

		कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. Email: group6-mundra@gov.in
A	FILE NO. फाइल संख्या	CUS/APR/MISC/9649/2024-Gr 5-6-O/o Pr Commr-Cus-Mundra
B	OIO NO. आदेश संख्या	MCH/ADC/ZDC/124/2025-26
C	PASSED BY जारीकर्ता	Dipak Zala Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुन्द्रा।
D	DATE OF ORDER आदेश की तारीख	15.07.2025
E	DATE OF ISSUE जारी करने की तिथि	15.07.2025
F	SCN No. & Date कारण बताओ नोटिस क्रमांक	CUS/APR/MISC/9649/2024-Gr 5-6 dated 03.12.2024.
G	NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक	M/s. C. K. International [IEC: CXNPS7021D]
H	DIN/दस्तावेज पहचान संख्या	20250771MO00004984BD

- यह आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- 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 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमाशुल्क आयुक्त (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

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- (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 सं०-6 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. C. K. International [IEC: CXNPS7021D] having address at Flat No. A-406, Ashi Apt, House No-1025/002, Nr. Smashan Bhoomi, Kaul Aadi, Rabale, Thane, Maharashtra - 400701 (hereinafter referred to as 'the Importer' for sake of brevity) imported goods declared as "363 Bag of Processed Coco Brooms in Bulk Packing thickness less than 6MM Origin Indonesia HS Code 96031000" against Bill of Lading No.VASJKTMUN001067 dated 22.05.2024. The goods were shipped by M/s. PT. Kalisabuk Lintas Samudera, Indonesia.

Based on intelligence, Containers No. CAIU9616690 was put on hold for examination. The details of the shipment are as under :-

Table-A

Name of Importer	M/s. C. K. International [IEC: CXNPS7021D]
Address of Importer	Flat No. A-406, Ashi Apt, House No-1025/002, Nr. Smashan Bhoomi, Kaul Aadi, Rabale, Thane, Maharashtra - 400701
IGM No.	2354210 dated.08.09.2023, MV.CUSSLER 336E
Container Line Name	Vasco Maritime Pte. Ltd.
Bill of Lading No. & Date	VASJKTMUN001067 dated 22.05.2024
Container No.	CAIU9616690
Description of Goods	363 bag of Processed Coco Brooms in Bulk Packing thickness less than 6MM Origin Indonesia HS Code 96031000
Gross Weight	30,450 kgs
Net Weight	26,670 kgs
Bags	363
Port of loading	Jakarta, Indonesia
Port of Discharge	Mundra

1.1 IGM bearing no. 2378574 dated 01.06.2024 was filed at Mundra port (INMUN1) against Container No. CAIU9616690, as per the provision of section 30 of the Customs act 1962. As per the IGM, the BL No. was mentioned as VASJKTMUN001067 dated 22.05.2024 and the consignee and notify party was given as M/s. C. K. International [IEC: CXNPS7021D], Flat No. A-406, Ashi Apt, House No-1025/002, Nr. Smashan Bhoomi, Kaul Aadi, Rabale, Thane, Maharashtra – 400701. The declared description of the goods was “Processed Coco Brooms in Bulk Packing thickness less than 6MM” as per the Bill of Lading VASJKTMUN001067 dated 22.05.2024. The said Bill of Lading has been issued by M/s. Vasco Maritime Pte Ltd. and the Carrier’s Agent at discharge port is mentioned as M/s. Goodrich Maritime Pvt. Ltd., Goodrich House, Plot No. 174, Sector 1/A, Rabindranath Tagore Road, Gandhidham Kutch - 370201.

1.2 The details of the cargo mentioned under the said Bill of Lading No. VASJKTMUN001067 dated 22.05.2024 are as under:

Sr. No	Container Number	Declared Goods/Cargo	Port of loading	Port of discharge
1.	CAIU9616690	363 bag of Processed Coco Brooms in Bulk Packing thickness	Jakarta, Indonesia	Mundra, India

		less than 6MM Origin Indonesia HS Code 96031000		
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2. The Container No. CAIU9616690 arrived under Bill of Lading No. VASJKTMUN001067 dated 22.05.2024 in vessel INTERASIA PROGRESS/W087, from Jakarta, Indonesia to Mundra Port, India. The container was unloaded from the Vessel and the container was transported to PSA Ameya (Honeycomb) CFS, Mundra.

