



कायलिय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,
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SHOW CAUSE NOTICE

1. Intelligence:

A specific intelligence was received in the office of the Directorate of Revenue Intelligence (Hqrs.), 7th Floor, Drum Shaped Building, I. P. Bhawan, I. P. Estate, New Delhi (hereinafter referred to as 'DRI') which indicated undervaluation in the export of rice. The intelligence further indicated that after imposition of duty on export of rice with effect from 09.09.2022, several exporters, including **M/s Jay Ambe Agro**, 93, Opposite Jadaba Hall, Near HP Petrol Pump, Jetalpur, Ahmedabad, Gandhinagar, Gujarat-382426, having IEC No. **0809017628** (hereinafter referred to as 'the exporter' for sake of brevity), were engaged in short payment of export duty by resorting to undervaluation by claiming abatement of duty from the assessable value. Thus, export duty was not being paid on the transaction value of the export goods (i.e. FOB Value) as provided u/s 14 of the Customs Act, 1962 instead the same was being paid on a reduced value by wrongly declaring the same as FOB Value thus causing short-payment of the appropriate duty of Customs.

2.1 Preliminary analysis of the Intelligence revealed that export duty at the rate of 20% *ad valorem* was imposed on export of rice vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022.

2.2 Scrutiny of the export data pertaining to the said exporter revealed that they were evading duty on export of rice by adopting two different methods i.e. (i) by claiming wrongful deduction of export duty from the transaction value, (ii) by covertly taking reimbursement of export duty from the overseas buyer (against separate invoice & debit note other than export invoice submitted to the customs) without even claiming the same as deduction in the shipping bills (ii) by declaring excess freight amounts.

2.3 The exporter used to negotiate a specific price for sale of their export consignment which was received by them from the overseas buyer as '**consideration**' for sale of rice. Thus the '**consideration/negotiated price**' was '**the actual transaction value**' for their export consignment on which the exporter ought to have paid the 20% export duty. However, to evade duty, the exporter had artificially bifurcated the afore-said negotiated price/total consideration, in two parts i.e. (i) '**price of goods**' and (ii) '**export duty amount**'. The exporter had declared the reduced value '**price of goods**' as their transaction value and the other part of the consideration which was equal to the '**export duty amount**' was not included by them in their '**transaction value**'. Instead, the same was claimed as '**deduction**' and was declared in the Shipping Bills under the Head "**Deduct/Deduction**". Thus, a part of consideration, equal to the '**export duty amount**', was not included in the transaction value for payment of export duty causing short payment of duty.

2.4 In several other cases of export of rice on CIF/CF incoterm basis, investigation revealed that the exporter had declared excess freight amounts than the actual freight amounts paid by them to the shipping lines/freight

forwarders. In such shipments, FOB price is deduced from the CIF/CF prices by deducting the actual freight amounts paid by the exporter. By claiming excess freight amounts in the shipping bills, the exporter had wrongly deducted a part of the consideration/transaction value which is equal to the excess freight amounts claimed by them. Thus, a part of consideration, was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.5 From the preliminary scrutiny of the export data, discussed in above paras, it appeared that the exporter had treated the actual transaction value (i.e. actual FOB Value) of their export goods as cum-duty FOB Value and they have declared the lesser transaction value by wrongly claiming abatement of duty from the actual transaction value and by claiming excess freight amounts in the shipping bills. By adopting the above-mentioned modus operandi, the exporter had been evading the payment of duty on the differential value between the actual transaction value of the export goods (i.e. FOB Value) and their declared reduced FOB value.

2.6 Valuation of the goods is covered by Section 14 of the Customs Act, 1962 which provides that 'the value of the ... export goods shall be **the transaction value** of such goods, that is to say, the price actually paid or payable for the goods when sold ... for export from India **for delivery at the time and place of exportation. Further**, Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR, 2007) notified vide [M.F. (D.R.) Notification No. 95/2007-Cus (N.T.), dated-13-09-2007] also provide that value of the export goods shall be its transaction value. Rule 2 (1) (b) of the CVR, 2007 defines the term 'transaction value' as the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962. Further rule 3(1) of CVR, 2007 also stipulates that subject to rule 8 (providing for rejection of the declared value), the value of export goods shall be the transaction value. CVR, 2007 came into effect from 10.10.2007.

2.7 This practice of payment of export duty on cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus.** dated **10.11.2008** in this regard stipulated that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

Initiation of investigation:

3.1 Pursuant to the afore-said intelligence and apparent undervaluation of the export goods, investigation was initiated against various exporters of the said commodity including **M/s Jay Ambe Agro**, 93, Opposite Jadaba Hall, Near HP Petrol Pump, Jetalpur, Ahmedabad, Gandhinagar, Gujarat-382426 (bearing **Importer Exporter Code No. 0809017628**), by issuance of summons under the provisions of section 108 of the Customs Act, 1962. It was a partnership firm owned by the family members of Sh. Jeewat Santhosh Kumar Maheshwari with Sh. Jeewat Santhosh Kumar Maheshwari, Sh. Santhosh Kumar Jairamdas Maheshwari and Smt. Mandovariben as its partners.

