



सीमा शुल्क आयुक्त का कार्यालय  
OFFICE OF THE COMMISSIONER OF CUSTOMS  
नवीन सीमा शुल्क भवन, बालाजी मंदिर के निकट, कांडला  
New Custom House, Near Balaji Temple, Kandla

**F. No. GEN/ADJ/ADC/480/2024-Adjn-O/o Commr-Cus-Kandla**  
**DIN-20260471ML00006606B7**

**SHOW CAUSE NOTICE**

**(Under Section 124 of the Customs Act, 1962 read with SEZ Act, 2005)**

Whereas, information gathered by P&I Section, KASEZ indicates that M/s. The Variety Impex, KSEZ has imported certain goods declared as "Fresh Kiwi" on behalf of DTA Clients, namely, M/s. Sufi Impex (IEC - ASRPK4176E), Prabhu Nivas, Plot No.51, F-202 Sec4A, Koparkhairane Navi Mumbai, Thane, Maharashtra and M/s. Jaydam Agri Trading (IEC – BAFPS0413K), Mohabbatsar Chelasi, Jhunjhunu, Rajasthan (hereinafter referred to as "said DTA clients" for sake of brevity) and by declaring the Country of Origin as Italy. Whereas, information indicates that the subject goods have been mis-declared in terms of Country of Origin. Whereas, information indicates that India has suspended import of fresh Kiwi Fruits from Iran and several DTA clients are importing the subject goods by means of mis-declaration of Certificate of Origin and other import documents submitted before KASEZ Customs Authorities. Whereas, information suggests that the subject consignments may also contain harmful pests and same are not in compliance with requisite quality norms set by different regulatory agencies. Whereas, information suggests that introduction of any quarantine pests through infested import consignments is a possible threat to Indian bio-security. The details of goods are mentioned below:-

**TABLE - I**

<b>Import BE No. and date</b>	<b>Declared country of Origin</b>	<b>Gross Weight (kgs) and Container Nos.</b>	<b>Item description</b>	<b>DTA BE No. and date</b>	<b>Buyer</b>	<b>Value of goods in Rs.</b>
1017998 dated 18.11.2022	Italy	47,000 Kgs Container No. (CXRU1361566 SEGU9796074)	Fresh Kiwi	2013444 dated 22/11/2022	Sufi Impex	36,80,656/-
1017990 dated 18.11.2022	Italy	70,380 Kgs Container No. (BSSU9900485, BSSU9900377, BSSU9900400)	Assorted Fresh Kiwi	2013443 dated 22/11/2022	Jaydam Agri Trading	54,09,215/-
1017916 dated 16.11.2022	Italy	46,920 Kgs Container No. (BSSU9900401, BSSU9900130)	Assorted Fresh Kiwi	2013309 dated 19/11/2022	Jaydam Agri Trading	35,51,311/-

2. Whereas, the subject consignments, at the time of import (RUD-01), have been subjected to 100% detailed examination and goods have been found as declared i.e., "Fresh Kiwi / Assorted Fresh Kiwi Fruits". Further, it has been reported that no evidence of Iranian nature of Shipments in terms of markings on Boxes, pallets, sachets of absorber, packing material etc have been found. Since the said SEZ Unit was not able to produce the documents filed at gateway port

of the declared country of origin, the subject matter was taken up for further investigation to rule out the introduction of any quarantine pest through infested import consignments which may become a possible threat to Indian biodiversity. During the course of enquiry proceedings, jurisdictional Customs formations were requested to carry out IEC verification of respective DTA client & IEC verification reports received from the jurisdiction Customs formation indicates that the said IEC is genuine and in existence (RUD-02).

3. Whereas, based on inputs received from NCTC Mumbai, Kandla SEZ Customs vide letter dated 02.12.2022 requested PQ department to verify issues related to origin, quality, and related aspects. Further, PQ clearance in respect of absence of the pests as specifically mentioned in the National Plant Protection Organization (NPPO) letter dated 02.12.2022 was also requested from RPQS, Kandla. This office is in receipt of RPQS Kandla letter dated 08.12.2022 & NOC from Plant Quarantine department has been communicated to this office (RUD-03).