3. During the examination, it was found that the goods were in jute gunny bags. During de-stuffing, it came to notice that only front two rows of jute bags were of Processed Coco Brooms. On opening of other types of jute gunny bags, there were Areca nuts in whole and splits form found. In the said Bill of Lading, there were 363 bags mentioned of processed coco brooms. With the help of surveyor, jute gunny bags were counted and it was found that only 50 jute bags were of Processed Coco Brooms and rest 313 jute bags were of Arecanuts in the container. It was observed that front two rows are of brooms were just to cover up the rest of the cargo which is "areca nut". Thereafter, jute bags containing Processed Coco Brooms were randomly selected and weighed and weight appeared to be approximately 30 kgs per bag. Further, jute bags containing areca nuts were randomly selected and weighed and it was found that weight was 80-81kgs (approx.) per bag. Total weight of the cargo was detailed in Table-B below: -

Table-B

Container Number	Weight of Areca nuts in kgs	Weight of Processed Coco Brooms in kgs	Total weight of the goods
CAIU9616690	25,170 kgs	1,500 kgs	26,670 kgs

4. Investigation at the end of Importer i.e. M/s. C K International

4.1. Vide letter dated 20.06.2024, the Additional Commissioner (Preventive), Customs-VI, Mumbai, was requested to conduct search at the registered address of the importer M/s. CK International to collect documents, mails, data related to importation. Vide letter dated 02.07.2024, the Assistant Commissioner of Customs (HQIU/R&I), Mumbai, informed that their office had deputed a team of officers to execute search authorization, however, neither M/s. C K Internation nor the address was found and execution of the search authorization could not be completed.

5.1. During investigation statement of Shri Suresh Kumar, Deputy Manager, Import Documents, M/s. Goodrich Maritime Pvt. Ltd., was recorded on 22.07.2024 under Section 108 of the Customs Act,1962, wherein, he inter-alia stated that: -

- Their counterpart at Indonesia, i/e. M/s .Glomar, PT. Global Maritim Agensi, had booked the container CAIU9616690. On enquiry from the freight forwarder M/s. Worlwide Logistics Limited CoPT Prolink, Multimoda Trans, Jakarta and they had further sent the booked container to the Shipper M/s. PT .Kalisabuk Lintas Samudera, Gedung Graha Mulus Mandiri, JL Dewi Sartika No. 133 RT 005/002 Cawang, Kramatjati, Jakarta Timur, Indonesia as per their request;
- They had received tally sheet of loading and cargo arrival notice from their counterpart and the vessel operator. The container CAIU9616690 had arrived at Mundra Port per vessel MV Interasia Progress 087EI IGM No. 2378574 which was filed by shipping agent M/s. Express Feeder;
- They had issued e-mail to the importer at ckinternational@gmail.com on 04.06.2024 before arrival of the vessel but no reply from the importer side had been received;
- He had spoken with Shri Prakash Dubey after the Panchnama of examination of container no. CAIU9616690. He had spoken to a person whose number was given to him from the load port, i.e. 9372055215. On calling that number, the person told that his name was Prakash Dubey but he was not connected with any import shipment;
- They had sent a legal notice to the importer at the given address by post but the same was returned with remark 'no such person in the address' as the importer had mis-declared the imported goods as the goods declared was processed coco broom whereas the goods found during the examination of the container no. CAIU9616690 were Arecanuts and received copy of Panchnama and Seizure Memo, the legal cell is having its office at their Mumbai Office;
- They had not received any bookings either from M/s. C.K. International, i.e. importer or M/s. PT. Kalisabuk Lintas, Samudera, Genung Graha Mulus Mandiri, JL Dewi Sartika No. 133 RT 005/002 Cawang, Kramatjati, Jakarta Timur, Indonesia.

5.2. During the course of investigation, summonses were issued to Shri Prakash Dubey, whose name was given by Shri Suresh Kumar, Deputy Manager, Import Documents, M/s. Goodrich Maritime Pvt. Ltd. Shri Prakash Dubey furnished his reply dated 08.10.2024, wherein, he has stated that he is only doing local trading in APMC market and he does not have any import related documents.

