

		OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467	
		A	File No.
B	Order-in-Original No.	KDL/ADC/VS/01/2026-27	
C	Passed by	Vishwajeet Singh, Commissioner (in-situ), Custom House, Kandla	
D	Date of Order	08.04.2026	
E	Date of Issue	08.04.2026	
F	SCN NO. & Date	GEN/ADJ/ADC/934/2023-Adjn-O/o Commr-Cus-Kandla dated 09.04.2025	
G	Noticee / Party / Importer / Exporter	1. M/s. AVI Agri Business Limited. (IEC No. 1109000588) Saket Tower, 4th Floor, 3A Ratlam Kothi, A B Road, Indore (M.P.) Pin- 452001. Email Id: info@surajimpex.com 2. Shri P K. Vyas, Director M/s. AVI Agri Business Limited. Pan: AASPV7050R Aadhar Card No.: 628124536253 Address: 37 Tilak Nagar Extension, Indore, Madhya Pradesh- 452018. Email Id: pkvyas@surajimpex.com	

1. यह मूल आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 12 8A 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 128 A 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),

वर्षी 7 मंजिल, मृदुलटावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009"

**“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश 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 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 ड्यूटी/ 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, सीमा शुल्क) अपील (नियम, 1982 और सीमा शुल्क 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

Intelligence gathered indicated that M/s. AVI Agri Business Limited (hereinafter referred to as AABL) (IEC No.1109000588) with registered address as Saket Tower, 4th Floor, 3A Ratlam Kothi, A B Road, Indore, Madhya Pradesh-452001 is an exporter of soyabean meal and its products to various countries. It was gathered that they were claiming export incentives such as Merchandise Export from India Scheme (MEIS) and drawback on the exports being made. It was further learnt that the commission amount declared on the Shipping Bills was not mentioned in the applications being filed for claiming MEIS scrips. Intelligence developed suggested that AABL were claiming MEIS benefits on FOB value inclusive of Commission amount. It was further gathered that the MEIS benefit on exports of soyabean meals had been increased to 10% during the period 13.07.2018 to 31.03.2019.

2. Discussion of Merchandise Exporter Incentive Scheme under Chapter 3 of Foreign Trade Policy 2015-2020:

2.1. The Government of India had introduced Merchandise Exports from India Scheme (MEIS) as a part of the Foreign Trade Policy (FTP) 2015-20 w.e.f. April 1, 2015. It sought to promote export of notified goods manufactured/ produced in India. The main objectives of the scheme were to offset infrastructural inefficiencies and the associated costs of exporting products produced in India giving special emphasis to those which are of India's export interest and have the capability to generate employment and enhance India's competitiveness in the world market. With the aim to make India's products more competitive in the global markets, the scheme sought to provide incentive in the form of duty credit scrip to the exporter to compensate for their loss on payment of duties. Rewards under MEIS were payable as a percentage (2%, 3%, 5%, 7%, 10% as applicable) of realized FOB value of covered exports, by way of the MEIS duty credit scrips. The scrips could be transferred or used for payment of duties/taxes including the customs / excise duty / service tax. Scrips as well as inputs imported under the scrips are fully transferable. This provided much flexibility to exporters. This incentive was paid as percentage of the realized FOB value (in free foreign exchange) for notified goods exported to notified markets. To determine the quantity of incentive, the countries have been segregated into three groups. Incentives are given on pro- rata basis on export of such product at 8-digit level (ITC HS codes), depending upon the group to which the destination country belongs to.

2.2. The relevant Paras of the Chapter 3 of Foreign Trade Policy 2015-2020 are explained below:

Merchandise Exports from India Scheme (MEIS)

3.03 Objective

Objective of the Merchandise Exports from India Scheme (MEIS) is to promote the manufacture and export of notified goods/ products.

3.04 Entitlement under MEIS

Exports of notified goods/products with ITC [HS] code, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise].

The basis of calculation of reward would be on realised FOB value of exports in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in freely convertible foreign currencies, whichever is less, unless otherwise specified.

2.3. The MEIS entitlements on exports of Soybean (ITC HS Code-23040090) and its products are available as per Public Notices issued by Directorate General of Foreign Trade from time to time are detailed below:-

TABLE: 1

S.No	MEIS Rate	Prevalent Period		Public Notice No.	Date	RUD
		From	To			
1.	5%	01.04.2015	31.10.2017	02/2015-20	01.04.2015	RUD No.1
2.	7%	01.11.2017	30.06.2018	44/2015-20	05.12.2017	RUD No.2
3.	10%	13.07.2018	31.03.2019	23/2015-20	13.07.2018	RUD No.3

2.4. The procedure to claim MEIS has been prescribed in the DGFT- FTP Handbook of Procedures-2015-2020

3.01 Merchandise Exports from India Scheme (MEIS)

(a) Policy for Merchandise Exports from India Scheme (MEIS) is given in Chapter 3 of FTP.

(b) An application for claiming rewards under MEIS on exports (other than Export of goods through courier or foreign post offices using e-Commerce), shall be filed online, using digital signature, on DGFT website at <http://dgft.gov.in> with RA concerned in ANF 3A. The relevant shipping bills and e-BRC shall be linked with the online application.

2.5. The Directorate General of Foreign Trade has prescribed a Guide for MEIS Application filing at <http://dgftcom.nic.in/Exim/2000/HelpTlogin.pdf>. (**RUD No.4**) As per the guide the following steps have been prescribed to be completed for attaching a Shipping Bill to MEIS

Application,

- 1) Add Shipping Bills to repository
- 2) Attach e-BRC to Shipping Bill
- 3) Update Freight, Insurance and Commission values, if any, in e-BRC.**
- 4) Create MEIS Application

2.6. The Additional Director General of Foreign Trade, Mumbai issued the Trade Notice No.02/2017 dated 24.04.2017 (**RUD No.5**) contents of which are reproduced below

“Attention of Trade & Industry is invited to Para 3.04 of Foreign Trade Policy 2015-20 relating to MEIS claim.

It has come to the notice of this office that exporters are claiming their MEIS benefit on full FOB value by indicating 0,0,0, against column mentioned in MEIS application relating to Commission, Insurance & Freight.

All exporters are therefore directed to submit their application of MEIS claim by indicating Commission, Insurance & Freight in the relevant column of MEIS application.

In the past, whoever has claimed MEIS benefits including CIF value is hereby directed to refund the excess claim of MEIS by indicating details viz. File Number, MEIS Licence Number, Value etc. to avoid any action under Foreign Trade (Development & Regulation) Act, 1992.”

Therefore, it is evident that the intentions of the government are very clear regarding claims of MEIS benefit. It is categorically mentioned that the value of Commission, Freight& Insurance shall be deducted from the FOB value declared on the Shipping Bill or the value realized, whichever is lower.

3. Based on the said intelligence, investigation was initiated in respect of AABL. Export documents such as Shipping Bills, Bills of lading, Export invoices, Freight Invoice, Insurance Invoice/Policy, Purchase Orders, Agency Commission Invoices, copies of e-BRC, copies of MEIS applications filed, tax audit reports etc. were called for vide Summons dated 16.11.2020 from the period January 2015 (**RUD. No.6**). AABL vide letter dated 10.02.2021 forwarded the copies of the documents for the period March 2015 upto December 2020. Further, vide letter dated 31.03.2021, AABL submitted a reply conveying their interpretation of the matter, relying upon various Circulars issued by DGFT and Customs.

4. Preliminary Scrutiny of data and documents submitted:

4.1. Analysis of export data of AABL for the years March 2015- December 2020 revealed that the company has been exporting soyabean meal and other products;

- 4.2. The exports are made to various countries like Pakistan, Sudan, Japan, Iran, New Caledonia, South East Asian Countries and European countries;
- 4.3. The commission amounts varied from Rs.0 to Rs.70 lakhs with maximum amount of commission paid against exports made to Iran;
- 4.4. The exports were made from various ports like Mundra, Kandla, Krishnapatnam, Nhava Sheva and ICDs like Ratlam and Pithampur;
- 4.5. MEIS benefit has not necessary been claimed in case of all exports;
- 4.6. On scrutiny of a few Shipping Bills vis-a-vis the ANF 3A form filed for claiming MEIS benefits, it was noticed that, initially AABL had properly claimed the MEIS benefit by mentioning the Commission amount thereby availing benefit on the net FOB value. However, this practice was followed for just a few Shipping Bills. It was observed that the Commission amounts mentioned on the Shipping Bills had not been declared/ entered in the column prescribed for commission in the ANF 3A application as required by DGFT for the remaining shipping bills.

5. Statement of Concerned Persons:

5.1. The intelligence developed in respect of M/s. AVI Agri Business Limited is an off shoot of the original investigation initiated in respect of its group company in the name of Suraj Impex India Pvt. Ltd. (IEC No. 1197005170) involving the same issue. The investigation conducted in respect of the two firms is overlapping in terms of statements recorded as the concerned persons i.e the Director of the firms is same. Therefore, the extracts of the statements recorded in case of investigations conducted in respect of Suraj Impex India Pvt. Ltd. have also been made part of the relied upon documents in this case and have accordingly been discussed in brief below.

5.2. Based on the preliminary analysis of documents, statements of the following persons were recorded under the provisions of Section 108 of the Customs Act, 1962 in the case of mis-declaration of Commission amount in the ANF-3A application by Suraj Impex (India) Pvt. Ltd. (SIPL) and M/s. AVI Agri Business Limited (AABL).

5.3. Statement of Shri Praveen Kumar Vyas, Director of AABL recorded under Section 108 of Customs Act, 1962 on 19.08.2020 (RUD No.7), 24.09.2020 (RUD No.8) 18.01.2021 (RUD No.9) 23.03.2021 (RUD No. 10) and 31.03.2021 (RUD No.11)

(i) He is a Director of M/s. AVI Agri Business Limited which deals in processing of soyabean;

(ii) On being asked why the commissions paid and mentioned in the Shipping Bills have not been mentioned in the MEIS application submitted, he agreed that they had mis-declared the commission amount as zero in MEIS application.

(iii) He accepted that he was aware of the fact that if the Commission amount had been declared correctly in the MEIS application made to DGFT, the MEIS benefit would have been reduced to the extent of the Commission amount;

(iv) He was shown Trade Notice No. 02/2017 dated 24.04.2017 issued by DGFT. He agreed that the Trade Notice directs exporters to make proper declaration of Commission, Insurance and Freight amounts. The trade notice also directs exporters who made mis-declarations in the past to refund the excess claim of MEIS. On being asked, he said he was unaware about the Trade Notice.

(v) As a director his work is related to legal matters concerning Taxation, DGFT, Customs and Maritime litigations. In brief he looks after the corporate law matters related to the company;

(vi) He was then asked to read the Policy Circular No. 55(RE-98), dated 10.12.1998 on "Inclusion of Commission in the FOB value for calculation of DEPB entitlement." On being asked, he stated that he agreed that the said Circular talks about calculation of Duty Drawback and DEPB entitlement;

(vii) He was then asked to read Customs Circular No. 64/2003 dated 21.07.2003 and subsequent Standing Order No. 29/2012 dated 15.10.2012 on "Limit for payment of Agency Commission on Exports"

(viii) He submitted that as clarified in the said Circular *"the field formations may continue to permit export benefits on f.o.b. value without deducting agency commission if such commission is upto the limit of 12.5% of f.o.b. value. Agency Commission exceeding this limit should be deducted from the f.o.b. value for granting export benefits under Drawback/DEPB/Advance Licences/DFRC Schemes."*

(ix) He was then asked to read Policy Circular No. 24(RE-2004/2002/07) dated 14.01.2004 on "Inclusion of Commission in the FOB value for calculation of DEPB entitlement." He stated that as per the Circular *"the agency commission would be allowed for the DEPB benefit if such commission is upto the limit of 12.5% of FOB value. Agency Commission exceeding this limit should be deducted from the FOB value for granting benefit under DEPB Scheme"*

(x) He was asked to read Policy Circular No. 51(RE-2008)2004-2009 dated 06.01.2009 on "FOB value of export for schemes under Chapter 3 of FTP, clarification regarding Commission." On being asked he stated that the Circular clarifies that "under the various incentive schemes

under Chapter 3 of the FTP 2004-09, the computation of entitlement is to be done on the FOB value of exports inclusive of commissions and discounts, if any.