3.2 Vide summons dated 05.07.2024 24.07.2024 and 13.01.2025 issued to M/s Jay Ambe Agro under the provisions of the Customs Act, 1962, documents related to the investigation such as shipping bills, export invoices, freight

invoices, bill of lading and Bank Realization Certificates etc. were requested from the exporter.

3.3 In pursuance of the summons issued to M/s Jay Ambe Agro, the exporter sought postponement of proceedings and subsequently vide letter dated 16.01.2025 (**RUD-1**) submitted copies of the export documents such as export invoices, shipping bills, freight invoices, bank realization certificates and shipment wise details of remittances received by them and ocean freight amounts paid by them pertaining to export of rice made by them during the period F.Y. 2022-23, F.Y. 2023-24 (total pages 822 pages) (**RUD-1**).

4. During investigation, statements dated 16.01.2025 (RUD-2) of Sh. Jeewat Santhosh Kumar Maheshwari, Partner, M/s Jay Ambe Agro, was recorded u/s 108 of the Customs Act, 1962.

5.1 In his statement recorded u/s 108 of the Customs Act, 1962, Sh. Jeewat Santhosh Kumar Maheshwari, Partner, M/s Jay Ambe Agro *inter alia* stated that M/s Jay Ambe Agro was incorporated in the year 2009 by his father; that presently he along with his father Sh. Santhosh Kumar Jairamdas Maheshwari and his mother Smt. Mandovariben were the only three partners of the said firm; that he joined as partner of the said firm in the year 2017/2018; that he and his father owned 40% share each in the said firm and his mother owned only 20% share; that he looked the whole ambit of accounts and finance, taxation and financial compliances, direct taxes, indirect taxes, production, sale purchase, exports etc. of the said firm; that M/s Jay Ambe Agro is engaged in the business of production/milling and trading of rice; that his father looked after the production/milling work of rice but his mother was only a sleeping partner and she did not look after any work in the said firm; that all the business activities of the said export firm related to export and trading of rice were looked after by him only; that trading of rice included domestic trading in India as well as exports to African countries through traders based in Singapore and Dubai; that they had exported around 47 shipments of dutiable rice during the period from September, 2022 to July, 2023; after ban on export of white rice they stopped exporting rice and traded only domestically; that vide his letter dated 16.01.2025, he had submitted copies of all the export documents pertaining to export of rice by his company which included copies of shipping bills, commercial invoices, packing list, bill of lading, bank realization certificates, debit notes, and freight invoices etc.; that their major buyers of rice were M/s MOI International (Singapore) Pte Ltd., Singapore, M/s Devendra Trading LLC, Dubai & M/s Jatlee Commodities DMCC, Dubai; that the rice purchased by the above mentioned traders/buyers was consigned to a third party as informed by the buyers; that mostly the shipments were consigned to the African countries;

5.2 He further stated that the procurement of rice for export was handled by him; that they had procured rice from various rice millers based in Gujarat, Karnataka, Bihar, Uttar Pradesh, Maharashtra, Madhya Pradesh etc.; that they also purchased paddy from farmers based in Gujarat and processed the same in their own mill; that the rice purchased from millers/ processed and milled in their own mill was quality- checked with the help of a third party surveyor which was then packed in PP and BOPP bags marked with the buyer's brand name and the same was dispatched to the nearby port and exported to the country of destination as informed by the buyers.

Their payment term was 100% CAD (cash against documents) i.e. they submitted the export documents to their bank in India which provided the same to the bank

of the buyer in foreign country; that the bank of the buyer then used to notify the buyer about receipt of the documents; that thereafter the buyer used to release the payment which was received in their bank account.

5.3 On being asked he further stated that the term 'FOB' meant 'Free on Board'; that as per his understanding of the said term, all expenses to load the export goods on the vessel were to be included in the value of shipments exported on FOB incur term basis; that loading of the export goods in the foreign going vessel takes place after clearance of the goods by the customs authorities and after the payment of export duty thereon; that all the expenses made by for loading the export goods on to the vessel were included by them in the FOB value of the goods declared in the shipping bills.

5.4 On being shown the print out of incoterm 2020 from Wikipedia which stated that in FOB Incoterms the costs related to loading at origin, export custom declaration, carriage to the port of export, unloading of truck in the port of export, loading on the vessel in the port of export are borne by the seller of the export cargo; that all costs subsequent to the loading of the export cargo on to the vessel such as carriage to the port of import and all other expenses made subsequently are to be borne by the buyer of the export cargo.

On being asked regarding the time and place of exportation in respect of export of goods, he stated that the place of exportation is on board the vessel after custom clearance of the export cargo i.e. after issuance of Let Export Order by the proper officer of customs and time of exportation is the time when the export goods are loading on board the vessel.

5.5 On being asked about his understanding about the delivery at the time and place of exportation in respect of export goods, he stated that delivery of the export goods takes place when the export goods are loaded on the foreign going vessel and bill of lading is issued by the master of the vessel.