6. During the examination, the goods were found to be Areca nuts instead of “Processed Coco Brooms” declared in Bill of Lading No. VASJKTMUN001067 dated 22.05.2024. Therefore, the goods imported in container no. CAIU9616690, viz 25,170 kgs Areca nuts and 1,500 kgs Processed Coco Brooms were placed under seizure vide Seizure Memo dated 13.06.2024 under Section 110 of the Customs Act,1962 and custody of the said seized goods was handed over to PSA Ameya (Honeycomb) CFS, Mundra.

7.1 In respect of the valuation of the goods imported under Bill of Lading No. VASJKTMUN001067 dated 22.05.2024, the value of the goods, viz. Arecanuts and Processed Coco Brooms, needs to be determined as the Bill of Entry has not been filed in the instant case.

7.2 The Areca nuts have been notified under Section 14(2) of the Customs Act, 1962. As per Notification No.38/2024-CUSTOMS (N.T.) dated 31.05.2024, tariff value of US\$ 6033 has been fixed in respect of Arecanuts. Further, as per Notification No. 40/2024- CUSTOMS (N.T.) dated 06.06.2024, rate of exchange for US\$ for imported goods is Rs. 84.30. Therefore, the value of the impugned goods in terms of the above-mentioned notifications has been determined as Rs. 1,28,01,006/- in as follows in Table-D:-

Table-D

Goods found	Total Quantity found in MT	Unit price as per Tariff Value Notification dated 31.08.2023 (In USD/MT)	Exchange rate as per Notification dated 06.09.2023 (in Rs.)	Assessable Value (In Rs.)
Areca nuts	25.17	6033	84.3	1,28,01,006

7.3 As regards the value of another imported item viz. ‘Processed Coco Brooms’ which is classifiable under CTH ‘96031000’, [which is found description wise as declared in Bill of Lading no. VASJKTMUN001067 (to extent of only 1500 Kgs. only against total Qty. declared in bill of lading as 26540 Kgs.)] in consignment imported vide B.L. No. VASJKTMUN001067 dated 22.05.2024 which was used only for the purpose of concealing the ‘Areca Nuts (25,170 kgs). NIDB Portal data has been checked to ascertain the data of ‘identical goods’ in terms of Rule 2 (d) of the CVR, 2007 or ‘similar goods’ in terms of Rule 2 (d) of the CVR, 2007. It was found that Bill of Entry no. 4208461 dated 27.06.2024 was filed at Kolkata ports for import of 24500 kgs PROCESSED PALM BROOMS IN BULK PACKING (THICKNESS LESS THAN 6 MM) falling under CTH 96031000. As per NIDB data, Unit Assessable Value in Rs. 34.57. Accordingly, on the basis of the same, reasonable assessable value in respect of import of the goods covered under CTH-96031000 is ascertained at Rs. 34.57 per Kg. Accordingly, the value of 1500 kgs ‘Processed Coco Brooms’ which is classifiable under CTH ‘96031000’ used for concealment of Areca Nuts, comes to Rs. 51,855/-.

8.1 The Shipper M/s. PT. Kalisabuk Lintas Samudera, Indonesia booked container No. CAIU9616690 with M/s. Glomar, PT. Global Maritim Agensi, Indonesia. The Container was loaded at Jakarta, Indonesia in the vessel INTERASIA PROGRESS/W087. In bill of lading VASJKTMUN001067 dated 22.05.2024, M/s. C K International has been specified as consignee and notify party. In view of this and considering the findings of investigation, it appears that M/s. C K International has attempted to import goods by way of mis-declaration in terms of description of the goods against said Bill of Lading. Further, the importer has also failed to provide any tangible evidence to support his claim that they have not placed order for the subject consignment. Since any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned makes the goods liable for confiscation. Therefore, in view of the said mis-declaration, goods imported under Bill of Lading No. VASJKTMUN001067 dated 22.05.2024 appeared to be liable for confiscation under Section 111 (d), 111 (f) and 111 (i) of the Customs Act, 1962 and required to be seized under Section 110 of the Customs Act, 1962. Accordingly, the goods were seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 13.06.2024.

8.2 Also, 1500 kgs 'Processed Coco Brooms' [CTH 96031000] were used for concealing Arecanuts and accordingly appear to be liable for confiscation as per provisions of the Section 119 of the Customs Act, 1962. Accordingly, the goods were seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 13.06.2024.