4. Whereas, the said SEZ unit vide letter dated 28.11.2022 (RUD-04) has also submitted original import documents like surrendered BL, certificate of origin, purchase order, Phytosanitary certificate issued by the authorized officer in UAE, Shipping Bill filed by supplier before UAE Customs and Phytosanitary certificates issued by the Italy PQ department. It is informed that the PQ certificate issued by declared country of origin i.e., Italy and country of re-export i.e., UAE were forwarded to Plant Quarantine Department to categorically rule out the modus operandi to import Iranian origin Kiwi and to rule out the presence of any pest as specifically mentioned in the NPPO letter dated 07.12.2021.

5. Whereas, during the scrutiny of PQ Certificates issued by UAE Authorities (RUD-05), it has been found that the certificates carry the details like name of Exporter, Importer, Container No., Quantity, Date of Inspection and details of source country Phytosanitary Certificate Nos. & PC Number of Country of re-export. Further, it is informed that RPQS, Kandla vide letter dated 08.12.2022 has submitted the following:-

*“Every consignment of plant species herein specified in Schedule-V, VI and VII shall be accompanied by an **original Phytosanitary Certificate issued by the authorized officer at country of origin or Phytosanitary Certificate for re-export issued by the country of re-export along with attested copy of Phytosanitary certificate from country of origin, as the case may be, with the additional declarations being free from pests mentioned under Schedule-V and VI of this order or that the pests as specified do not occur in the country or state of origin***

*•In all import cases of kiwi fruit consignments, the Phytosanitary Certificates for re-export from UAE mentioning country of origin (Italy/Chile) and required additional declarations for import of kiwi fruits are verified from PSC verifying website provided by NPPO, UAE. The PSC of Chile origin is also verified online through the website of NPPO Chile. **It is further informed that NPPO Italy do not have any online PSC verification system and in cases, where it is doubt that PSC is fraudulent/ tempered, then only PSC is sent for verification**”.*

8 Whereas, during the course of investigation in similar matter, this office has received NCTC email dated 03.01.2023 (RUD-06) vide which it has been informed that Phytosanitary Certificate Number 2166631 issued by Chilean Authority that has been used to clear imported goods at Kandla SEZ has already been used to clear multiple consignments at Mundra SEZ. Further, it has been informed by NCTC, Mumbai that same certificate used in Bill of entry filed before KASEZ customs has been used by **multiple importers**, namely, M/s. The Ripen Fruits in the DTA BE number 2015917 dated 14/10/2022 filed before APSEZ authorities and M/s. AA Shipping Services in DTA BE No. 2017759 dated 14/11/2022 filed before APSEZ authorities respectively. In view of the above, it appears that **several Importers are using same PQ certificate issued by Chilean Authorities to clear multiple consignments across various Ports/SEZs**. During the course of

investigation, this office has already shared the additional inputs received from NCTC, Mumbai vide email dated 03.01.2023 in respect of use of same PQ certificate issued by Chilean Authorities to clear multiple consignments at Mundra SEZ with RPQS, Kandla, APSEZ and Mundra Customs Authorities respectively. RPQS Kandla has been requested to verify the genuineness of PQ certificates issued by Italian/Chile authorities and ascertain the fact that a single PQ Certificate issued by Italy/Chile authorities is being used to clear single consignment in respect of goods mentioned at Table –I at the time of import in India across all Customs formations or otherwise. Replies from concerned formation is awaited.