5.6 On being shown the provisions of section 14 of the Customs Act, 1962 and Rule 2(1) (b) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, he stated that he had gone through the provisions of section 14 of the Customs Act, 1962 and Rule 2(1) (b) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and after going through the said rules, he admitted that the export duty was payable on the transaction value of the export goods and the transaction value should be taken as the value for delivery of the export goods at the time and place of exportation; that the exportation takes place when the export goods are loaded on the foreign going vessel after clearance of the goods from the Customs Authorities at the port of export; that after payment of applicable duties on such export goods, the goods are loaded on to vessel for sail to the overseas destination; thus all the expenses for loading the export goods on the vessel are included in the transaction value for the purposes of the Customs Tariff Act, 1975 and the Customs Act, 1962; that these expenses included cost of the procurement of the export goods, transportation, insurance etc. for transportation of the goods to the port of exportation for clearance from the customs authorities, expenses of packing, handling at port, clearance charges at port including export duties etc. and charges/expenses made for loading of such goods on the vessel; that all these expenses are included in the transaction value of the export goods for the purposes of the Customs Tariff Act, 1975 and the Customs Act, 1962 and for the purposes of calculation and payment of export duties; that as per the incoterms, such transaction value is referred as the FOB Value of the export goods wherein

all costs and risks up to the loading of the export goods in the ship are borne by the seller. If the consignment is exported on CIF basis, the cost of ocean freight and insurance charges paid are deducted from the CIF value to calculate the FOB Value for the payment of export duty.

5.7 In this regard, he stated that in respect of export of rice made by them in their export firm namely M/s Jay Ambe Agro, they had not paid the export duty on the transaction value as contemplated under Section 14 of the Customs Act, 1962 instead they had paid export duty on a value which was lesser than the transaction value stipulated under Section 14 of the Customs Act, 1962; that they had deducted a part of the transaction value which was equal to the amount of export duty from the actual transaction value as contemplated under Section 14 of the Customs Act, 1962; that they had paid export duty on cum-duty FOB Value instead of the actual FOB (i.e. transaction value u/s 14 of the Customs Act, 1962); that they had recovered the full transaction value inclusive of export duty from the foreign buyer of the exported rice in case of the consignments exported on CIF/CNF/FOB basis; that in case of the consignments exported by them on CIF basis, they had recovered ocean freight and insurance charges also in addition to the FOB value of the export goods; that thus in both type of consignments exported by them either on FOB basis or on CNF/CIF basis, they had not paid duty on a part of the transaction value of the export goods which was equal to the duty amount paid by them on export of goods; that thus they had not paid the export duty on the transaction value contemplated under the provisions of section 14 of the Customs Act, 1962; that there was a short payment of duty on account of wrong deduction of the said amount (equal to the amount of 20% duty paid on export) from the transaction value of exported goods (i.e. FOB value).

5.8 On going through a printout of CBIC Circular No. 18/2008-cus dated 10.11.2008, he stated that the CBIC circular also provided that the value for charging export duty shall be the FOB value of the export goods and the practice of calculation of the FOB value as cum-duty price has been discontinued by the CBIC with effect from 01.01.2009 as per the said circular.

In this regard, on being asked as to whether the deduction amounts separately claimed by them from the buyer of the exported rice were includable in the FOB transaction value for calculation of the export duty, he stated that since these charges (towards export duty) were also part of their cost and expenses incurred for effecting the export of goods on FOB basis and the same had been received by them from the supplier, the same should be included in the transaction value for calculation of the export duty.

5.9 He further stated that after the imposition of duty on export of rice with effect from September, 2022, for a period of around 4-5 months, they presented an Invoice having lower FOB value before the Customs authorities which didn't include all the expenses (such as export duty) incurred by them for effecting the said export; that in those cases of export, they had not claimed any deduction of the duty amount in the shipping bills filed by them; that for receipt of remittances from the buyer in such cases, they had prepared a separate Invoice cum packing list which included the actual transaction value of the export goods and the same was sent to the Buyer/ Bank to receive remittances; that they had also issued a debit note to the buyers for recovery of export duty amount from them and the same was also submitted by them to the banks for processing of

the duty amount recovered from the buyer over and above the invoice amount declared before the customs authorities.

5.10 He further stated that for example, shipment of rice exported by them vide **shipping bill no. 4497609 dated 28.09.2022**, they had declared , in the shipping bill - Invoice value of USD **54945**, FOB Value of USD **40500**, Freight amount of USD 14175, Insurance of USD 270, Deduction amount as 'nil'; that in the corresponding invoice cum packing list bearing no. 331 submitted to the customs authorities they had declared the same invoice value of USD **54945** i.e. FOB Value of USD **40500**, Freight amount of USD 14175, Insurance of USD 270.