8.3. The seized goods are liable to confiscation under Section 111 (d), 111(f), Section 111(i) and Section 119 of the Customs Act, 1962 and it appears that the importer have rendered themselves liable for penalty under Section 112 and/or Section 114 AA of the Customs Act, 1962.

9. Accordingly, M/s. C. K. International [IEC: CXNPS7021D] was called upon to show cause as to why: -

- i. 25,170 kgs "Areca nuts" [CTH 08028090] valued at Rs. 1,28,01,006/- (Rupees One Crore Twenty Eight Lakh One Thousand and Six Only) should not be confiscated under Section 111 (d), 111 (f) and 111 (i) of the Customs Act, 1962;
- ii. 1500 kgs 'Processed Coco Brooms' [CTH 96031000] valued at Rs.51,855/- (Rupees Fifty One Thousand Eight Hundred Fifty Five only) imported in Container No. CAIU9616690 covered under Bill of Lading No. VASJKTMUN001067 dated 22.05.2024 should not be confiscated under Section 119 of the Customs Act, 1962;
- iii. Penalty should not be imposed upon them under the provisions of Section 112 and/or Section 114AA of the Customs Act, 1962;

RECORD OF PERSONAL HEARING

10. Following the principles of natural justice, opportunities for personal hearings were given to the Importer on 19.05.2025, 05.06.2025 and 25.06.2025. However, no one appeared to attend personal hearings on the schedule dates and times.

DISCUSSION AND FINDINGS

11. I have carefully gone through the facts of the case and Show Cause Notice. I noticed that proper opportunities were granted to the noticee in accordance with the principles of natural justice. However, the noticee failed to appear on the scheduled dates and did not seek any adjournment or provide any reason for their absence. No authorized representative appeared on their behalf either. In view of the non-appearance of the noticee and the absence of any submissions during the investigation period, the matter is being decided ex-parte based on the available records and evidence on file. I find that the condition of Principles of Natural Justice under Section 122A of the Customs Act, 1962 has been complied. I now proceed to frame the issues to be decided in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

- i. Whether the goods i.e. "Areca nuts" [CTH 08028090]" are liable for confiscation under Section 111 (d), 111 (f) and 111 (i) of the Customs Act, 1962 or otherwise;
- ii. Whether the goods "Processed Coco Brooms' [CTH 96031000]" are liable for confiscation under Section 119 of the Customs Act, 1962 or otherwise;
- iii. Whether the Importer is liable for penal action or otherwise.

11.1 I find that the Importer M/s. C. K. International imported goods under Container No. CAIU9616690 bearing IGM No. 2354210 dated.08.09.2023 through Mundra port. However, no bill of Entry has been filed in respect of the said Container. The Importer had declared description in the import documents "363 Bag of Processed Coco Brooms in Bulk Packing thickness less than 6MM Origin Indonesia HS Code 96031000". During examination, it had been found that the goods were mis-declared for smuggling of "Areca nuts" and processed coco brooms were used for concealment for import of prohibited goods.

11.2 I noticed that no one had appeared during the investigation period. From the investigation, it had also been revealed that the addressed and firm were not genuine. This had also confirmed by the Assistant Commissioner of Customs (HQIU/R&I), Mumbai, who informed that during the search by their them, neither M/s. C K International nor the address was found. Thus, it appeared that the firm is fake and address was also used to smuggle the prohibited goods.

12. I find that no one attended the investigation and written submissions were also not submitted by the Importer to defend their case. This attitude of the Importer clearly shown their indulgence in the smuggling of prohibited goods.

13. VALUATION OF THE GOODS:

13.1 I find that Bill of Entry was not filed for the consignment imported under Bill of Lading No. PMJEAMUN2308037 dated 19.08.2023 pertaining to Container No. CAIU9616690. Hence, value was not declared for the said shipment. However, for the purpose of levying penalty on illegal import of goods, the value of the goods is required to be determined in accordance with provisions of Section 14 of Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter also referred to as "Rules 2007"). I find that Rule 3(1) of Rules 2007 provides that "*subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10*". Rule 3(4) *ibid* states that "*if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9 of Custom Valuation Rules, 2007*".