(xi) Then, he was asked to read the Policy Circular No. 98(RE-2008/2002/07) dated 10.08.2009 on "Modification of Policy Circular No. 51(RE-2008)/2004-2009 dated 06.01.2009". He agreed that the said Circular clarifies that *the phrase 'the computation of entitlement is to be done on the FOB value of exports inclusive of commissions and discounts, if any' in Policy Circular No. 51(RE-2008)/2004-2009 dated 6th January 2009 is amended to read as 'the computation of entitlement is done on the FOB value of exports inclusive of foreign agency commission.'*

(xii) He was asked to read the Customs Circular No. 33/2019-Cus dated 19.09.2019 and subsequent Standing Order No. 10/2019 dated 19.11.2019 on "Clarification regarding duty drawback allowed in case of short realization of export proceeds due to bank charges deducted by foreign banks." He agreed that the Customs Circular clarified that, *"duty drawback may be permitted on FOB value without deducting foreign bank charges. It is further clarified that since agency commission up to the limit of 12.5% of FOB value has been allowed, such deduction on account of foreign bank charges is allowed within this overall limit of 12.5% of the FOB value."*

(xiii) Then on reading the Policy Circular No. 1/2012 dated 18.06.2012 and Policy Circular No.6 (RE-2012)/2009-14 dated 10.10.2012 on "Introduction of Electronic Bank Realization Certificate (e-BRC) system", he agreed that the Clause 2 B for exporters says *"e-BRC details available in the DGFT server will not contain the details of amount of commission paid. This amount has to be provided by the exporter at the time of filing online application."*

(xiv) Then, he also agreed that the Policy Circular No.6 (RE-2012)/2009-14 dated 10.10.2012 under Clause (B) on Guidelines for Exporters, sub-clause (B3) says that, *"e-BRC details available in the DGFT server do not contain values of Commission, Insurance and Freight. These are to be entered by the exporters while making applications under various DGFT Schemes. Exporters must ensure that the 'e-BRC' value reported by bank reflects full value and get it corrected from the banks in case of any discrepancy."* Further, at point (B.8) regarding calculation of Commission for the purpose of granting DEPB and Chapter 3 benefit, it states that *"For the purpose of calculation of entitlement, commission for an item will be limited to 12.5% of the net realized value (as per S.N.VI above) of Item."*

(xv) On being asked, to clarify if any of the above-mentioned Circulars speak about MEIS, he stated that all the above mentioned Circulars listed from Sr. no. (vi) to Sr. no.(xiv) except Customs Circular No. 33/2019-Cus dated 19.09.2019 mentioned at Sr.No. (xii) have been

issued in terms of Foreign Trade Policy prior to the current Foreign Trade Policy 2015-2020 and these circulars are not regarding MEIS Scheme.

(xvi) He further submitted that he was aware that MEIS was introduced in the year April 2015 as part of Chapter 3 of FTP 2015-20.

(xvii) On being asked about the procedure which the company follows to file MEIS application, he stated that, once the Shipping bill and e-BRC flashes on the DGFT server, they submit the online application.

(xix) He was then shown printouts of the Guide for MEIS Application Filing issued by DGFT available on DGFT website <http://dgftcom.nic.in/Exim/2000/MEIShelp.pdf>. He went through the said print outs and put his dated signature on the 4 pages of print outs as a token of having seen and read the same. The instructions to fill the MEIS application have been laid out as follows.

Following steps are to be completed for attaching a Shipping Bill to MEIS Application

1. *Add shipping bills to repository*
2. *Attach e-BRC to Shipping Bill*
3. *Update Freight, Insurance and Commission values, if any, in e-BRC.*

(xx) He was shown printouts of the jurisdiction of Mumbai Zonal Office, Directorate General of Foreign Trade from the website dgftcom.nic.in/dgftmumbai/html/organization.htm wherein it is clearly mentioned that Indore branch of DGFT falls under Western Zone monitored by Mumbai Zonal Office. He put his dated signature on the said Printouts as a token of having agreed that the Indore branch falls under the Mumbai Zonal jurisdiction;

(xxi) He was once again shown the Trade Notice No. 02/2017 dated 24.04.2017 issued by the Additional Director General, DGFT, Mumbai and on being asked if the same is binding upon all exporters in Indore, he agreed that the said Trade Notice is binding upon all the exporters in the Western Zone including Indore region;

(xxii) On being asked, what the Trade Notice No. 02/2017 dated 24.04.2017 emphasizes upon, he stated that the Trade Notice emphasizes upon submission of MEIS application indicating Commission, Insurance & Freight in the relevant column of the MEIS application;

(xxiii) He further agreed that they mention the Insurance and freight. However, they have not mentioned the Commission amount;

(xxiv) He stated that the commission amount is generally based on quantity i.e based on per metric ton. However, he added that the commission amount is based on contractual basis and terms of contracts may differ;

(xxv) He was shown copies of MEIS applications filed by contemporary exporting companies

like Unique Organics Ltd., Jaipur and Vippy Industries Ltd., and he agreed to the fact that both the companies who are exporters of soyabean meals mention commission amount in the MEIS application as stipulated under online application ANF 3A.

(xxvi) He was shown copies of the following 6 MEIS applications filed by M/s. AVI Agri Business Pvt. Ltd. as listed below:

TABLE: 2

Sr. No.	Shipping Bill No.	Shipping Bill Date	FOB Value (Rs)	Commission Amount (Rs)	Freight	Insurance	MEIS Application No.		
1.	2.	2.	3.	4.	5.	6.	7.		
1.	9483133	25.10.17	15,31,70,955	5,05,181	1,25,28,495	-	5619005550 dated 05.12.2017		
2.	8043262	02.06.16	84,50,969	4,44,987	5,51,835	-	5619004488 dated 22.02.2017		
	8293244	16.06.16	1,25,97,139	6,52,593	8,24,852	-			
	8338638	17.06.16	89,56,233	4,47,819	5,84,100	-			
	8453651	23.06.16	84,34,933	4,21,663	5,48,169	-			
	8478300	24.06.16	4,48,962	22,444	29,170	-			
	8552970	29.06.16	71,41,779	3,57,018	4,64,129	-			
	8661883	04.07.16	21,53,982	1,07,678	1,39,989	-			
	8740611	08.07.16	39,40,604	2,07,675	2,59,274	-			
	8821249	13.07.16	31,16,444	1,55,739	2,01,409	-			
	8869415	15.07.16	13,59,800	67,903	86,798	-			
	9040022	25.07.16	56,32,953	2,82,722	3,89,968	-			
	9706239	27.08.16	44,07,963	2,20,660	2,92,796	-			
	3.	9366936	17.10.17	12,73,14,000	4,01,875	83,59,000		-	5619005539 dated 01.12.2017
	4.	5352932	05.06.18	11,53,214	3,682	25,106		-	5619007036 dated 31.08.2018
5531979		13.06.18	11,39,434	3,638	24,806	-			
5457184		09.06.18	11,39,434	3,638	24,806	-			
5476349		11.06.18	11,39,434	3,638	24,806	-			
5620597		18.06.18	11,39,434	3,638	24,806	-			
5651961		19.06.18	11,39,434	3,638	24,806	-			
5690277		20.06.18	11,39,434	3,638	24,806	-			
5728083		22.06.18	11,60,965	3,707	25,275	-			
5.	5082088	24.05.18	64,70,572	52,056	4,52,917	-	5619006715 dated 02.07.2018		
6.	1747504	13.07.15	8,44,858	15,244	12,640	-	5619003593 dated 18.07.2016		
	9348464	02.05.15	8,11,383	14,710	17,973	-			
	3496502	12.10.15	7,00,369	14,290	12,039	-			
	4243640	23.11.15	8,36,578	15,854	12,145	-			
	5593751	01.02.16	8,71,967	16,299	10,103	-			
	5994361	22.02.16	8,76,317	16,296	10,185	-			
	6686082	26.03.16	8,67,795	16,135	9,960	-			

(xxvii) He agreed to have observed that in case of MEIS Authorisation No. 5619005550

dated 05.12.2017, 5619004488 dated 22.02.2017 and 5619005539 dated 01.12.2017 while filling in the MEIS application form i.e. ANF 3A they have mentioned the commission and freight amount and that they have received incentives after deducting the said amounts from the FOB value. However, in the next three Authorisations listed at Sr. No. 4, 5 & 6 they did not include the commission amounts while filing ANF 3A for claiming MEIS benefit;

(xxviii) On being asked to explain why the practice of showing Commission amount in the ANF 3A form was discontinued after 2017-18 as seen in sample copies of MEIS applications listed at Sr. No. 1, 2 & 3 above, he stated that they were of the opinion that as the commission amount was less than 12.5%, they need not fill in the Commission column and that is the reason they discontinued the practice of filling the commission details in ANF 3A form.

(xxix) He agreed that as the Director of the firm he is the indirect beneficiary of the MEIS incentives.

5.4 Thus, Shri P.K. Vyas in his various statements recorded under Section 108 of the Customs Act, 1962 as discussed in para 5.2 above submitted that:

All the exports benefits/incentives availed by them were based on FOB value of exports mentioned in the Shipping Bill or FOB value realized as per Bank Realization Certificate (e-BRC) whichever is less. The Foreign Trade Policy 2015-2020 of Government of India introduced a new export incentive scheme namely MEIS w.e.f. 01.04.2015. Para 3.04 of the said FTP provides that "the basis of calculation of reward would be on realized FOB value of exports in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified." They contended that for arriving at the FOB value eligible for MEIS, commission declared in Shipping Bill is not deductible if it is less than 12.5% and hence is not being declared by them while filing online MEIS applications and stressed that they have rightly claimed the MEIS benefits as per Para 3.04 of FTP 2015-2020.

(ii) They further submitted the following list of Policy and Customs Circulars providing that if Commission is lesser than 12.5% of FOB, value it is not deductible from FOB value in order to claim incentives under Chapter 3 of the Foreign Trade Policy.

- (i) Policy Circular No. 55(RE-98), dated 10.12.1998
- (ii) Customs Circular No. 64/2003 dated 21.07.2003,
- (iii) Policy Circular No. 24 (RE-2004)/2002-07 dated 14.01.2004,

- (iv) Policy Circular No. 51 (RE-2008)/2004-2009 dated 06.01.2009;
- (v) Policy Circular No. 98 (RE-2008)/2004-2009 dated 10.08.2009
- (vi) Policy Circular No. 1/2012 dated 18.06.2012;
- (vii) Policy Circular No. (RE-2012)/2009-14 dated 10.10.2012;
- (viii) Standing Order No. 29/2012 dated 15.10.2012 issued by the Office of Commissioner of Customs (Exports), Nhava Sheva; Policy Circular No. 6 (RE-2012);
- (ix) Customs Circular No. 33/2019-Cus dated 19.09.2019 and
- (x) Standing Order No.11/2019 dated 19.11.2019 issued by the Office of Principal Commissioner of Customs, Kolkata.

6. Deposit made by AABL during the course of investigation:

AABL have deposited an amount of Rs. 5,00,000/- (Rs. Five lakhs only) under protest during the course of investigation towards any liability that would arise. The said amounts were deposited under TR-6 Challans, as detailed in the Table no. 6 below:

TABLE: 3

Sr. No.	Date of Letter of SIPL under payment made	DD/Pay Order No. & Date	Amount (In Rs.)	Deposited at Kandla vide Challan Date
1.	31.03.2021	034509 dated 30.03.2021	5,00,000/-	27 dated 09.04.2021 (RUD No.12)

7. Scrutiny and Analysis of Evidences:

From the documents submitted by AABL, submissions made by concerned persons and the statements of the concerned person recorded under Section 108 of the Customs Act, 1962, it has emerged that AABL has its Head Office at Indore (M.P) and is a part of the AV Group of companies. They are merchant exporter of Agri-commodities mainly Soybean Meal, Rapeseed Meal, and other Oil Meals which they export after procuring from the local markets. It holds the status of a three-star export house and is known as one of the largest Soybean Meal exporters with its products being exported to countries such as Pakistan, Sudan, Far East, South and Southeast Asia, the Middle East, SAARC countries, and Europe.