5.11 He further stated that in respect of the same shipment they had raised a separate invoice bearing the same no. i.e. invoice no. 331, to the buyer wherein the total invoice value was mentioned as USD **63045**. The said total invoice value of USD **63045** was inclusive of the export duty amount of USD 8100 equal to Rs. 637470/- at exchange rate of Rs. 78.7 per USD (calculated @ 20% on the declared FOB value of USD 40500); that in respect of the said shipment they had raised a debit note for an amount of USD **8100** to the buyer which was also submitted by them to the bank for processing the receipt of the said amount; that in respect of the said shipment, they had recovered total amount of USD **63045**/- from the buyer out of which an amount of USD **54945** has been shown in the bank realization certificate whereas the remaining amount of USD **8100** was not shown in the BRC; that the said amount of USD 8100 had been processed by the banks under RBI Accounting Code P1306 for refund of taxes; that after going through the provisions of section 14 of the Customs Act, 1962 and aforesaid CBIC Circular, he had understood that actual FOB Value in respect of the aforesaid shipment should have been as **48600USD** (40500 USD + 8100 USD) on which export duty should have been paid by them.

5.12 On being asked he further stated that after around 4-5 months, as per the practice followed by some other exporters if rice, they started claiming deduction of the export duty paid amounts in the shipping bills; that in those cases also, they had declared the lesser FOB Value for payment of export duty in the shipping bills; that in those cases, they had prepared two separate Invoice cum packing list. Invoice cum packing list having lower FOB Value (not containing duty amount) was submitted by them to the customs authorities for payment of export duty, whereas a separate invoice cum packing list having actual FOB amount (inclusive of duty amount) thus having actual consideration amount to be received by them from the buyer for export of the goods was issued to the buyer and banks along with a debit note for recovery of export duty amount; that in all such cases they had recovered the export duty amount from the buyer but they had claimed the said duty paid amount as deduction in the shipping bills.

5.13 In this regard, he further stated that, for example, in respect of the shipment of rice exported by them vide shipping bill no. **2436149 dated 13.07.2023**, they had declared, in the shipping bill - Invoice value of USD **174555**, FOB Value of USD **133650**, Freight amount of USD **40905**, Deduction amount of USD **26730**. In the corresponding invoice cum packing list bearing no. 51/23-24 submitted to the customs authorities they had declared the invoice value of USD **174555** CNF i.e FOB Value of USD **133650**, Freight amount of USD **40905**. In respect of the same shipment, they had raised a separate invoice bearing the same no. i.e. invoice no. 51/23-24, to the buyer wherein the total

invoice value was mentioned as **USD 201285**. The said **total invoice value** of **USD 201285** was inclusive of the export duty amount of **USD 26730** equivalent to **Rs. 2179832/-** at exchange rate of Rs.81.55 per USD; that in respect of the said shipment, they had raised a **debit note** for an amount of **USD 26730** to the buyer which was also submitted by them to the bank for processing the said amount; that in respect of the said shipment, they had recovered total amount of **USD 201285/-** from the buyer out of which an amount of **USD 174555** had been shown in the bank realization certificate whereas the remaining amount of **USD 26730** was not shown in the BRC. The said amount of **USD 26730** had been processed by the banks under RBI Accounting Code P1306 for refund of taxes; that after going through the provisions of section 14 of the Customs Act, 1962 and aforesaid CBIC Circular, he had understood that actual FOB Value in respect of the aforesaid shipment should have been **160380 USD** (declared FOB Value of USD 133650 + deduction claimed amount of USD 26730) on which export duty should have been paid by them.

5.14 On being further asked he stated that in addition to the above, in respect of several shipments, actual freight amounts paid by them was lower than the freight amounts declared by them in the shipping bills; that for example, in respect of the aforesaid shipment of rice exported by them vide shipping bill no. **2436149 dated 13.07.2023**, they had declared, in the shipping bill - Freight amount of **USD 40905** (i.e. **Rs. 33,35,803/-**) whereas in the freight invoices for the said shipment raised by the freight forwarder M/s ISSGF India Pvt. Ltd. the freight mentioned was **Rs. 13,33,743/-**. Thus, in respect of the said shipment, they had declared an excess freight amount of **Rs. 20,02,060/-**. The said excess freight amount was also includible in the transaction value of the export goods for payment of duty as the said excess freight amount had also been recovered by them from the overseas buyer of the export goods.

5.15 He further stated that he had submitted an excel sheet containing details of actual ocean freight amounts paid by them on export of rice in respect of all shipments exported on CIF/CF incoterm basis along with copies of such freight invoices; that in addition to the above, he had also submitted details of total amounts which had been recovered by them from the overseas buyer of the export goods as reimbursement of duty under RBI accounting code P1306 along with copies of the debit notes; that he had also submitted details of total amounts received by them from the overseas buyer which had been reflected in the Bank Realization Certificate (BRC) of each shipment along with copy of the BRCs.

5.16 He further stated that on being shown the provisions of Section 14 and CBIC Circular No. 18/2008-cus dated 10.11.2008, he had understood that for payment of export duty, transaction value of the goods had to be arrived at and the transaction value of the export goods was the price of the goods inclusive of all expenses and costs up to the loading of the goods in the vessel after clearance by customs authority; that they had paid the duty by considering the FOB Value as cum duty FOB value instead of the actual FOB value of the export goods thus causing short payment of duty on export of rice; that it was done by them on being advised by some other exporters of rice; that now, he had understood that the short payment of duty on export of rice by paying duty on cum duty FOB value instead of the actual FOB was a mistake on their part; that he had prepared details of all shipping bills for which they had paid duty on cum-duty FOB instead of actual FOB and would calculate their differential duty liability on account of such short payment of duty due to wrongful deductions claimed by

them as well as due to presenting lower Invoice Value to the Customs and by declaring excess freight amounts in the shipping bills; that he would try to deposit their entire differential duty liability at the earliest.