13.2 The Section 14 *ibid* provides, inter alia, that the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such their conditions as may be specified in the rules made in this behalf. Further, its proviso provides that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf. I find that as per the above provision value of any imported goods is the price actually paid or payable for the goods plus the components of other incidental charges to the extent mentioned in proviso to Section 14 *ibid* and in the manner specified in the Rules made under Section 14 *ibid*.

13.3 In the instant as stated above, the consignment was found mis-declared with prohibited goods and the price actually paid not provided by any Noticee. Therefore, value of the goods, viz. Arecanuts and Processed Coco Brooms, needs to be determined as the Bill of Entry has not been filed in the instant case. I find that the Areca nuts have been notified under Section 14(2) of the Customs Act, 1962. As per Notification No. 38/2024-CUSTOMS (N.T.) dated 31.05.2024, tariff value of US\$ 6033 has been fixed in respect of Areca nuts. Further, as per Notification No. 40/2024- CUSTOMS (N.T.) dated 06.06.2024, rate of exchange for US\$ for imported goods is Rs. 84.30. Therefore, the value of the impugned goods in terms of the above-mentioned notifications has been determined as Rs.1,28,01,006/- (Rupees One Crore Twenty Eight Lakhs One Thousand Six only) in as per below table:-

Goods found	Total Quantity found in MT	Unit price as per Tariff Value Notification dated 31.08.2023 (In USD/MT)	Exchange rate as per Notification dated 06.09.2023 (in Rs.)	Assessable Value (In Rs.)
Areca nuts	25.17	6033	84.3	1,28,01,006

13.4 I noticed that the value of another imported item viz. 'Processed Coco Brooms' had been verified from NIDB Portal during the investigation period for the purpose of valuation of the goods in terms of definition given under CVR, 2007 i.e. 'identical goods' or 'similar goods'. I noticed a Bill of Entry no. 4208461 dated 27.06.2024 was filed at Kolkata ports for import of 24500 kgs PROCESSED PALM BROOMS IN BULK PACKING (THICKNESS LESS THAN 6 MM) falling under CTH 96031000. The unit price has been declared as Rs. 34.57 in that subject bill of entry filed at Kolkata Port. I hold that unit price declared in that Bill of Entry (filed at Kolkata) has been correctly taken as reference for the purpose of valuation of the goods imported by M/s. C. K. International. Accordingly, the value of 1500 kgs 'Processed Coco Brooms' determined at Rs. 51,855/- (Rupees Fifty Thousand Eight Hundred and Fifty Five only).

14. CONFISCATION OF THE GOODS UNDER SECTION 111(d), 111(f), 111(i) and 119 OF THE CUSTOMS ACT, 1962:

14.1 It is alleged in the SCN that the goods are liable for confiscation under Section 111(d), 111 (f) & 111(i) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111 of the Customs Act, 1962 are reproduced below:

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...

(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;

...

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

14.2 I find that goods imported under Container No. CAIU9616690 (Bill of Lading No. VASJKTMUN001067 dated 22.05.2024) were found mis-declared in respect of quantity, value and also found prohibited as per import policy. I find that the goods were declared as "Processed Coco Brooms in Bulk", however; Areca nuts were found concealed under the guise of declared goods. It is evident that Areca Nuts were found other than the declared goods "Processed Coco Brooms" under import documents and Manifest. The undeclared prohibited goods were found concealed alongwith the declared goods (Processed Coco Brooms) which were freely importable as per import policy and these declared goods i.e. "Processed Coco Brooms" were used for concealment of Areca Nuts. Thus, there is no doubt that the goods are liable for confiscation under the provisions of Section 119 of the Customs Act, 1962.

14.3 I find that the Areca nuts have been notified under Section 14(2) of the Customs Act, 1962. As per Notification No. 38/2024-CUSTOMS (N.T.) dated 31.05.2024, tariff value of US\$ 6033 has been fixed in respect of Areca nuts. I noticed that as per DGFT *Notification No.57/2015-2020 dated 14.02.2023, the import policy of Areca nuts have been revised as "Prohibited"; however, import was Free if CIF value is Rs.351/- or above per Kilogram.*

In the present shipment, Areca nuts were imported by way of mis-declaration under the guise of freely importable goods to circumvent the import policy imposed by the DGFT. Hence, all these acts of omission and commission tantamount to "prohibited goods" under Section 2(33) and "Smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. Section 2(39) of Customs Act, 1962 defines "smuggling" in relation to any goods, means any act or omission which will render such goods liable for confiscation under Section 111 or Section 113 of the Customs Act, 1962. The impugned goods Areca nuts are prohibited for import as per import policy and the said goods were found undeclared and concealed with freely importable goods as discussed above. Therefore, I hold that Areca nuts are liable for confiscation under the provisions of Section 111(d), 111(f), and 111(i) of the Customs Act, 1962.