5. Whereas, It is informed that the said SEZ unit/DTA client has not submitted the Export documents such as Shipping Bill, Bill of Lading, Invoice etc. based on which the goods were cleared from the gateway port of declared country of origin i.e., Italy till date. It is informed that the said SEZ unit has not submitted the import documents such as Bill of Entry, Bill of Lading, Invoice etc. based on which the goods were cleared for import by UAE Customs authorities till date. It is informed that NCTC Alert indicates that the goods may be of Iranian origin which are prohibited in India since December, 2021 as per order issued by the nodal body on the subject matter i.e., National Plant Protection Organization, India. The NCTC in its analysis has also questioned these goods to be of Iranian origin. It also appears as to why such perishable goods from Italy are being imported and as to why such goods are being cleared via SEZ route. It also appears that the routing the Italian origin goods through Dubai is not making any sense economically and the supplier had previously supplied the Iranian origin Kiwi. In view of above, it appears that subject goods are suspicious in terms of correctness of the country of origin declared before KASEZ Customs Authorities and therefore also appear to be liable for confiscation under Section 111 of the Customs Act, 1962.

11. Whereas, this office is in receipt of letters dated 08.12.2022 and 15.12.2022 vide which the said SEZ unit has informed that already 100% examination on item/package level has been completed and no evidence in respect of Iranian nature of shipment has been noticed. Goods have been found to be fit for human consumption and NOCs has been issued by FSSAI on 24.11.2022. Goods have been inspected by PQ authorities and NOCs for clearance for human consumption has been given on 25.11.2022 (RUD-07). Further, desired clarification from PPQ department in respect of NCTC alert has also been given on 08.12.2022. Further, IEC verification reports have been received from jurisdictional customs authorities and all the IEC's have been found to be genuine and in existence. Further, the said SUZ unit have submitted that goods are freely importable from Chile and Italy and there is no restriction on export of these goods of said origin from/via third party/country. Further, they have requested for consideration of their prayers made via submission dated 15.12.2022. Importer has invited attention to the Hon'ble Gujarat High Court Order dated 29.11.2022 in SCA No. 23784 of 2022 in the case of M/s. A and A Shipping Services Vs. Union of India involving seizure of "Fresh Kiwi Fruit" on alleged premise of suspicious declaration in terms of country of origin, in their prayer dated 03.01.2023. Since the matter pertains to live shipment of the perishable food product, the said Importer has humbly requested to decide appropriately on provisional release of subject goods under section 110A of the Customs Act, 1962.

15. **Status of the Goods:**

15.1 Whereas, Hon'ble High Court of Gujarat, in the Special Civil Application No. 2505 of 2023 (RUD-xx), directed to provisionally release the seized goods and ordered that the authorities shall permit the release of the goods as per the following directions.

*“(i) The petitioner shall pay the entire due tax amount, if not paid within three days.*

*(ii) The competent authority of the respondents shall proceed to determine the conditions to be imposed against the petitioner for the purpose of release of the goods, which may include furnishing of bank guarantee, furnishing of bond and undertaking*

*from the person at the helm of affairs of the company on the very lines of order passed by this Court in M/s. A and A Shipping Services (supra).*

EI

*(iii) The conditions regarding furnishing of bank guarantee, furnishing of bond and including payment of tax, shall be the conditions to be satisfied by the petitioner primarily as condition precedent for release of the goods.*

*(iv)<sup>EI</sup> Any other conditions such as seeking certain documents, which may be prescribed by the authorities shall be treated as subsidiary conditions, for compliance shall be ensured, which appropriate time, if required, shall be given to the petitioner. However, noncompliance of those conditions shall not be a ground not to release the goods.*

EI

*(v) The entire exercise above including the release of the goods shall be within five days from the date of receipt of copy of this order.”*

15.2 Since the said goods appeared to be liable for confiscation under the reasonable belief that the subject import is in contravention to the various provisions of SEZ Act 2005, Customs Act, 1962 and present date Foreign Trade Policy, the same was seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 20.11.2022 (RUD-08). Whereas, based on the order of Hon'ble High Court of Gujarat, the subject goods, as mentioned in the Table-I above, was cleared to DTA vide Bills of entry nos. 2013443, 2013444 dated 22.11.2022 and 2013309 dated 19.11.2022 on 21.04.2023, 24.04.2023 and 21.04.2023 respectively (RUD-09).