6.1 The export documents and details submitted by the exporter during investigation were analysed and it was revealed that M/s Jay Ambe Agro had exported 48 shipments of rice having description as Indian Non-Basmati Raw Rice/ Indian IR-64 White Rice / Indian Long Grain Rice etc. by classifying the same under CTH 10063090 which were liable to export duty @ 20% *ad valorem* vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022 and 49 /2023-Customs dated the 25th August, 2023. In their export documents (Shipping Bills), they have declared the following three values (i) **Total Value, (ii) **Invoice Value** and (iii) **FOB Value**. The **Total Value** declared by them was inclusive of export duty and indicated the total consideration received by them from the overseas buyer. **Invoice Value** was declared after deducting from the Total Value, an amount equal to the export duty paid by them in respect of their export goods. **FOB Value** was declared after deduction of the ocean freight amounts and insurance amounts from the afore-said Invoice Value. Thus, total amount of deductions of **Rs. 5,30,16,068/-** were wrongly claimed by the exporter from the actual FOB Value in respect of their 35 export shipments as shown below.**

6.2 Deduction amounts wrongly claimed by the exporter from the actual FOB Value of exports which were equal to the export duty:

Scrutiny of the export documents and details submitted by the exporter during investigation revealed that the exporter had at the time of filing of shipping bills claimed the deduction of an amount of **Rs. 5,30,16,068/-** in respect of the following 35 shipping bills filed by them. The export duty amounts paid by them in respect of these 35 shipping bills were also at **Rs.5,30,16,072/-**. Therefore, the amounts claimed as 'deduction/deduct' were equal to the export duty amounts paid by them at the time of filing of these shipping bills. Investigation has revealed that these amounts claimed as 'deduction/deduct' were also recovered by the exporter from the overseas buyer in their bank accounts. The exporter had also confirmed these facts in his submission and statement recorded u/s 108 of the Customs Act, 1962.

Table: A

S. No.	Custom House Code	SB Number	SB Date	Invoice Number	Invoice Term	Declared Fob Value in Rs	Duty Amount Paid	Deduction Claimed in Sb In INR	Payment Received Through BRC In INR	Payment Received As Reimbursement Of Taxes In INR
1	INMUN1	2436066	13-07-2023	48/23-24	CF	73,76,198	14,75,240	14,75,240	1,16,69,805	-
2	INMUN1	2436149	13-07-2023	51/23-24	CF	1,08,99,158	21,79,832	21,79,832	1,42,34,960	21,79,832
3	INMUN1	2294541	07-07-2023	34/23-24	CF	63,41,328	12,68,266	12,68,266	72,72,711	12,68,266
4	INMUN1	2272984	06-07-2023	45/23-24	CF	70,28,640	14,05,728	14,05,728	80,60,972	14,05,728
5	INMUN1	1412747	31-05-2023	33/23-24	CF	70,45,920	14,09,184	14,09,184	80,80,790	14,09,184
6	INMUN1	1310665	25-05-2023	31/23-24	CF	70,45,920	14,09,184	14,09,184	80,80,790	14,09,184
7	INMUN1	1144662	19-05-2023	30/23-24	CF	70,45,920	14,09,184	14,09,184	80,58,771	14,09,184
8	INMUN1	1063861	16-05-2023	012/23-24	CF	70,94,588	14,18,918	14,18,918	86,22,653	14,18,918
9	INMUN1	1064829	16-05-2023	018/23-24	CF	35,47,294	7,09,459	7,09,459	43,11,326	7,09,459
10	INMUN1	1064831	16-05-2023	019/23-24	CF	35,47,294	7,09,459	7,09,459	43,22,241	7,09,459
11	INMUN1	1065248	16-05-2023	015/23-24	CIF	1,41,89,175	28,37,835	28,37,835	1,77,69,213	28,37,835
12	INMUN1	9918835	10-05-2023	021/23-24	CF	67,67,145	13,53,429	13,53,429	86,88,141	13,53,429
13	INMUN1	9702178	02-05-2023	014/23-24	CF	68,13,180	13,62,636	13,62,636	87,47,244	13,62,636
14	INMUN1	9668742	29-04-2023	013/23-24	CIF	71,42,850	14,28,570	14,28,570	90,10,980	14,28,570
15	INMUN1	9563391	26-04-2023	011/23-24	CIF	70,32,960	14,06,592	14,06,592	90,32,958	14,06,592
16	INMUN1	9445075	21-04-2023	010/23-24	CF	1,31,86,800	26,37,360	26,37,360	1,69,21,839	26,37,360