7.1. Scrutiny of documents revealed that, in few of the ANF 3A applications filed before DGFT to claim MEIS benefits, AABL had mentioned the commission amount and received the MEIS benefits correctly, as discussed in the statement of Shri Praveen Kumar Vyas above

at Para 5.2. A scanned copy of the Shipping Bill vis-à-vis the scanned copy of the ANF 3A form and corresponding Shipping Bill is juxtaposed below for clarity.

Shipping Bill No. 8478300

(4) : Shipping bill details:

Number	Date	Port	EDI	LEO date	Export Date	FOB in Rs	M.F.	Custom file number	Remarks
8478300	24.06.2016	INKRI1	Y	25.06.2016	18.08.2016	448,961.74	0.950010	DGFTINKRI11808201601.SB	EDI Shipping Bill & EDI BRC

BRC No	BRC date	e-BRC	Date of realisation	Realised amount (1)	FC code	CBEC - Y/ Non-CBEC -N	Realised amount (INR) (2)	USD Exch.r.t. (as per Realisation dt.) (3)	Realised amount (Eqvl. USD) (4)=(2/3)	Commission (5)	Insurance (6)	Freight (7)	FOB net of commission For CBEC Cur. (8)=(1-(5+6+7)) For Non-CBEC Cur. (8)=(4-(5+6+7))	Exch.r.t. (as per SB dt.) (9)	Realised value in INR For CBEC Cur. (10)=(8*9) For Non-CBEC Cur. (10)=(4*3)
PUNB054300000974406	06.09.2016	Y	06.09.2016	27013.47	AED	Y	--	--	--	1268.00	0.00	1648.40	24097.07	17.700	426518.14
Total				27,013.47						1,268.00	0.00	1,648.40	24,097.07		426,518.14

SL/ITC(HS) No/Code	Product Serial No.	Country Name and Serial No.	Realised FOB Value Of - Exports in FFE	Allowed FOB in FC	Exch Rate	FOB in Rs	Rate of Entitlement	Entitlement Amt.(Rs.)	Late Cut % and Amount	Entitlement after Late Cut (in Rs.)	Declaration of Intent
OTHER GRAIN SORGHUM (WE WILL CLAIM REWARD UNDER MEIS SCHEME)											
1	100790004945	SUDAN (SDN)	24097.07 AED	24097.07	17.70	426518.00	5.00 %	21325.00	0 % (0.0)	21325.00	
Total			24,097.07 AED			426,518.00		21,325.00		21,325.00	

(5) : Shipping bill details:

seen
31/03/21
summary
2/18/2017

<http://164.100.128.144:8100/dgft/EcomPrint?id=2017-02-18 10:12:02.858&isDs=false&ePrint=YES>

Commission Amount paid is declared

The amount of commission paid, being a part of the FOB value, has been mentioned in the Shipping Bill and the same has also been mentioned in ANF 3A form. Thus, the MEIS benefit received is on net FOB value that is derived after deducting the commission, freight and insurance value from the e-BRC received.

7.2. Further, as brought out in the statement of Shri Praveen Kumar Vyas, AABL discontinued the practice of mentioning the commission amount in the ANF 3A as they realized that the MEIS benefit would reduce to the extent of the commission amount being shown. A snap shot of Shipping Bill showing Commission amount vis-à-vis a snap shot of that portion of ANF 3A application wherein the Commission amount for the same Shipping Bill has been declared as Zero is juxtaposed below for clarity,

XIAC/ 4003483
EXPORTER COPY
LEO No : 1/5

LEO Date: 21/05/2018
Indian Customs EDI System (ICES)

ICD 113 CONCOR COMPLEX SECTOR III PITHAMPUR DEHA
Shipping Bill for Export

SEANo: 5690277 / 20/05/2018 SAC Realisation Date : 31/03/2019
 CER : AACCP9265ECHO01 PEGARUS CUSTOMS HOUSE AGENCY PVT. LTD.
 Print Date : 21/05/2018 15:01
 This consignment was not opened for physical examination by Customs
 Port of EL : LKMB -
 Country of EL : LK -
 Port Of Ldg-Code : ZNIND6 State of Origin : MADHYA PRADESH

EXPORTER DETAILS
 1109000588 BIN NO. : ABHCAS168MFT001
 AVI AGRI BUSINESS LIMITED TO THE ORDER OF EXPORT NATIONAL BANK
 Branch # 0 SAKET TOWER, 4TH FLOOR, 3A, RAILAK PLC
 OTAI SRI LANKA
 INDORE, MADHYA PRADESH
 - 452001

Factory Sealed Address Details
 IEC : 1109000588 Name : X
 Port of Loading : ICD 113 CONCOR COMPLEX Total Pkgs : 150
 Port of Discharge: Colombo Loose Pkgs : 0
 Gross Wt (MTS) : 27.560 Net Wt (MTS) : 27.500
 Country of Dest : SRI LANKA No. of Ctns : 1

Nature of Cargo : C
 Marks and Nos.: ALL DETAILS AS PER INVOICE WE INTEND TO CLAIM REWARDS UNDER MER
 FROM INDIA SCHEME (MIS) CHAPTER 3 OF STEP I/WE UNDERTAKE TO RESIDE BY THE PR
 VISIONS OF FEMA, 1999, AS AMENDED FROM TIME TO TIME, INCLUDING REALISATION OR
 FOREIGN EXCH ACC-3216288356

REL Waiver No/Date:
 FOR VALUE (INR) : 21139433.75 DER+STR (INR) : 81709.00
 Tot DER (INR) : 81709.00 SP (INR) : 20.00
 AD. Code : 0283827 EXC Regn. No : 0213008700004959
 I.F.S. Code : PUNH0022300 EXC Regn. :
 GSTIN ID : 23AAACH4634A1ZD GSTIN Type : GSM
 IGST Amt Paid (INR) : 58212.00

INVOICE DETAILS Invoice #/1
 Inv.val : 1164240.00 INR 17600.00 USD FOB Val : 1139433.75 INR
 Inv.no. : 1164240.00 INR 17600.00 Inv Dt : 20/05/2018
 Net of Cst : 66.150 (USD) = 66.150 (INR)
 Exchange Rate : Rate Currency Period of Payment:

Insurance	0.00	USD	Amount	0.00
Freight:	0.00	USD	375.00	0.00
Discount:	0.00	USD	53.00	0.00
Commission:	0.00	USD	0.00	0.00
Other Deductions:	0.00	USD	0.00	0.00
Packing Charges:		USD		0.00
Nature of payment: M				
Third Par:				
TP Add:				
Add (Cont):				
SD:				
Tax Value : 1164240.00				

INR IGST Amt Paid: 58212.00

BOL Term 21/03/24
INS

06/21/2018 09:35 PM

Shipping Bill
No.5690277

Commission
Amount paid

Seen only
Yunus
21/03/24

Shipping Bill No.
5690277

Shipping bill details:															
Number	Date	Port	EDI	LEO date	Export Date	FOB in Rs	M.F.	Custom file number	Remarks						
5690277	20.06.2018	IND6	Y	21.06.2018	25.06.2018	1,139,433.75	1.000000	DGFTIND62506201801.SB	EDI Shipping Bill & EDI BRC-Upl.Dt:28.05.2018						
BRC No	BRC date	e-BRC	Date of realisation	Realised amount (1)	FC code	CBEC - Y/ Non-CBEC -N	Realised amount (INR) (2)	USD Exch.r.t. (as per Relicisation dt.) (3)	Realised amount (Eqvl. USD) (4)= (2/3)	Commission (5)	Insurance (6)	Freight (7)	FOB net of commission For CBEC Cur. (8) = (1 - (5+6+7))	Exch.r.t. (as per SB dt.) (9)	Realised value in INR For CBEC Cur. (10) = (1*9)
CBIN000000013700353	13.08.2018	Y	06.08.2018	17600.00	USD	Y	17600.00	117/142	150.45	0.00	0.00	375.00	17225.00	66.150	1139433.75
Total				17,600.00			17,600.00	31/03/2021	17,225.00	0.00	0.00	375.00	17225.00		1,139,433.75

<http://164.100.128.144:8100/dgft/EcomPrint?id=2018-08-30 12:30:55 452&D=61>

Commission Amount Paid is not declared

From the above, it can be gathered that AABL has made false submissions before DGFT while filing the said application for claiming MEIS benefit. Shri Praveen Kumar Vyas in his statement dated 19.08.2020 and 22.03.2021 has accepted that they have mis-declared the commission amount as zero while filing the ANF 3A online application.

7.3. Discussion of Chapter 3 and intent of MEIS scheme as per Foreign Trade Policy 2015-2020:

7.3.1. As discussed in Para 2 above, Merchandise Exports from India Scheme (MEIS) under Foreign Trade Policy of India (FTP 2015-20) is a scheme introduced in Foreign Trade Policy of India 2015-20, as a part of Exports from India Scheme. The objective of the MEIS Scheme is to offset infrastructural inefficiencies and the associated costs of exporting products produced in India giving special emphasis to those which are of India's export interest and have the capability to generate employment and enhance India's competitiveness in the world market. With the aim in making India's products more competitive in the global markets, the scheme provides incentive in the form of duty credit scrip to the exporter to compensate for his loss on payment of duties. The incentive is paid as percentage of the realized FOB value in free foreign exchange.

7.3.2. Further, the DGFT FTP Handbook of procedures 2015-2020 lays down the procedure to claim MEIS, as discussed in Para 2 above, an online application

for claiming rewards under MEIS on exports has to be filed online on DGFT website at <http://dgft.gov.in> with concerned Regional Authority in form ANF 3A. The relevant Shipping Bill and e-BRC is linked with the online application, however as per various instructions issued by DGFT from time to time the fields like Freight, Insurance and Commission need to be manually entered.

7.3.3. Shri Praveen Kumar Vyas, Director of AABL in his statements, as discussed in Para 5 above, admits that they were aware that while filing the ANF-3A online application, the details such as Freight, Insurance and Commission were required to be filled in manually.

7.4. Discussion of Trade Notice No. 02/2017 dated 24.04.2017 issued by Additional Director General of Foreign Trade, Mumbai:

As can be observed from plain reading of the Trade Notice No. 02/2017 dated 24.04.2017, as brought out in Para 2.6 above, the said Trade Notice was issued with an intention to make the trade aware of the fact that exporters were claiming their MEIS benefit on full FOB value by indicating 0,0,0 against column mentioned in MEIS application relating to Commission, Insurance and Freight. The Trade Notice very categorically also directs the exporters that whoever has so claimed excess MEIS benefits must refund the excess claim to avoid action under Foreign Trade (Development & Regulation) Act, 1992. Thus, making it clear that MEIS benefit shall be available after deduction of commission, insurance and freight from the FOB value declared or value realized whichever is lower.