## **15. Legal Provisions:**

The following are the legal provisions, which are in general applicable in the present case. The list given herein is indicative and not exhaustive, as the context of legal provisions may otherwise require reference of other legal provisions, reference of which are also to be invited, as and when required:

### **15.1. The Customs Act, 1962:**

- Section 46 of the Customs Act, 1962
- Section 11 of the Customs Act, 1962
- Section 2(33) of the Customs Act, 1962
- Section 2(39) of the Customs Act, 1962
- Section 111(m) of the Customs Act, 1962.
- Section 112 of the Customs Act, 1962
- Section 114AA of the Customs Act, 1962

### **15.2. SEZ Act, 2005 and SEZ Rules, 2006**

- Rule 15(9) of the SEZ Rules, 2006.
- Rule 18 of the SEZ Rules, 2006.
- Rule 27(10) of the SEZ Rules, 2006.
- Rule 29(1) of the SEZ Rules, 2006.
- Rule 29(2) of the SEZ Rules, 2006.
- Rule 47 of the SEZ Rules, 2006.
- Rule 48 of the SEZ Rules, 2006.

## **16. FINDINGS AND CONCLUSION:**

16.1 In view of above discussed facts and findings, it is informed that the said SEZ unit/DTA client has not submitted the Export documents such as Shipping Bill, Bill of Lading, Invoice etc. based on which the goods were cleared from the gateway port of declared country of origin i.e. Italy till

date. It is informed that the said SEZ unit has not submitted the import documents such as Bill of Entry, Bill of Lading, Invoice etc. based on which the goods were cleared for import by UAE Customs authorities till date. It also appears as to why such perishable goods from Italy are being imported and as to why such goods are being cleared via SEZ route. It also appears that the routing the Italian origin goods through Dubai is not making any sense economically and the supplier had previously supplied the Iranian origin Kiwi. Whereas, during the course of investigation, this office has received NCTC email dated 03.01.2023 vide which it has been informed that Phytosanitary Certificate Number 2166631 issued by Chilean Authority that has been used to clear imported goods at Kandla SEZ has already been used to clear multiple consignments at Mundra SEZ. Further, it has been informed by NCTC, Mumbai that same certificate used in Bill of entry filed before KASEZ customs by said SEZ Unit has been used by **multiple importers**, namely, M/s. The Ripen Fruits, M/s. A & A Shipping Services and M/s. Kajjal Overseas filed before APSEZ authorities. In view of the above, it appears that **several Importers are using same PQ certificate to clear multiple consignments across various Ports/SEZs.**

16.2 In view of above, it appears that subject goods are suspicious in terms of correctness of the country of origin declared before KASEZ Customs Authorities and therefore also appear to be liable for confiscation under Section 111 of the Customs Act, 1962 & the said Importer appears to be liable for penal action in terms of Section 112/114A of the Customs Act, 1962. Further, it appears that the said SEZ unit is liable for penalty under Section 117 of the Customs Act, 1962.

### **17. Charging Paragraphs:**

14.1 Now, therefore, the said SEZ Unit DTA client, namely, M/s. Sufi Impex (IEC - ASRPK4176E), Prabhu Nivas, Plot No.51, F-202 Sec-4A, Koparkhairane Navi Mumbai, Thane, Maharashtra are hereby called upon to Show Cause to the Additional Commissioner of Customs, Customs House, Kandla having his office situated at Custom House, Near Balaji Temple, New Kandla, Dist. Kutch, Gujarat-370210 within one month from the receipt of this notice as to why:

- a)The goods having total value of Rs. 36,80,656/- (Rupees Thirty Six Lakhs Eighty Thousand Six Hundred Fifty Six only) as detailed in Table - I above, should not be held liable for confiscation under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962,
- b)Penalty should not be imposed under Section 112 and 114AA of the Customs Act, 1962.