17	INMUN1	9294361	14-04-2023	008/23-24	CF	35,03,520	7,00,704	7,00,704	42,26,121	7,00,704
18	INMUN1	9296404	14-04-2023	009/23-24	CF	1,31,38,200	26,27,640	26,27,640	1,68,57,041	26,27,640
19	INHZA1	9233239	12-04-2023	006/23-24	CF	1,31,38,200	26,27,640	26,27,640	1,68,60,690	26,27,640
20	INMUN1	9250113	12-04-2023	007/23-24	CF	35,58,263	7,11,653	7,11,653	42,15,173	7,11,653
21	INMUN1	9123075	06-04-2023	004/23-24	CF	70,80,480	14,16,096	14,16,096	85,85,082	14,16,096
22	INMUN1	9123094	06-04-2023	005/23-24	CF	70,80,480	14,16,096	14,16,096	85,85,082	14,16,096
23	INMUN1	9096385	05-04-2023	001/23-24	CF	1,32,75,900	26,55,180	26,55,180	1,70,37,405	26,55,180
24	INMUN1	9058911	04-04-2023	002/23-24	CF	1,32,75,900	26,55,180	26,55,180	1,70,37,405	26,55,180
25	INMUN1	8621421	20-03-2023	680	CF	34,29,608	6,85,922	6,85,922	42,92,541	6,85,922
26	INMUN1	8528006	16-03-2023	679	CF	66,21,750	13,24,350	13,24,350	83,87,550	13,24,350
27	INMUN1	8499936	15-03-2023	678	CF	34,21,238	6,84,248	6,84,248	42,82,065	6,84,248
28	INMUN1	8406692	11-03-2023	676	CF	66,21,750	13,24,350	13,24,350	83,87,550	13,24,350
29	INMUN1	7925620	20-02-2023	664	CF	34,27,515	6,85,503	6,85,503	43,23,092	6,85,503
30	INMUN1	7932151	20-02-2023	665	CF	34,27,515	6,85,503	6,85,503	43,34,148	6,85,503
31	INMUN1	7408755	31-01-2023	641	CF	65,24,550	13,04,910	13,04,910	77,64,215	13,04,910
32	INMUN1	7289711	27-01-2023	640	CF	65,24,550	13,04,910	13,04,910	77,64,215	13,04,910
33	INIXY1	7309304	27-01-2023	637	CF	90,61,875	18,12,375	18,12,375	1,09,34,663	18,12,375
34	INMUN1	6878791	11-01-2023	632	CIF	1,27,84,200	25,56,840	25,56,840	1,58,52,408	25,56,840
35	INMUN1	6882768	11-01-2023	631	CF	70,80,480	14,16,096	14,16,096	83,63,817	14,16,096
						26,50,80,341	5,30,16,072	5,30,16,068	33,09,75,652	5,15,40,829

6.2.1 For ease of reference, photo of **Shipping Bill No. 2436149 dated 13-07-2023 (RUD-3)** is pasted below which clearly indicate that the deduction of **Rs. 21,79,832/- (equivalent to USD 26730)** has been claimed in the Shipping Bill which is equal to the cess amount (i.e. Export Duty) of **Rs.21,79,832/-** paid by them. The said amount has been deducted by the exporter from the actual transaction value (i.e. FOB Value) and export duty has not been paid on the said differential value of **Rs.21,79,832/-** which is though part of the consideration received by the exporter from the overseas buyer for sale of the consignment. For receipt and processing of the said export duty amount of **Rs. 21,79,832/- (equivalent to USD 26730)**, in their bank account, separate debit note has been issued by the exporter to the buyer/bank authorities.

Photo of shipping bill No. 2436149 dated 13.07.2023

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF DIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code	SB No.	SB Date			
		INMUN1	2436149	13-JUL-23			
		IEC/EC	0809017628	0			
		GSTIN/TYPE	24AAGFJ9066R12K GSN				
		ICB CODE	AARFD5233DCH002				
		TYPE	INV	ITEM	CONT		
		No.	1	1	0		
		PKG	16200	G.WT	MTS		
				405.296	5822270/20231742		
PART - II - INVOICE DETAILS							
1. LS No. / 2. INVOICE No. & Dated		3. P.O. No. & Dated	4. Loc No. & Dated	5. Contract No. & Dated	6. AD. Code / Inv Term		
1. 51/23-24 13/07/2023				B200849	ICF		
TRANSACTION PARTIES	1. EXPORTER'S NAME & ADDRESS			2. BUYER'S NAME & ADDRESS			
	JAY AMBE AGRO 93, OPP JADABA HALL, JETALPUR 382426			ETSHACHIMOU MAHAMADOU.. B.P 57 TAHOUA - NIGER			
	NOTIFY 2: DEVENDRA TRADING LLC NOTIFY 3: DEVENDRA TRADING PTE. LTD						
C. VALUABLE DTS	1. INVOICE VALUE	2. FOB VALUE	3. FREIGHT	4. INSURANCE	5. DISCOUNT		
	174555 USD	133650 USD	40905 USD	0 /	0 /		
					26730 USD		
6. EXCHANGE RATE	7. ITEM No.	8. HS CD.	9. DESCRIPTION	10. QUANTITY	11. UOC	12. RATE	13. VALUE(FC)
1 USD INR 81.55	1.	10063090	INDIAN LONG GRAIN NON - BASMATI WHITE RICE PKD IN 25 KG BOPP STRONG BAGS.	405	MTS	1.497	201285

Photo of Commercial Invoice No. 51/23-24 dated 13.07.2023 submitted to the overseas buyer.