7.5. Discussion of various Circulars/Standing Orders submitted by AABL:

AABL during the course of investigation submitted several Circulars and Standing Orders issued by DGFT and Customs formations with an intent to justify their action of mis-declaring the Commission amount as Zero in their online ANF 3A applications filed for receiving MEIS benefits. The issue covered in each of the Circulars/Standing Orders is brought out below for ease of further discussion,

- (i) **Policy Circular No. 55(RE-98), dated 10.12.1998:** Inclusion of commission in the FOB value for calculation of DEPB entitlement;
- (ii) **Policy Circular No. 24 (RE-2004)/2002-07 dated 14.01.2004-** Inclusion of commission in FOB value for calculation of DEPB entitlement;
- (iii) **Customs Circular No. 64/2003 dated 21.07.2003:** Limit for payment of commission on exports;
- (iv) **Policy Circular No. 51 (RE-2008)/2004-2009 dated 06.01.2009-** FOB value of

exports for Schemes under Chapter 3 of FTP, clarification regarding commission;

(v) **Policy Circular No. 98 (RE-2008)/2004-2009 dated 10.08.2009**-Modification of Policy Circular No.51 (RE-2008)/2004-2009 dated 6th January, 2009;

(vi) **Policy Circular No. 1/ 2012 dated 18.06.2012**-Introduction of electronic Bank Realization Certificate (e-BRC) system;

(vii) **Policy Circular No.6 (RE-2012)/2009-14 dated 10.10.2012**; Introduction of electronic Bank Realization Certificate (E-BRC) system;

(viii) **Standing Order No. 29/2012 dated 15.10.2012** issued by the Office of Commissioner of Customs (Exports), Nhava Sheva; Policy Circular No. 6(RE-2012);

(ix) **CBIC Circular No. 33/2019-Cus dated 19.09.2019** Clarification regarding duty drawback allowed in cases of short realization of export proceeds due to bank charges deducted by foreign banks;

(x) **Standing Order No.11/2019 dated 19.11.2019** issued by the Office of Principal Commissioner of Customs, Kolkata reiterates the CBIC Circular No. 33/2019-Cus dated 19.09.2019.

7.6. Based on the above Circulars and Standing Orders, AABL contends that the Trade Notice No. 02/2017 dated 24.04.2017 is contrary to the Policy Circulars issued from time to time. They argue that the Circulars issued by DGFT provide that Commission is not to be deducted from FOB value for calculation of entitlement under various incentives schemes under Chapter 3 of the FTP.

7.7. Attention is invited to the fact that all the Policy Circulars and Standing Orders listed from Sr. No. (i) to (viii) above do not speak about MEIS. These Circulars have been issued under Foreign Trade Policies prior to 2015. MEIS was introduced under the Foreign Trade Policy 2015-2020 whereas these Circulars speak about schemes of Chapter 3 which existed under FTPs prior to 2015. On being confronted, Shri Praveen Kumar Vyas, Director of AABL in his statement dated 24.09.2020 agreed to the fact that the said circulars and standing orders do not speak about FTP 2015-2020 nor do they speak about MEIS.

7.8. Further, in the statement dated 24.09.2020 Shri Praveen Kumar Vyas also agreed that the Policy Circular No.06 (RE-2012)/2009-14 dated 10.10.2012 which introduced the electronic Bank Realisation Certificate (e-BRC) system laid down the guidelines for exporters and at (B3) of Para B of the said circular it was stated that,

“e-BRC’ details available in the DGFT server do not contain values of

Commission, Insurance and Freight. These are to be entered by the exporters while making applications under various DGFT schemes. Exporters must ensure that the 'e-BRC' value reported by bank reflects full value and get it corrected from the banks in case of any discrepancy."

7.9. On scrutiny of the documents submitted by M/s. AVI Agri Business Pvt. Ltd. it was observed that during the period 2016-17, the commission amounts had been declared while filing the ANF 3A applications online. However, thereafter the same was discontinued. Shri P K. Vyas in his statement dated 23.03.2021, as discussed in Para 5 above, accepted the fact that in case of a few MEIS claims, they had received MEIS benefits on FOB value which was calculated after deducting commission amount as they had manually entered the same in the online applications. Shri Praveen Kumar Vyas, also agreed to the fact that they had discontinued the practice of mentioning the commission amount thereafter as they were of the opinion that since the commission amount was less than 12.5%, they need not fill in the details of the Commission.

7.10. From the evidences gathered, oral and written submissions made by AABL, as discussed above, it appears that AABL was always aware about the fact that if they declared the commission amount, the MEIS benefit would be calculated after deducting the said amount from the FOB value declared or e-BRC received whichever is less. Thus, the action of AABL appears to be deliberate. Further, their attempts to take shield of various Circulars and Standing Orders as discussed above, are not justified as all the policy circulars and standing orders speak about schemes and FTPs prior to the FTP 2015-2020 and do not mention anything in relation to the MEIS scheme and hence are irrelevant. As admitted by Shri Praveen Kumar Vyas, Director of AABL in his statements, they mis-declared the commission amount as zero instead of the actual commission amount. Hence, they seem to have failed to comply with the guidelines issued by DGFT from time to time. Moreover, as per the submissions made by AABL they appear to interpret and read the Circulars only from the point of view of availing the benefits and appear to have conveniently turned a blind eye to the conditions which they needed to fulfil to avail the benefit. Their deliberate act of not mentioning the commission amounts while filing the ANF 3A clearly indicates mis- declaration and willful suppression of facts.

7.11. As per the export data scrutinized, AABL has made exports from various

ports in India such as Pithampur, Kandla, Kattupalli, Mundra, Nhava Sheva and Thimappur. As per data available, during the period 2015 to 2020, DGFT has issued 195 MEIS scrips to AABL out of which, in case of 50 MEIS scrips AABL has paid Commission and has not declared the same in ANF-3A applications filed for claiming MEIS scrips. Details of port-wise MEIS scrips wherein Commission amount has been paid but not declared while procuring MEIS Scrips are tabulated in Table No. 4 below.

Table: 4

Port of Export	Scrip No.	Scrip Date	Scrip Value (in Rs.)	Total Commission Amount Declared in Shipping Bills (in Rs.)
ININD6	5619005827	2018-01-30	23,47,419	1,97,206
PITHAMPUR	5619006310	2018-04-25	11,52,595	12,578
	5619006700	2018-06-28	10,19,336	1,17,779
	5619006862	2018-07-27	23,67,263	14,729
	5619007036	2018-08-31	12,44,103	29,219
	5619007521	2018-11-20	22,20,498	46,477
	5619007523	2018-11-20	27,98,984	35,681
	5619007757	2018-12-27	30,89,699	2,00,288
	5619008159	2019-02-27	26,18,268	1,15,759
	5619009467	2019-08-23	16,87,020	1,45,152
	5619009732	2019-10-09	8,09,648	42,129
	5619010175	2019-12-13	21,34,999	1,18,004
	5619010803	2020-03-06	18,74,438	1,16,929
	5619012348	2021-09-27	34,14,996	1,51,158
TOTAL			2,87,79,266	13,43,089
INIXY1	5619005538	2017-12-01	82,30,040	5,22,438
KANDLA	5619005540	2017-12-01	63,30,800	4,01,875
	5619005549	2017-12-05	33,75,344	2,20,516
	5619009367	2019-08-20	13,50,137	
	5619007019	2018-08-30	49,13,603	1,32,300
	5619007020	2018-08-30	49,13,603	1,32,300
	5619007021	2018-08-30	49,13,603	1,32,300
	5619007022	2018-08-30	49,13,603	1,32,300
	5619007023	2018-08-30	49,13,603	1,32,300
	5619007024	2018-08-30	49,13,603	1,32,300
	5619007025	2018-08-30	49,13,603	1,32,300
	5619007192	2018-09-24	48,81,982	1,32,300
	5619007193	2018-09-24	49,39,928	1,32,300
	5619007194	2018-09-24	49,39,928	1,32,300
	5619007195	2018-09-24	21,57,159	59,535
	5619007878	2019-01-15	48,87,234	3,17,436
	5619010243	2019-12-20	1,14,59,350	70,45,000

	5619010244	2019-12-20	1,51,37,801	93,06,445
	5619010245	2019-12-20	1,14,59,350	70,45,000
	5619011017	2020-05-19	48,58,487	47,49,605
	5619011018	2020-05-19	80,47,850	69,95,000
TOTAL			12,64,50,611	3,79,85,849
INKRI1 KATUPALLI	5619005648	2018-01-02	4,03,185	4,45,713
INMUN1 MUNDRA	5619003352	2016-05-20	22,34,161	47,516
INNSA1 NHAVASHEVA	5619006167	2018-03-27	44,43,165	99,729
	5619006698	2018-06-28	18,76,683	1,33,118
	5619006715	2018-07-02	23,21,521	52,056
	5619006861	2018-07-27	29,96,190	66,550
	5619007530	2018-11-20	15,84,890	29,603
	5619010998	2020-05-14	16,45,416	50,275
	5619011126	2020-06-12	2,01,533	7,27,082
	5619011553	2020-09-03	6,96,372	90,143
	5619012344	2021-09-27	34,13,269	38,850
TOTAL			1,91,79,039	12,87,407
INRTM6 RATLAM	5619003593	2016-07-18	3,29,326	92,536
	5619004899	2017-06-13	2,47,179	32,578
	5619005119	2017-08-17	7,34,663	15,792
	5619005801	2018-01-29	9,15,665	16,087
TOTAL			22,26,833	1,56,992

7.12. As mentioned above, out of the 195 MEIS scrips, 50 MEIS scrips were issued against such Shipping Bills wherein commission amount was paid but not declared while filing MEIS application. The total duty value of the MEIS scrips amounts to Rs. 17,92,73,095/-. It is further ascertained that out of 50 MEIS scrips, AABL had sold 44 MEIS scrips amounting to Rs.16,19,48,999/- to others as detailed in Table-6 below and have self-utilized 6 MEIS Scrips totally amounting to Rs. 1,73,24,096/- as detailed in Table-5:

TABLE: 5 (MEIS SCRIPS SELF UTILISED)

Sr. No.	MEIS Scrips No.	MEIS Scrips Date	MEIS Scrips Value (Rs.)	Commission Amount declared in Shipping Bill Rs.	MEIS Rate	Excess MEIS credit utilized and recoverable due to non-declaration of the commission amount in ANF-3A (Rs.)	MEIS Scrip Self-utilized under BE No.	MEIS Scrip Self-utilized under BE Date	Value of Imported goods (Rs.)

1	2	3	4	5	6	7	8	9	10
1	5619011126	12-06-2020	2,01,533	7,27,082	2%	14,542	8000758	25-06-2020	96,99,359
2	5619011017	19-05-2020	48,58,487	47,49,605	7%	3,32,472	7709105	20-05-2020	1,21,95,300
							7717924	21-05-2020	2,38,86,183
3	5619011018	19-05-2020	80,47,850	69,95,000	7%	4,89,650	7717924	21-05-2020	2,38,86,183
							7757836	27-05-2020	1,21,95,300
4	5619010803	06-03-2020	18,74,438	97,765	7%	6,844	7445283	14-04-2020	65,89,599
				19,165	7%	1,342			
5	5619010998	14-05-2020	16,45,416	31,179	7%	2,183	7757836	27-05-2020	1,21,95,300
				19,096	7%	1,337			
6	5619011553	03-09-2020	6,96,372	90,143	7%	6,310	8763011	10-09-2020	1,52,09,025
		Total	1,73,24,096	1,27,29,034		8,54,678			11,58,56,249

The port of import of above said Bills of Entry as enumerated in Column No. 8 above is Kandla Seaport (INIXY1), Gujarat.

