai Zala
Date: 21-08-2026
16:51:50

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra.

<u>By Speed Post/Regd. Post/E-mail/Hand Delivery</u>

List of Noticee:

To,

(1) M/s. Unjha Psyllium, Nr. Kalkamata Mandir, Vanagala Road, Unjha, Mahesana, Gujarat-384170

Copy to:

(1) The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).

(2) The Deputy Commissioner of Customs(RRA/TRC), Mundra Customs House.

(3) The Dy./Asstt. Commissioner (EDI), Customs House, Mundra… *(with the direction to upload on the official website immediately).*