INVOICE CUM PACKING LIST					
Date: 13-07-2023		INVOICE NO. 51/23-24			
Exporter: JAY AMBE AGRO NEAR JADABA HALL, JETALPUR 382427 AHMEDABAD, GUJARAT GSTIN: 24AAGFJ9066R12K IEC CODE: 0809017628 MOBILE NO.: 91-9426011919 EMAIL: www.jayambe.com		NOTIFY PART 1: ETSUHACHIMOU MAHAMADOU.. B.P 57 TAHOUA - NIGER NOTIFY PART 2: DEVENDRA TRADING LLC P.O. BOX 13287 DUBAI, UAE			
CONSIGNEE/TO ORDER: MUNDRA, GUJARAT COTONOU, BENIN		NOTIFY PART 3: DEVENDRA TRADING PTE. LTD 1 NORTH BRIDGE ROAD #01-1111, SINGAPORE 179054			
PORT OF EXPORT: MUNDRA, GUJARAT		TYPE OF CARRIER: 100% SEASIDE BY AIR COUNTRY OF USD: 100% FROM COTONOU, BENIN 100% FROM DEVENDRA TRADING PTE. LTD, SINGAPORE			
COMMODITIES DESCRIPTION: 16200 BAGS, PACKED IN 25 KG BAGS INDIAN LONG GRAIN NON-BASMATI WHITE RICE Origin: India GRANULE LENGTH: 25.00 & YELLOW DRY MOISTURE: 12.00 & below PACKED IN BOPP POLY BAGS SUPPLY MEANT FOR EXPORT UNDER LETTER OF CREDIT FROM TRADING PARTIES IN INDIAN RUPEE (INR) BUT ARRENGED AT USD 81.50/MT THE SUPPLY PRICE IS FOB WITH APPROPRIATE FOB		HS CODE: 10063090 Country of Manufacture: India CITY: MUNDRA COM: MUNDRA SELLING PRICE (USD): 201285.00 SELLING PRICE (INR): 16405.00			
INVOICE AMOUNT: TWO LAKH ONE THOUSAND TWO HUNDRED & FORTY ONE INR. INVOICE Exchange Rate: INR 81.50		TOTAL INVOICE VALUE: 201285.00 INVOICE: 100% FOB/EXCISE DUTY: 100% TOTAL FOB VALUE: 201285.00			
AMOUNT IN INR (NOT IN USD): FIFTY ONE LAKH THREE THOUSAND TWO HUNDRED & SEVENTY ONLY					
INSTRUCTIONS: 1. DRAFTS 2. BANKER 3. ACCOUNT NUMBER: 91000000000000000000 4. IFSC CODE: BAROBANDA001 5. SWIFT CODE: BAROBANDA		DISCLAIMER: The information on this invoice is not correct and that the content of this INVOICE IS NOT CORRECT.			
		DISCLAIMER: The information on this invoice is not correct and that the content of this INVOICE IS NOT CORRECT.			

Photo of Commercial Invoice No. 51/23-24 dated 13.07.2023 submitted to the Customs Authorities

BRC details submitted by the exporter indicating receipt of USD 174555

Copy of the Debit Note issued by the exporter for receipt of export duty amount from the overseas buyer

6.3 Deductions amounts not claimed in Shipping Bills, however amounts equal to the export duty paid were received separately as reimbursement of taxes

In addition to above, in respect of the following 13 shipments of rice exported by M/s Jay Ambe Agro, the exporter had not claimed any deduction in the shipping bills filed by them, however, the exporter had stated that in respect of these shipments also, they have separately recovered the duty amount of **Rs. 1,86,30,696/-** from the overseas buyers of the export goods:

Table B

S. No.	Custom House Code	SB Number	SB Date	Declared Fob Value In INR	Duty Amount Paid in INR	Deduction Amount Claimed in Shipping Bill in INR	Value of Debit Note for Re-Imbursement of Duty Amount In INR	Payment Received as Reimbursement of Taxes In INR
1	INMUN1	6718623	05-01-2023	66,25,800	13,25,160	0	13,25,160	13,25,160
2	INMUN1	6626423	02-01-2023	66,25,800	13,25,160	0	13,25,160	13,25,160
3	INMUN1	6626482	02-01-2023	66,25,800	13,25,160	0	13,25,160	13,25,160
4	INMUN1	6574218	30-12-2022	66,25,800	13,25,160	0	13,25,160	13,25,160
5	INMUN1	5820847	30-11-2022	72,08,190	14,41,638	0	14,41,638	14,41,638
6	INMUN1	5677435	24-11-2022	34,40,273	6,88,055	0	6,88,055	6,88,055
7	INMUN1	5521235	17-11-2022	69,82,605	13,96,521	0	13,96,521	13,96,521
8	INMUN1	5199371	02-11-2022	69,91,110	13,98,222	0	13,98,222	13,98,222
9	INMUN1	4894015	18-10-2022	32,68,350	6,53,670	0	6,53,670	6,53,670
10	INIXY1	4625019	04-10-2022	1,18,05,000	23,61,000	0	23,61,000	23,61,000
11	INIXY1	4625218	04-10-2022	1,18,05,000	23,61,000	0	23,61,000	23,61,000
12	INIXY1	4625402	04-10-2022	1,19,62,400	23,92,480	0	23,92,480	24,00,350
13	INMUN1	4497609	28-09-2022	31,87,350	6,37,470	0	6,37,470	6,37,470
	Total			9,31,53,478	1,86,30,696	0	1,86,30,696	1,86,38,566