TABLE-6 (MEIS SCRIPS SOLD TO OTHERS)

Sr. No.	MEIS Scrrips No.	MEIS Scrrips Date	MEIS Scrrips Value (Rs.)	Commission Amount declared in Shipping Bill Rs.	MEIS Rate	Excess MEIS credit utilized and recoverable due to non-declaration of the commission amount in ANF- 3A (Rs.)
1	5619003352	20-05-2016	22,34,161	47,516	5%	2,376
2	5619003593	18-07-2016	3,29,326	14,710	5%	736
				15,244		762
				14,296		715
				15,854		793
				16,296		815
				16,135		807
3	5619004899	13-06-2017	2,47,179	16,247	5%	812
				16,331		817
4	5619005119	17-08-2017	7,34,663	15,792	5%	790
5	5619005648	02-01-2018	4,03,185	4,45,713	5%	22,286
6	5619005801	29-01-2018	9,15,665	16,087	5%	804
7	5619005538	01-12-2017	82,30,040	5,22,438	5%	26,122
8	5619005540	01-12-2017	63,30,800	4,01,875	5%	20,094
9	5619005549	05-12-2017	33,75,344		5%	

10	5619009367	20-08-2019	13,50,137	2,20,516	5%	11,026
11	5619005827	30-01-2018	23,47,419	79,986	7%	5,599
				1,17,220	7%	8,205
12	5619006167	27-03-2018	44,43,165	99,729	7%	6,981
13	5619006310	25-04-2018	11,52,595	12,578	7%	880
14	5619006700	28-06-2018	10,19,336	1,17,779	7%	8,245
15	5619006698	28-06-2018	18,76,683	68,968	2%	1,379
				64,150	7%	4,491
16	5619007530	20-11-2018	15,84,890	29,603	7%	2,072
17	5619006715	02-07-2018		52,056	7%	3,644
			23,21,521			
18	5619006862	27-07-2018	23,67,263	7,365	7%	516
				7,365	7%	516
19	5619006861	27-07-2018	29,96,190	33,475	7%	2,343
				33,075	7%	2,315
20	5619007025	30-08-2018	49,13,603	1,32,300	7%	9,261
21	5619007019	30-08-2018	49,13,603	1,32,300	7%	9,261
22	5619007020	30-08-2018	49,13,603	1,32,300	7%	9,261
23	5619007023	30-08-2018	49,13,603	1,32,300	7%	9,261
24	5619007022	30-08-2018	49,13,603	1,32,300	7%	9,261
25	5619007021	30-08-2018	49,13,603	1,32,300	7%	9,261
26	5619007024	30-08-2018	49,13,603	1,32,300	7%	9,261
27	5619007036	31-08-2018	12,44,103	3,682	7%	258
				3,638	7%	255
				3,638	7%	255
				3,638	7%	255
				3,638	7%	255
				3,638	7%	255
				3,638	7%	255
				3,707	7%	259
28	5619007194	24-09-2018	49,39,928	1,32,300	7%	9,261
29	5619007193	24-09-2018	49,39,928	1,32,300	7%	9,261
30	5619007192	24-09-2018	48,81,982	1,32,300	7%	9,261
31	5619007195	24-09-2018	21,57,159	26,460	7%	1,852
				33,075	7%	2,315
32	5619007523	20-11-2018	27,98,984	3,740	10%	374
				7,480	10%	748
				3,735	10%	373
				20,726	10%	2,073

33	561900752 1	20-11-2018	22,20,498	23,309	10%	2,331
				17,405	10%	1,741
				5,763	10%	576
34	561900775 7	27-12-2018	30,89,699	14,353	10%	1,435
				24,896	10%	2,490
				23,848	10%	2,385
				23,903	10%	2,390
				24,443	10%	2,444
				24,519	10%	2,452
				51,100	10%	5,110
				7,388	10%	739
				2,952	10%	295
				2,886	10%	289
35	5619007878	15-01-2019	48,87,234	3,17,436	10%	31,744
36	561900815 9	27-02-2019	26,18,268	23,024	10%	2,302
				34,308	10%	3,431
				40,723	10%	4,072
				17,704	10%	1,770
37	561900946 7	23-08-2019	16,87,020	48,384	7%	3,387
				48,384	7%	3,387
				48,384	7%	3,387
38	5619009732	09-10-2019	8,09,648	42,129	7%	2,949
39	5619010175	13-12-2019	21,34,999	1,18,004	7%	8,260
40	5619010245	20-12-2019	1,14,59,350	70,45,000	7%	4,93,150
41	5619010243	20-12-2019	1,14,59,350	70,45,000	7%	4,93,150
42	561901024 4	20-12-2019	1,51,37,801	22,61,445	7%	1,58,301
				70,45,000	7%	4,93,150
43	5619012344	27-09-2021	34,13,269	38,850	5%	1,943
44	561901234 8	27-09-2021	34,14,996	48,760	5%	2,438
				48,760	5%	2,438
				48,431	5%	2,422
				5,208	5%	260
Total (Rs.)			16,19,48,999	2,85,37,532		19,75,947

8. Legal Provisions Applicable:

Relevant provisions of law relating to import of the goods in general, the policy & Rules relating to import, the liability of the goods to confiscation and of the persons concerned to penalty for improper importation under the provisions of the Customs Act, 1962 and any other law for the time being in force are summarized as under:

8.1. Foreign Trade Regulation Rules, 1993:

Rule 14: Prohibition regarding making, signing of any declaration, statement or documents:

(1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a license or importing any goods knowing or hM/s. AVIng reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

8.2. In terms of Section 28AAA of the Customs Act, 1962- Recovery of duties in certain cases.

(1) Where an instrument issued to a person has been obtained by him by means of —

(a) collusion; or

(b) willful misstatement; or

(c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or [any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilised under the provisions of this Act or the rules [or regulations] made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued.

Explanation 1.— For the purposes of this sub-section, “instrument” means any scrip or authorisation or licence or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), [or duty credit issued under section 51B, with respect to] a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilized under the provisions of this Act or the rules made or notifications issued thereunder.

Explanation 2. — The provisions of this sub-section shall apply to any utilization of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent.

(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilization of the instrument till the date of recovery of such duty.

8.3 Section 28(4) of the Customs Act, 1962 – Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, - (a) collusion; or (b) any willful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

8.4 Section 28AA (1) stipulates that – the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

8.5 Section 111(m) of the Customs Act, 1962 provides that any goods which do not correspond in respect of value or in any other particulars with the entry made under this Act or in the case of baggage with the declaration made under section 77, are liable to confiscation.

8.6 Section 111(o) of the Customs Act, 1962 provides that 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;

8.7 Section 114A provides that where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28, shall,

also be liable to pay a penalty equal to the duty or interest so determined.

8.8 In terms of **Section 114AA** of the Customs Act, 1962 - 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.

8.9 In terms of **Section 114AB** Penalty for obtaining instrument by fraud, etc.- Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instruments has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

9. Summary of investigation:

From the foregoing it appears that;

(i) MEIS was introduced as part of the Foreign Trade Policy 2015-2020 under Chapter 3 of the FTP as a part of Exports from India Scheme with an objective to offset infrastructural inefficiencies, associated cost and to generate employment and enhance India's competitiveness in the world market. The incentive is paid as percentage of the realized FOB value in free foreign exchange;

(ii) As per the various guidelines issued by DGFT from time to time it was clearly indicated that the FOB value of the Shipping Bill or e-BRC amount, whichever is less would be auto populated by the system while filing claims for incentives. However, the exporters need to manually make entries of values such as Commission, Freight and Insurance which would automatically get deducted to calculate the FOB value on which incentive would be granted as per the prescribed rate;

(iii) The intention of the Trade Notice No. 02/2017 dated 24.04.2017 issued by Additional Director General, DGFT, Mumbai was thus clear as the DGFT authorities intended to make the exporters aware of the fact that MEIS benefits are available on the FOB value derived after deducting the values of Commission, Insurance and Freight;

(iv) M/s. AVI Agri Business Limited, a group company AV Group, is a merchant exporter of agri-commodities like soyabean meals, rapeseed meal, and other oil meals to countries of the Far East, Southeast Asia, Middle East and Europe;

(v) Scrutiny of Shipping Bills revealed that the Commission amount which was part of the FOB value had been declared by AABL in the Shipping Bill;

(vi) Further on scrutiny of the ANF 3A forms filed by AABL for claiming MEIS benefit it was observed that the commission amount mentioned in the Shipping Bills was not reflected in the ANF 3A forms submitted. The commission amounts in the column were declared as zero;

(vii) Scrutiny of a few Shipping Bills vis-à-vis the ANF 3A forms also revealed that in few of the ANF 3A forms, AABL had correctly declared the commission amount as mentioned in the Shipping Bills and had received MEIS benefits on net FOB value that was derived after deducting the Commission, Freight and Insurance amount;

(viii) The MEIS incentive was available @ 5% on soyabean meal products during the period 01.04.2015 to 31.10.2017, thereafter it was increased to 7% during the period 01.11.2017 to 30.06.2018 and then @10% during the period 13.07.2018 to 31.03.2019;

(ix) Study of the documents of AABL revealed that in the initial stage of filing ANF 3A application for claiming MEIS incentives, M/s. AVI Agri Business Pvt. Ltd. had filed applications by mentioning the Commission, Freight and Insurance amounts;

(x) This indicates that AABL was always aware that MEIS incentives would be available after deducting the commission amounts if they had been mentioned in the application;

(xi) Shri Praveen Kumar Vyas, Director of AABL in his statement admitted that they were always aware that the details such as Freight, Insurance and Commission were required to be filled in manually;

(xii) All the submissions in the form of Circulars and Standing Orders made by SIPL pertain to Foreign Trade Policies prior to the Foreign Trade Policy 2015-2020. Moreover, MEIS incentives was itself introduced during the FTP 2015-2020, therefore all the submissions appear to be irrelevant;

(xiii) Shri P K. Vyas, Director of AABL in his statement dated 19.08.2020 accepted that they had mis-declared the commission amount as zero while filing the application for claiming MEIS benefits.

(xiv) The deliberate act of M/s. AVI Agri Business Limited of mis-declaring the commission amounts as zero while filing the MEIS applications has resulted in M/s. AVI Agri Business Limited obtaining MEIS incentives at a higher FOB value. Therefore, the 50 MEIS scrips of total value of Rs. **17,92,73,095/-** (Rupees Seventeen Crore Ninety-Two Lakhs Seventy-Three Thousand and Ninety-Five only) as detailed in Table-5 and Table-6 above, obtained by M/s. AVI Agri Business Limited appears to be obtained by willful mis-statement and suppression of facts.

(xv) The duty of Customs related to **self-utilization** of instruments (MEIS Scrips) by M/s. AVI Agri Business Limited (AABL), as detailed in Table-5 above, totally aggregating to Rs. **8,54,678/-** (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only) on the commission amount of Rs. **1,27,29,034/-** (One Crore Twenty-Seven Lakh Twenty-Nine and Thirty-Four only) appears to have never been exempted or debited and appear to have been fraudulently obtained by AABL by willful mis-statement and suppression of facts. Hence the same is liable to be paid by AABL under the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

10. Invocation of extended period under Section 28 of the Customs Act, 1962 and imposition of Penalty:

Whereas it appears that, in the present case, M/s. AVI Agri Business Limited (AABL) filed the Shipping Bills declaring the actual commission amount paid to their overseas agents. However, to obtain MEIS incentives at a higher FOB value, fraudulently mis-declared the commission amount as Zero in their ANF-3A applications filed before DGFT, Indore for claiming MEIS Scrips mentioned in table 5 and 6 above. Such acts of self-utilizing the MEIS scrips by AABL by mis-stating and suppressing the commission amount willfully while filing MEIS applications, appear to have been taken knowingly and intentionally to contravene the provisions of the Foreign Trade Policy and the provisions under the Customs Act, 1962. They have mis-declared the commission amount as zero to fraudulently claim MEIS benefits to the extent of **Rs. 8,54,678/-** (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy- Eight only) as detailed in Table- 5 above. It appears that the said wilful mis-statement was done with an intention to evade payment of applicable duties of Customs. Therefore, credit of duties of Customs related to the portion of credit pertaining to MEIS Scrips utilized fraudulently by AABL is liable to be recovered, along with interest, under the relevant provisions discussed herein below.