14.4. As the impugned goods are found to be liable for confiscation under Section 111(d), 111(f), 111(i) and 119 of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCN. The Section 125 *ibid* reads as under:-

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

(vi) A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. A fundamental requirement in considering requests for re-export is whether the importer has made a truthful declaration at the time of import. In the instant case, the goods found upon examination were different from the declared description, and I find that the declared goods (processed coco brooms) were used for concealment of prohibited goods (Areca nuts). I noticed that that no claimant has been appeared to take ownership of the goods either during the course of investigation or adjudication proceedings. As already discussed in the foregoing paragraphs, I find that the goods, namely Areca nuts, are prohibited and fall within the ambit prohibited goods, and are therefore liable for absolute confiscation. I hold that the remaining declared goods, i.e., 'Processed Coco Brooms', are also liable for absolute confiscation, as they were used as a means to smuggle the Areca nuts.

15.1 It is clear that the details of the goods mentioned in the import documents and the goods found during the examination do not match and importer had deliberately imported the mis-declared items as mentioned above. As much as penalty under Section 112(a) of Customs Act, 1962 is concerned, I find that by the acts of omission and commission, the Importer had rendered themselves liable for penalty under Section 112(a) of the Customs Act, 1962. Therefore, the proposition of penalty under Section 112(a) of Customs Act, 1962 on the Importer is legitimate and thus, the same is confirmed. With regards to the prohibited goods i.e. Areca nuts, I find that the Importer is liable to penalty under Section 112(a)(i) of the Customs Act, 1962. In respect of goods other than prohibited i.e. "Processed Coco Brooms" which were used for concealment of the prohibited goods, I find that Importer is liable to penalty under Section 112(a)(ii) of the Customs Act, 1962.

15.2 As regards the penalty on the Importer under Section 114AA of the Customs Act, 1962 is concerned, Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation and other material particulars, it is observed that the Importer has dealt with incorrect documents while filing bill of entry for the said shipment. The Importer had knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, the Importer is liable to penalty under Section 114AA of the Customs Act, 1962.

16. IN VIEW OF DISCUSSION AND FINDINGS SUPRA, I PASS THE FOLLOWING ORDER:

ORDER

- i. I order for absolute confiscation of 25,170 kgs "Areca nuts" valued at Rs. 1,28,01,006/- (Rupees One Crore Twenty Eight Lakh One Thousand

and Six Only) under Section 111(d), 111(f) and 111(i) of the Customs Act, 1962;

- ii. I order for absolute confiscation of 1500 kgs 'Processed Coco Brooms' [CTH 96031000] valued at Rs. 51,855/- (Rupees Fifty One Thousand Eight Hundred Fifty Five only) under Section 119 of the Customs Act, 1962.
- iii. I impose a penalty of **Rs. 13,00,000/- (Rupees Thirteen Lakhs only)** upon the Importer M/s. C. K. International under Section 112(a)(i) of the Customs Act, 1962.
- iv. I impose a penalty of **Rs. 5000/- (Rupees Five Thousand only)** upon the Importer M/s. C. K. International under Section 112(a)(ii) of the Customs Act, 1962.
- v. I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** upon the Importer M/s. C. K. International under Section 114AA of the Customs Act, 1962.

17. This Order is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

Additional Commissioner,
Customs House, Mundra.

To:

M/s. C. K. International,
Flat No. A-406, Ashi Apt, House No-1025/002,
Nr. Smashan Bhoomi, Kaul Aadi,
Rabale, Thane, Maharashtra – 400701.

Copy to:

1. The Deputy/ Assistant Commissioner (SIIB), Customs House, Mundra.
2. The Dy./ Asstt. Commissioner (Review Cell), Customs House, Mundra.
3. The Dy./ Asstt. Commissioner (RRA/TRC), Customs House, Mundra.