14.1 Now, therefore, the said SEZ Unit DTA client, namely, M/s. Jaydam Agri Trading (IEC – BAFPS0413K), Mohabbatsar Chelasi, Jhunjhunu, Rajasthan are hereby called upon to Show Cause to the Additional Commissioner of Customs, Customs House, Kandla having his office situated at Custom House, Near Balaji Temple, New Kandla, Dist. Kutch, Gujarat-370210 within one month from the receipt of this notice as to why:

- a)The goods having total value of Rs. 89,60,526/- (Rupees Eighty Nine Lakhs Sixty Thousand Five Hundred Twenty Six only) as detailed in Table - I above, should not be held liable for confiscation under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962,
- b)Penalty should not be imposed under Section 112 and 114AA of the Customs Act, 1962.

14.3. Now, therefore, the said SEZ Unit, namely, M/s. The Variety Impex (IEC – CXDPK5825P), Unit No. 106, Godavari SDF Complex, Phase-II, KASEZ, Gandhidham, Kutch are hereby called upon to Show Cause to the Additional Commissioner of Customs, Customs House, Kandla having his office situated at Custom House, Near Balaji Temple, New Kandla, Dist. Kutch, Gujarat-370210 within one month from the receipt of this notice as to why:

a)The goods having total value of Rs. 1,26,41,182/-(Rupees One Crore Twenty Six Lakhs Forty One Thousand One Hundred Eighty Two only) as detailed in Table - I above, should not be held liable for confiscation under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962,

b)Penalty should not be imposed under Section 114AA/117 of the Customs Act, 1962.

c)Bond-cum-Legal Undertaking in Form-H furnished by the said SEZ Unit should not be enforced towards its above liabilities.

15. The Noticee/Noticees are hereby directed to mention in their reply to this notice whether they wish to be heard in person before the case is adjudicated. If no cause is shown against the action proposed to be taken or they do not appear in person before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidence available on record.

16. Further, the Noticees are advised to mention their email address in writing for virtual hearing as per CBIC's Instruction dated 21.08.2020 issued vide F. No. 390/Misc/3/2019-JC.

17. The list of relied upon documents (RUDs) in this case is as per Annexure-R.

18. This notice is issued without prejudice to any other action that may be taken against the said Noticee/Noticees or any other person(s) concerned with the said act(s) of commission(s) and omission(s), whether mentioned hereinabove or not under the provisions of Customs Act, 1962 and the rules framed thereunder, and/or any other laws for the time being in force.

Digitally signed by  
VISHWAJEET SINGH  
Date: 07-04-2026  
19:05:42

Commissioner (In-Situ)  
Custom House, Kandla.

**By Speed Post/Hand over to**

**F. No: GEN/ADJ/ADC/480/2024-Adjn-O/o Commr-Cus-Kandla**

- M/s. The Variety Impex (IEC -CXDPK5825P), Unit No. 106, Godavari SDF Complex, Phase-II, Kandla Special Economic Zone, Gandhidham, Kutch.
- M/s. Sufi Impex (IEC - ASRPK4176E), Prabhu Nivas, Plot No.51, F-202 Sec-4A, Koparkhairane Navi Mumbai, Thane, Maharashtra.
- M/s. Jaydam Agri Trading (IEC – BAFPS0413K), Mohabbatsar Chelasi, Jhunjhunu, Rajasthan.

Copy submitted to:-

- The Development Commissioner, KASEZ for kind information please.
- The Deputy/ Assistant Commissioner of Customs, Adjudication Cell, Custom House, Kandla.

- The Deputy Commissioner of Customs, Kandla Special Economic Zone, Gandhidham, Kutch.
- Guard File.

### **Annexure-R**

#### **(List of Relied Upon Documents)**

- RUD-01: Copy of Import Bills of Entry filed
- RUD-02: Copy of IEC verification reports.
- RUD-03: Copy RPQS Kandla letter 08.12.2022
- RUD-04: Copy of M/s. The Variety Impex letter dated 28.11.2022
- RUD-05: Copy of UAE Phytosanitary Certificates
- RUD-06: Copy of NCTC e-Mail dated 03.01.2023
- RUD-07: Copy of FSSAI NOCs dated 24.11.2022 and PQ NOCs dated 25.11.2022
- RUD-08: Copy of Seizure Memo dated 20.11.2022
- RUD-09: Copy of DTA Bills of Entry filed