11. Confiscation of goods imported by using ineligible MEIS Scrips fraudulently obtained by M/s. AVI Agri Business Limited:

As revealed during investigations, in the instant case, AABL to obtain MEIS incentives at a higher FOB value fraudulently mis-declared the commission amount as Zero in their ANF-3A applications filed before DGFT, Indore for claiming MEIS Scrips mentioned in Table 5 above and have utilized the said ineligible MEIS amount for payment of Customs duties against the imports made by them through Kandla Seaport (INIXY1). It appears that the goods imported by AABL by utilizing the MEIS scrips can be termed as imports made without observing the conditions prescribed under Notification No. 24/2015 - Customs dated 08/04/2015, as amended and thus appear to have contravened the provisions of Section 46(4) of Customs Act, 1962 read with Rule 14 of Foreign Trade (Regulation) Rules, 1993 made under Section 19 of the Foreign Trade (Development & Regulation) Act, 1992 [FTDR, 1992]. The goods have been cleared without the due payment of proper duty. Therefore, AABL appear to have rendered the goods, imported by them as enumerated at column 10 of Table-5 above, totally valued at Rs. **11,58,56,249/-** (Rupees Eleven Crore Fifty-Eight Lakh Fifty-Six Thousand Two Hundred and Forty-Nine Only), liable for confiscation under Section 111(m) and Section 111(o) of the Customs Act, 1962. It appears from the investigation that Shri Praveen Kumar Vyas, Director of M/s. AVI Agri Business Limited was aware that the MEIS benefits claimed by their firm were fraudulently claimed. He was aware about the fact that the MEIS scrips obtained by them were obtained on a higher FOB value which was inclusive of the commission amount paid by them to their commission agents. They have knowingly and intentionally made false and incorrect declarations in the procurement of MEIS scrips indirectly benefiting from the falsely availed incentives. Therefore, Shri Praveen Kumar Vyas appears to be liable for penalty under the provisions of Section 112(a) and Section 114AA of the Customs Act, 1962.

12. During the course of investigation, DRI, Mumbai vide letter F. No. DRI/MZU/B/INT/79/2019 dated 21.02.2023 (**RUD No. 13**) had requested the Joint Director General of Foreign Trade, Indore to cancel the 50 MEIS Scrips issued to M/s. AVI Agri Business Limited (IEC No. 1109000588), as mentioned in Table-5 and Table-6 above, as the said MEIS scrips have been obtained fraudulently by willful mis-statement and suppression of facts to avail the undue duty benefit in contravention of the relevant provisions of Foreign Trade Policy.

13. Now, therefore, M/s AVI Agri Business Limited (AABL) (IEC No.

1109000588), Saket Tower, 4th Floor, 3A RatlamKothi, A B Road, Indore, Madhya Pradesh-452001 are hereby called upon to show cause to the Additional/Joint Commissioner, having his office situated at 1stFloor, New Customs House, Near Balaji Temple, Kandla as to why-

- a) The duty of Customs related to self-utilization of instruments (MEIS Scrips) by M/s. AVI Agri Business Limited (AABL), as detailed in Table-5 above, totally aggregating to **Rs. 8,54,678/- (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only)** should not be demanded and recovered from AABL under the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (b) Penalties under Section 114A and Section 114AB of the Customs Act, 1962 should not be imposed upon M/s. AVI Agri Business Limited, Indore, for the reasons discussed above.
- (c) The imported goods totally valued at **Rs. 11,58,56,249/- (Rupees Eleven Crore Fifty-Eight Lakh Fifty-Six Thousand Two Hundred and Forty-Nine Only)**, covered under Bills of Entry mentioned in column 8 of Table-5 above for which duty exemption under the Notification 24/2015-Customs dated 08.04.2015 was availed by utilizing MEIS Scrips which were obtained by willful mis-statement and suppression of facts by M/s. AVI Agri Business Limited, Indore should not be held liable for confiscation under 111(m) & 111(o) of the Customs Act, 1962.
- (d) The payment of **Rs.5,00,000/-** (Rs. Five lakhs only) made by them as detailed in Table 3 above should not be appropriated against their liability arising as per sub-para13 (a) above.

13.1 Further, Shri Praveen Kumar Vyas, Director of M/s. AVI Agri Business Limited, Saket Tower, 4th Floor. 3A Ratlam Kothi, A B Road, Indore is also hereby called upon to show cause as to why penalties under Section 112(a) and 114AA of the Customs Act, 1962, should not be imposed upon him for the reasons discussed above.

DEFENCE REPLY

14. Vide the Show Cause Notice dated 09.04.2025, the Noticees were directed to submit their reply within 30 days from the receipt of the Show Cause Notice failing which the matter would be decided the case would be decided Ex-parte and on the basis of documents available with this

office.

15. M/s Avi Agri Business Limited filed an Interim Reply dated 22 July 2025 to the Show Cause Notice dated 09.04.2025 issued by the Additional Commissioner of Customs, Kandla. They have categorically denied all allegations of willful mis-statement, suppression of facts, and fraudulent procurement of MEIS scrips. Their central position is that the entire case has been framed by DRI on a misinterpretation of the term "FOB value" under Para 3.04 of FTP 2015-2020, and that the SCN is legally unsustainable on multiple grounds as follows;

On the Substantive Legal Issue – Commission and FOB Value

The Noticees' primary defence is that entering '0' in the commission column of Form ANF 3A was legally correct, not a mis-declaration. Under a consistent chain of RBI, DGFT, and Customs circulars spanning 1998 to 2019, agency commission up to 12.5% of FOB value is included in FOB value and is not deductible for the purpose of Chapter 3 incentives under FTP. Since MEIS is also a Chapter 3 incentive and the commission paid by AABL never exceeded 12.5%, there was simply no deductible amount to enter. They have supported this with two actual Shipping Bill examples showing that Customs authorities themselves applied the 12.5% rule while assessing shipping bills under MEIS and even under the current RoDTEP scheme — making the SCN contradictory to the Department's own assessing practice.

On Trade Notice No. 02/2017 and Validity of the SCN

The Noticees have challenged the foundational document of the SCN — Trade Notice No. 02/2017 dated 24.04.2017 — as invalid, ultra vires the FTP, and without statutory force. They argue it contains a drafting error, was issued by a Regional Authority (Additional DGFT, Mumbai) without approval from any competent authority, and cannot override the substantive provisions of the FTP or binding circulars. They further contended that the SCN is defective because physical copies of relied-upon documents were not provided, several pages were illegible, and the demand of Rs. 8,54,678/- is quantitatively overstated — as the commission actually paid was only Rs. 1,18,16,211/- (not the gross Shipping Bill figures used), making the correct maximum exposure at most Rs. 8,11,986/-. The Rs. 5 lakh deposit is also stated to have been made under compulsion and protest, not as an admission of liability.

On Jurisdiction and Legal Precedents

The Noticees have raised a strong jurisdictional challenge: the power to cancel or question MEIS scrips vests exclusively with DGFT under Rules 9 and 10 of the FT(R) Rules, 1993, not with Customs. Significantly, DRI's own letter dated 21.03.2023 acknowledged that a customs duty demand could only be raised after DGFT initiates cancellation proceedings, yet Joint Director

DGFT, Indore has neither cancelled nor challenged any of the 50 scrips in over 5 years. Four scrips in Table 5 pertain to exports from JNPT and Pithampur, further placing them outside Kandla's jurisdiction. The Noticees have cited five binding judicial decisions — including the Supreme Court in Titan Medical Systems, the Madras High Court in Jeena & Co., and the Delhi High Court in Amit Exports — all holding that Customs cannot invoke Section 28AAA unless DGFT has first initiated cancellation.

On Limitation and Prayer

The Noticees have additionally argued that the entire SCN is time-barred, as all relevant Shipping Bills predate 31.03.2020 and there was no suppression to attract the extended 5-year limitation period under Section 28(4). They have prayed for the SCN to be dropped in its entirety, and for refund of the Rs. 5 lakh deposit with interest. In the alternative, if the SCN is adjudicated, they have sought supply of missing relied-upon documents, cross-examination of DRI officers, and a personal hearing through their advocate.

16. The reply dated 20 February 2026 was submitted by M/s Avi Agri Business Limited and Shri Praveen Kumar Vyas in response to the Personal Hearing (PH) Notice dated 17.02.2026 issued by the Additional Commissioner of Customs, Kandla, fixing a hearing on 24.02.2026. The Noticees acknowledged receipt of clear copies of RUD Nos. 1 to 13, but noted that several other documents specifically requested in their interim reply dated 22.07.2025 — including the DRI Investigation Report, the Suraj Impex investigation report, copies of MEIS applications of Unique Organics and Vippy Industries, and the underlying approval documents for Trade Notice No. 02/2017 — have still not been provided. They reiterated that without these documents they cannot defend the case adequately, and have requested the Authority to supply them.

Reaffirmation of Core Defence — Trade Notice and FOB Value

The Noticees restated their principal submission that Trade Notice No. 02/2017 dated 24.04.2017, which is the backbone of the SCN, is invalid, has no statutory force, and was issued by Additional DGFT, Mumbai without approval from any competent higher authority. They reiterated that under Para 3.04 of FTP 2015-2020 and an unbroken chain of DGFT, Customs, and RBI circulars from 1998 to 2019, agency commission up to 12.5% of FOB value is legitimately includible in FOB value for Chapter 3 incentive purposes. Since MEIS is itself a Chapter 3 incentive and AABL's commission never exceeded 12.5%, entering 'zero' in the commission column of ANF 3A was legally accurate and not a mis-declaration. They also pressed that any statement recorded during investigation acknowledging the Trade Notice as binding was made under duress and cannot operate as an estoppel against the statute.

Jurisdiction — DGFT's Inaction Vindicates the Noticees

The Noticees strongly reiterated their jurisdictional objection. They pointed out that DRI's own letter dated 21.03.2023 to Jt. DGFT, Indore acknowledged that a customs duty demand could only be raised after DGFT initiates cancellation of the scrips. Despite this, Jt. DGFT, Indore has taken no action — no show cause notice, no suspension, and no cancellation order — even after more than five years from issuance of the scrips and more than two years from DRI's request. The Noticees argued this silence conclusively demonstrates that DGFT found the scrips to be validly issued, and therefore the Customs SCN is without jurisdiction. They additionally cited two fresh CESTAT Delhi judgements from 2025 — M/s. Colour Cottex Pvt. Ltd. (04.06.2025) and M/s. Mahajan Fabrics Pvt. Ltd. (19.05.2025) — reinforcing that without DGFT cancellation proceedings, Section 28AAA cannot be invoked and Customs cannot re-determine FOB value.

Demand for Cross-Examination and Natural Justice

The Noticees renewed their request for cross-examination of: (i) DRI investigating officers who recorded their statements; (ii) officers of Unique Organics Ltd. and Vippy Industries Ltd. whose MEIS applications were cited as comparative evidence in the SCN; and (iii) Customs officers who themselves assessed the Shipping Bills applying the 12.5% commission principle. They categorically stated that if cross-examination of DRI officers is denied, then the five statements recorded from Shri P.K. Vyas between August 2020 and March 2021 cannot be relied upon in adjudication. They further submitted that the Rs. 5,00,000/- pre-deposit was made under compulsion and protest solely to "buy peace" during the investigation, and not as any admission of liability. Denial of cross-examination, they argued, would amount to a violation of the principles of natural justice, particularly given the quasi-criminal nature of the penalty proceedings.

Prayer and Representation

The Noticees opted to attend the Personal Hearing on 24.02.2026 virtually, authorizing their Advocate Mr. Ashutosh Upadhyay, Indore, to appear and argue on behalf of both Noticees.

PERSONAL HEARING

17. Whereas, opportunities for personal hearing in the matter was granted to both the Noticees on 21.07.2025 and 16.02.2026 and 24.02.2026 to remain present and produce all such documents which they intend to rely in support of their defence, in the case of Show Cause Notice dated 09.04.2025 issued to M/s AVI Agri Business Limited (IEC-110900058), Saket Tower, 4th Floor, 3A, Ratlam Kothi,

AB Road Indore, M.P.-452001 and Shri P.K. Vyas, Director of M/s AVI Agri Business Limited, under F. No. GEN/ADJ/ADC/934/2023-Adjn-O/o Commr-Cus-Kandla, served to them through mail on 11.04.2025.

18. On 16.02.2026, Shri Ashutosh Upadhyay, Advocate and authorized representative for both the Noticees appeared and reiterated the submissions dated 22.07.2025 and submitted that no liability is imposable on them. Further, the cross-examination of the persons were sought for and it was also requested to grant the next date of hearing. Accordingly, the next date of personal hearing was given on 24.02.2026, wherein it was requested to provide the copy of (i) copy of IR of DRI, Mumbai, (ii) Copy of IR of M/s Suraj Impex and (iii) copy of MEIS Scrips as in Para (iii) of reply dated 22.07.2026. It was also requested by them that the Circular No. 49/Cus/04 dated 02.09.2004 which is annexed to their reply is not mentioned in the Trade Notice so the same cannot be made the basis of the SCN. Further, they reiterated the submissions dated 22.07.2025 and 20.02.2026 and requested to drop the proceedings initiated vide the impugned SCN dated 09.04.2025.

DISCUSSION AND FINDING

19. I have carefully gone through the contents of the Show Cause Notice No. GEN/ADJ/ADC/934/2023-Adjn-O/o Commr-Cus-Kandla dated 09.04.2025 along with the Relied upon Documents and the documents/evidences available on record and the submissions made by both the Noticees vide letter dated 22.07.2025 and 20.02.2026.

20. The issues to be decided before me are:-

- (i) Whether Commission below 12.5% is required to be declared in ANF 3A for claiming rewards under MEIS on exports on DGFT Website;
- (ii) Whether discontinuation of correct Practice i.e. declaration of commission income in earlier period and discontinuing the same in later period, should be considered as deliberate mis-declaration or not;
- (iii) Validity of Trade Notice No. 02/2017 Dated 24.04.2017;
- (iv) Whether Customs authorities can Act without Cancelling the Scrips by the DGFT Authority or not;
- (v) Whether the SCN is Time-Barred;
- (vi) Admissibility of Statements and Cross-Examination sought for;
- (vii) Request for refund of Rs. 5,00,000/- which were Pre-Deposited ;
- (viii) Whether the imported goods are liable to confiscation under the provisions of Section 111(m) and 111(0) of the Customs Act, 1962 and the acts and omissions attributed to the noticees, including use of allegedly incorrect and mis-declaration attract penalties under Section 112 (a), 114A, 114AA and 114AB of the Customs Act, 1962 and
- (ix) Request for Additional Documents (Non- RUDs) are to be considered or not.

(A) Findings in respect of Core Issue: Whether Commission Below 12.5% is required to be

declared in ANF 3A for claiming rewards under MEIS on exports on DGFT Website

The Noticees' primary defence is that since the commission paid to overseas agents was below 12.5% of FOB value, it need not be deducted from FOB value and therefore entering 'zero' in the commission column of Form ANF 3A was legally correct. This contention is examined in the context of Para 3.04 of FTP 2015-20 which provides as below;

"The basis of calculation of reward would be on realised FOB value of exports in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in freely convertible foreign currencies, whichever is less, unless otherwise specified."

The Noticees argue that FOB value for MEIS purposes is inclusive of commission up to 12.5%, relying on pre-2015 circulars. However, this argument fundamentally conflates two separate concepts: (i) the FOB value assessed in the Shipping Bill at the time of export; and (ii) the FOB value on which MEIS incentive is to be calculated for the purpose of filing Form ANF 3A. These are distinct exercises under distinct statutory frameworks.

The Circulars cited by the Noticees — Policy Circulars from 1998, 2004, 2009, and 2012 — all relate to the Duty Entitlement Passbook (DEPB) scheme, the Duty Free Replenishment Certificate (DFRC) scheme, and other Chapter 3 incentives under FTPs prior to 2015. As the Noticees' own Director, Shri Praveen Kumar Vyas, candidly admitted in his statement dated 24.09.2020 recorded under Section 108 of the Customs Act, 1962, these Circulars do not speak about FTP 2015-2020 nor do they mention MEIS. This admission is voluntary, informed, and directly on point. It cannot be retracted merely because it is inconvenient to the Noticees.

MEIS is a distinctly new scheme introduced under FTP 2015-2020, governed by its own policy framework and handbook procedures. There is no carry-forward provision or savings clause in FTP 2015-2020 that adopts the 12.5% commission principle from earlier FTPs into the MEIS framework. The absence of any such explicit provision in Para 3.04 of FTP 2015-2020 — or in any MEIS-specific circular — demolishes the Noticees' case that the old principle automatically applies.

Further, DGFT Policy Circular No. 06 (RE-2012)/2009-14 dated 10.10.2012, which introduced the e-BRC system, explicitly provides at Clause B(3) that:

"e-BRC details available in the DGFT server do not contain values of Commission, Insurance and Freight. These are to be entered by the exporters while making applications under various DGFT Schemes."

The DGFT Guide for MEIS Application Filing, available on the DGFT website and acknowledged by Shri P.K. Vyas himself (who signed the printout as a token of having read and understood it), expressly requires exporters to 'Update Freight, Insurance and Commission values, if any, in e-BRC' as a mandatory step prior to creating the MEIS application. The phrase 'if any' cannot be interpreted — as the Noticees attempt — to mean 'if in excess of 12.5%.' It means 'if commission has been paid,'

which in AABL's case it undeniably had been, as declared in every relevant Shipping Bill.

Thus, I find that the circulars relied upon by the Noticees do not apply to MEIS. Para 3.04 of FTP 2015-2020 does not incorporate any 12.5% exemption for commission. The mandatory requirement to enter the commission amount in ANF 3A is independently and clearly established by the DGFT's own procedural guidelines and the e-BRC circular, both of which the Noticees were aware of. The Noticees' argument that entering 'zero' was legally accurate is rejected.

(B) Findings in respect of Whether discontinuation of Correct Practice should be considered as deliberate mis-declaration or not

I find that the evidence on record discloses a particularly damaging pattern. In respect of at least three MEIS authorisations (Nos. 5619005550, 5619004488, and 5619005539 — listed at Sr. Nos. 1, 2 and 3 of Table 2 of the SCN), AABL had correctly declared the commission amount in Form ANF 3A and received MEIS benefits on the net FOB value, i.e., after deducting commission, freight, and insurance. This fact is not disputed by the Noticees.

I find that Shri P.K. Vyas, in his statement dated 23.03.2021, categorically admitted that they discontinued the practice of entering commission because they realised that doing so reduced their MEIS entitlement. The Noticees now reframe this as a 'legal interpretation' that commission below 12.5% need not be entered. This reframing is untenable. The sequence of events i.e. correct declarations first, followed by deliberate omissions once the financial impact was understood reveals calculated suppression rather than a bona fide legal position.

The Noticees' attempt to characterise Shri Vyas's statements as having been obtained under 'duress' or 'coercion' is a bare assertion unsupported by any material. No complaint was made at any point during the investigation period (2020-2021) that statements were being obtained under pressure. It is significant that Shri Vyas appeared on five separate dates — 19.08.2020, 24.09.2020, 18.01.2021, 23.03.2021, and 31.03.2021 and made consistent admissions across all five occasions. The suggestion that all five appearances were attended under compulsion and that a Director of a Star Export House was unable to resist making false statements on each occasion strains credulity.

Thus, I find that the pattern of initial correct declarations followed by deliberate omissions, combined with the Director's own admission that the omissions were motivated by a desire to retain higher MEIS benefits, establishes willful mis-statement and suppression of facts within the meaning of Section 28(4) and Section 28AAA of the Customs Act, 1962. The statements of Shri P.K. Vyas are voluntary, consistent, and corroborated by documentary evidence; they are accepted as reliable.

(C) Findings in respect of Validity of Trade Notice No. 02/2017 Dated 24.04.2017

The Noticees have challenged Trade Notice No. 02/2017 as invalid on the grounds that it was issued by Additional DGFT, Mumbai without approval from a competent higher authority and is ultra vires FTP 2015-2020. This contention is considered but not accepted for the following reasons.

I find that the Trade Notice clearly and unambiguously directs exporters claiming MEIS to submit ANF 3A applications 'by indicating Commission, Insurance & Freight in the relevant column.' It further directs those who have previously claimed MEIS benefits without such declaration to refund excess claims. This is entirely consistent with Para 3.04 of FTP 2015-2020 and with the DGFT Handbook's procedural requirements. It is a clarificatory notice, not a policy deviation.

I find that the Noticees' argument that Additional DGFT, Mumbai — a Regional Authority cannot issue a Trade Notice without Central Office approval is a technical objection of administrative propriety, not a ground to invalidate an otherwise lawful clarification. Even if the Trade Notice were treated as not having any independent binding force, the obligation to declare commission in ANF 3A flows independently from the DGFT Handbook of Procedures 2015-2020 and the e-BRC guidelines, both of which are undisputed. The Trade Notice merely reinforced what the law already required.

Furthermore, Shri P.K. Vyas admitted in his statement dated 24.04.2017 that the Trade Notice is binding upon all exporters in the Western Zone, including Indore, and that it emphasises submission of MEIS applications with correct declaration of Commission, Insurance, and Freight. This admission, made under oath, cannot be set aside on the ground that it was contrary to law — because as demonstrated above, the Trade Notice is not contrary to law.

Thus, I find that the Trade Notice No. 02/2017 dated 24.04.2017 is a valid clarification consistent with FTP 2015-2020 and the DGFT Handbook. Even independently of the Trade Notice, the obligation to declare commission arises from the DGFT's procedural framework. The challenge to its validity is rejected.

(D) Findings in respect of Whether Customs Can Act Without DGFT Cancelling the Scrips

The Noticees have mounted an elaborate jurisdictional challenge, arguing that Section 28AAA of the Customs Act, 1962 can only be invoked after DGFT, as the licensing authority, initiates cancellation proceedings under Rules 9 and 10 of the FT(R) Rules 1993. They have cited several judicial decisions in support, including the Supreme Court's decision in Titan Medical Systems (2003) and more recent CESTAT and High Court orders.

This contention requires careful examination. Section 28AAA of the Customs Act, 1962 provides for recovery of customs duty where an instrument (including an MEIS scrip) has been obtained by collusion, willful misstatement, or suppression of facts and has been utilised for duty exemption under the Customs Act. The provision is self-contained and does not, either expressly or by necessary

implication, make the initiation of DGFT cancellation proceedings a condition precedent for its invocation.

The decision in Titan Medical Systems (2003 (151) ELT 254 (SC)) involved advance licences under a different legal regime, predating Section 28AAA which was introduced by the Finance Act, 2012. The observation in that case that Customs cannot refuse exemption unless the licensing authority takes steps was made in the context of import clearance, not post-clearance recovery. It cannot be imported wholesale into a post-importation recovery proceeding under Section 28AAA.

The CESTAT Delhi decision in M/s. Colour Cottex Pvt. Ltd. (dated 04.06.2025) and M/s. Mahajan Fabrics Pvt. Ltd. (dated 19.05.2025), both cited by the Noticees in their pre-PH submission, represent a line of reasoning which, with respect, does not appear to accord with the legislative intent behind Section 28AAA. Parliament specifically inserted Section 28AAA into the Customs Act to create a direct recovery mechanism in Customs proceedings where instruments have been obtained fraudulently precisely because waiting for the foreign trade licensing authority to first cancel the scrip would defeat the purpose of the provision. These CESTAT decisions are not binding on this authority and are, in any event, distinguishable on facts.

The Madras High Court's decision in Jeena & Co. (2024-TIOL-172-HC-MAD-CUS) and the Delhi High Court's decision in Amit Exports (WPC No. 55055/2022) are noted. However, in both those cases the courts were examining situations where there was no finding of fraudulent conduct or where the DGFT itself had not doubted the eligibility of the exporter. In the present case, DRI has written to Jt. DGFT, Indore on 21.03.2023 specifically requesting cancellation of the 50 MEIS scrips, providing full details of the fraud. The absence of a formal cancellation order by DGFT after receiving DRI's letter does not amount to a vindication of AABL's conduct, nor does it strip this authority of jurisdiction. DGFT's inaction may have its own reasons — administrative, evidentiary, or otherwise — but it cannot be read as a conclusive determination that the scrips were validly obtained.

I find that the jurisdiction of this Authority to proceed under Section 28AAA read with Section 28(4) of the Customs Act, 1962 is not conditional upon prior cancellation of the MEIS scrips by DGFT. The judicial decisions cited by the Noticees are distinguishable and do not apply to the facts of the present case.

(E) Findings in respect of Whether the SCN is Time-Barred

The Noticees have argued that since the relevant Shipping Bills predate 31.03.2020, and since there was no suppression of facts, the extended 5-year limitation period under Section 28(4) is not available and the SCN is time-barred.

I find that this argument is directly negated by the factual findings already recorded. It has been found above that AABL deliberately and willfully declared the commission amount as zero in their ANF 3A

applications despite having correctly declared the same commission in the Shipping Bills — an act that squarely constitutes willful misstatement and suppression of facts. The Noticees cannot, in the same breath, rely on documents they admittedly mis-declared to argue that there was no suppression.

Furthermore, the very purpose of the extended 5-year limitation period under Section 28(4) is to address precisely this category of case where an exporter obtains a government benefit by suppressing material facts from a different authority (DGFT) than the one assessing the shipping bill (Customs). Commission was declared to Port Customs in the Shipping Bills but suppressed before DGFT in Form ANF 3A. The suppression was therefore real, deliberate, and consequential, even though the information existed in one departmental record.

Thus, I find that the extended period of 5 years under Section 28(4) of the Customs Act, 1962 is validly invoked. The SCN issued on 09.04.2025 in respect of scrips pertaining to Shipping Bills assessed up to 31.03.2020 is within limitation. The time-bar objection is rejected.

(F) Findings in respect of Admissibility of Statements and Cross-Examination sought for

The Noticees have insisted that statements of Shri P.K. Vyas recorded under Section 108 of the Customs Act, 1962 on five occasions were obtained under duress, and have demanded cross-examination of DRI officers as a pre-condition for relying upon them.

I find that, the Statements recorded under Section 108 of the Customs Act, 1962 by a Gazetted officer of Customs are admissible as evidence in adjudication proceedings. The burden of proving coercion lies on the person making the allegation. In the present case, no retraction of any statement was filed at any point during the investigation or thereafter. No complaint of coercion was made to any superior authority or to any court. The five statements span a period of eight months (August 2020 to March 2021) and are internally consistent. The Director, an educated person well-versed in corporate and trade law matters by his own description, participated in all five sessions without raising any objection. The allegation of duress surfaces for the first time in the interim reply dated 22.07.2025, more than four years after the last statement was recorded.

As regards the request for cross-examination of DRI officers, officers of Unique Organics Ltd., and Customs assessing officers, this request is not considered. Cross-examination in quasi-judicial proceedings is not an absolute right in all circumstances, it is governed by principles of fairness and relevance.

Further, in KANUNGO & CO. VERSUS COLLECTOR OF CUSTOMS, CALCUTTA AND OTHERS - 1972 (2) TMI 35 - SUPREME COURT, in which the Supreme Court held that the principles of natural justice do not bind the Informants to be examined in the presence of Appellant or be allowed to be

cross-examined by them regarding the statements made before the Customs Authorities. If any information is received from a statutory authority and an adjudicating process is initiated, there is nothing in law which compels the information provider to be involved in the judicial proceedings. Therefore, cross examination is not granted as personal hearing is being given in pursuance of the principal of natural justice.

In the present case, the statements of Shri P.K. Vyas are corroborated by the documentary evidence the juxtaposition of Shipping Bills (showing commission) against ANF 3A applications (showing zero) is self-evident and does not depend on the testimony of any third party. The evidence of contemporary exporters' practices (Unique Organics and Vippy Industries) is merely supplementary and not the sole basis for the findings. Cross-examination is accordingly not considered necessary to arrive at a just decision.

Thus, I find that the statements of Shri P.K. Vyas recorded under Section 108 of the Customs Act, 1962 are voluntary, consistent, and corroborated by documentary evidence. The allegation of coercion is an afterthought and is rejected. The request for cross-examination does not meet the threshold of necessity in the facts of this case and is rejected.

(G) Findings in respect of refund of Pre-Deposit of Rs. 5,00,000/-

The Noticees have submitted that the demand of Rs. 8,54,678/- is overstated because the SCN is based on the gross commission declared in the Shipping Bills (Rs. 1,27,29,034/-), whereas the commission actually paid was only Rs. 1,18,16,211/-, and the correct MEIS demand on actual commission would be Rs. 8,11,986/-.

This submission has been carefully considered. However, for the purposes of recovery under Section 28(4), the relevant figure is the commission amount declared in the Shipping Bills being the authoritative export document assessed by Customs and not a post-hoc claim of 'actual payment' advanced by the Noticees without independent documentary verification having been placed before this authority. The commission as declared by AABL in its own Shipping Bills is the most reliable measure of the commission paid in the context of each shipment. No independently verified reconciliation supported by banking or agent payment records has been provided to substantiate the lower figure. The demand as framed in the SCN is therefore upheld.

The pre-deposit of Rs. 5,00,000/- was made vide DD No. 034509 dated 30.03.2021 and credited at Custom House, Kandla vide Challan dated 09.04.2021. The Noticees have claimed it was made under compulsion. However, the letter dated 31.03.2021 vide which the deposit was made was a letter authored by the Noticees themselves and forwarded along with the deposit. Whatever the motivation, the amount stands credited to the Government account and shall be appropriated against the confirmed duty liability.

Thus, I find that the duty demand of Rs. 8,54,678/- as calculated on the basis of commission declared in the Shipping Bills is upheld. The deposit of Rs. 5,00,000/- shall be appropriated against this liability.

(H) Findings in respect of Confiscation and Penalties

The imported goods valued at Rs. 11,58,56,249/- were cleared by AABL through Kandla Seaport by utilizing 6 MEIS scrips (Table 5 of SCN) which have been found to have been obtained by willful misstatement and suppression of facts for the reasons as discussed above. The exemption from Customs duty availed under Notification No. 24/2015-Customs dated 08.04.2015 was contingent upon the MEIS scrips having been validly obtained. Since the scrips were obtained fraudulently, the conditions of the exemption notification were not observed. Thus, I find that the goods are accordingly liable for confiscation under Section 111(m) and Section 111(o) of the Customs Act, 1962.

However, since the goods have already been cleared and cannot be physically recalled, redemption fine in lieu of confiscation shall be imposed under the proviso to Section 125 of the Customs Act, 1962.

As regards penalties, AABL as a company has obtained MEIS scrips by willful misstatement and utilised them to evade Customs duty. This conduct attracts penalty under Section 114A and under Section 114AB. Thus, I find that considering the totality of the conduct, penalties under both provisions are warranted.

Shri Praveen Kumar Vyas, as Director in charge of legal, DGFT, and Customs matters by his own statement, was the directing mind behind the mis-declarations. He accepted being the indirect beneficiary of the MEIS incentives and acknowledged awareness of the Trade Notice and the procedural requirements. His personal conduct renders him liable for penalty under Section 112(a) and Section 114AA of the Customs Act, 1962.

Thus, I find that the imported goods valued at Rs. 11,58,56,249/- are liable for confiscation under Sections 111(m) and 111(o) of the Customs Act, 1962, subject to the option of redemption on payment of fine. AABL is liable for penalty under Sections 114A and 114AB of the Customs Act, 1962. Shri Praveen Kumar Vyas is personally liable for penalty under Sections 112(a) and 114AA of the Customs Act, 1962.

(I) Findings in respect of Request for Additional Documents which were not Relied Upon Documents (Non- RUDs)

I find that the noticee, vide their submissions including para D(10) of their reply, has sought supply of certain documents such as investigation reports, third-party records, and internal communications, which are not part of the Relied Upon Documents (RUDs) annexed to the Show Cause Notice. In this regard, it is observed that the SCN has been issued on the basis of specific evidences duly listed and supplied as RUDs, thereby ensuring compliance with the principles of natural justice.

I further find that the documents now sought have not been relied upon for issuance of the SCN and, therefore, their supply is not legally warranted. The proceedings in the present case are based on the noticee's own records and statements, which have already been made available. The noticee has also not demonstrated the relevance or necessity of the requested documents for defending the case.

It is a settled position of law that only relied upon documents are required to be furnished, and a request for non-relied upon documents amounts to a roving and fishing enquiry, which cannot be permitted.

Thus, I hold that the request of the Noticees for supply of documents not forming part of the Relied Upon Documents is devoid of merit and is hereby rejected.

ORDER

21. In view of the foregoing Discussion and Findings, I pass the following order:

A. In respect of M/s. AVI Agri Business Limited (AABL) (IEC No. 1109000588), Saket Tower, 4th Floor, 3A Ratlam Kothi, A B Road, Indore, Madhya Pradesh – 452001:

- i. I hereby determine and confirm the demand of Rs.8,54,678/- (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only) as detailed in Table -5 to the Show Cause Notice and order to recover them under Section 28(4) of the Customs Act, 1962.
- ii. I hereby order to recover interest on Rs.8,54,678/- (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only) under Section 28AA of the Customs Act, 1962.
- iii. I impose penalty of Rs.8,54,678/- (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only) on M/s AVI Agri Business Limited (AABL), under Section 114A of the Customs Act, 1962.
- iv. I impose penalty of Rs.8,54,678/- (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only) on M/s AVI Agri Business Limited (AABL), under Section 114AB of the Customs Act, 1962.
- v. I hereby order confiscation of the imported goods under the provisions of Sections 111(m) and 111(o) of the Customs Act, 1962, having a total value of Rs. 11,58,56,249/- (Rupees Eleven Crore Fifty-Eight Lakh Fifty-Six Thousand Two Hundred and Forty-Nine Only), covered under the Bills of Entry mentioned in Column 8 of Table-5 above. The said goods were cleared by availing duty exemption under Notification No. 24/2015-Customs dated 08.04.2015 utilization MEIS scrips, which

were obtained by M/s. AVI Agri Business Limited, Indore by way of willful misstatement and suppression of facts.

Since, the goods are not available for confiscation, I impose the redemption fine of Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand Only) under Section 125 of the Customs Act, 1962 in lieu of the same.

- vi. I order that the amount of Rs. 5,00,000/- (Rupees Five Lakhs only) paid by them, as detailed in Table-3 above, shall be appropriated against their liability arising under sub-para 21 A(i) above.

B. In respect of Shri Praveen Kumar Vyas, Director of M/s. AVI Agri Business Limited, Saket Tower, 4th Floor. 3A Ratlam Kothi, A B Road, Indore:

- i. I impose penalty of Rs.1,00,000/- (Rupees One Lakh only) under Section 112(a) of the Customs Act, 1962.
- ii. I impose penalty of Rs.8,54,678/- (Rupees Eight Lakh Fifty-Four Thousand Six Hundred and Seventy-Eight only) under Section 114AA of the Customs Act, 1962.

The proceedings initiated vide Show Cause Notice F. No. GEN/ADJ/ADC/934/2023-Adjn-O/o Commr-Cus-Kandla dated 09.04.2025 stand disposed of accordingly.

This order is issued without prejudice to any other action that may be taken against the SEZ warehouse unit/importer firms or any other person under the Customs Act, 1962, SEZ Act or any other law for the time being in force

(Vishwajeet Singh)
Commissioner (in-situ),
Custom House Kandla

F.No. GEN/ADJ/ADC/934/2023- Adjn- O/o Commr-Cus-Kandla

DIN-20260471ML000000D126

To,

1. M/s. AVI Agri Business Limited. (IEC No. 1109000588)
Saket Tower, 4th Floor, 3A Ratlam Kothi,
A B Road, Indore (M.P.) Pin- 452001.
Email Id: info@surajimpex.com

2. Shri P K. Vyas, Director

M/s. AVI Agri Business Limited. Pan: AASPV7050R

Aadhar Card No.: 628124536253

Address: 37 Tilak Nagar Extension, Indore, Madhya Pradesh- 452018.

Email Id: pkvyas@surajimpex.com

Copy to :-

- (i) The Deputy/Assistant Commissioner (RRA/TRC) for necessary action.
- (ii) The Superintendent (EDI) for uploading on the website.
- (iii) Guard File.