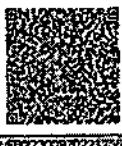
In respect of 13 SBs mentioned at **Table B** above, the amounts received over and above the declared invoice value as reimbursement of taxes (**Rs. 1,86,38,566/-**) are equal to the export duty amounts (**Rs. 1,86,30,696**) paid by the exporter. Therefore, in respect of these 13 SBs, the total duty amount of **Rs. 1,86,38,566/-** recovered by the exporter from the buyer is liable to be included in their declared transaction value.

In respect of these shipments the exporter had not declared before the customs authorities at the port of export at the time of making exports, that they would recover or have recovered the higher amounts from the overseas buyers which are over and above the declared invoice value of these export shipments.

6.3.1 As may be seen from the copy of the **Shipping Bill Number 4497609 dated 28-09-2023 (RUD-4)** pasted below, the exporter had not claimed any deduction amount in the shipping bill however, as per the details submitted by the exporter, they have separately recovered an amount of Rs. 6,37,470/- (USD 8100) which is equal to the export duty amount of Rs. 6,37,470/- (USD 8100) from the overseas buyer in their bank account. The aforesaid amount of Rs. 6,37,470/- (USD 8100) is over and above their declared invoice value of Rs. 43,24,172/- (USD 54,945) received by them from the overseas buyer, as reflected in the BRC of the said shipment. The exporter has raised a separate invoice to the overseas buyer wherein total invoice was mentioned as USD 63045/-which was inclusive of the export duty amount. In addition to the above, exporter had also issued Debit Note no. 15 dated 04.11.2022 to the overseas buyer of the goods, for receipt and processing of the said export duty re-imbursement amount of **Rs. 6,37,470/- (USD 8100)**. Therefore, the exporter had suppressed the said amount Rs. 6,37,470/- (USD 8100) received by them separately from the buyer as reimbursement of export duty. They have neither declared the full amount to be received by them from the overseas buyer in their export invoice nor in the shipping bill submitted to the Customs Authorities. Thus, they have mis-declared the actual FOB Value in respect of all such shipping bills.

Shipping Bill Number 4497609 dated 28-09-2023

INDIAN CUSTOMS EDI SYSTEM		Port Code	SB No.	SB Date						
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS		INRUNIT	4497609	28-SEP-22						
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE		IECIR	0009017628	0						
GOVERNMENT OF INDIA		GSTIN/TIN/PE	24AAGFJ9006R12K GSN							
MUNDRA SEZ PORT MUNDRA, GUJARAT		CB CODE	AARFDS233DCH002							
		TYPE	INV	ITEM						
		IN/OUT	1	1						
		PKG	5400	G.WT MTS 125432						
				50220000022122						
PART-I - SHIPPING BILL SUMMARY										
1. MODE	2. ASSESS	3. EXN	4. JOBING	5. MIEB	6. OBIK	7. RODTP	8. SEC/CDFIA	9. D/RC	10. R/EXC	11. CUT
SEA	Y	Y	N	Y	Y	Y	N	N	N	Y
12. PORT OF LOADING	13. COUNTRY OF FINAL DESTINATION								KENYA	
14. STATE OF ORIGIN	15. PORT OF FINAL DESTINATION								KEMBA (Mombasa)	
16. PORT OF DISCHARGE	17. COUNTRY OF DISCHARGE								KENYA	
18. EXPORTER'S NAME & ADDRESS	19. CONSIGNEE NAME & ADDRESS									
JAY AMBE AGRO	20. ORDER								/	
21. OPP JADABA HALL, JETALPUR										
22. ADDRESS										
23. CITY										
24. PINCODE										
25. AIR WAIVER NO & DT										
26. ECB NAME										
27. D/RC										
28. OBIK VALUE	2. FREIGHT	3. INSURANCE	4. DISCOUNT	5. COM	6. DUTY	7. CESS	8. GST	9. RODTP	10. R/EXC	11. CUT
3187350	1116573	21249	40	0	637470	1013	21051AM	21051AM	637470	
10. DEDUCTIONS	11. P/CH	12. DUTY	13. CESS	14. GST	15. RODTP	16. R/EXC	17. CCESS	18. RODTP	19. R/EXC	20. CUT
0	0	637470			31874		0			
21. MAWB NO	22. MAWB DT	23. SHAWB NO	24. SHAWB DT	25. NO.C	26. SNO	27. INV NO	28. INV AMT	29. CURRENCY		
22PCEG0930284645400	30-SEP-22	INRUNIT			1	331	54945	USD		
INVOICE SUMMARY										

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF DIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code: SB No.: 4497609 BB Date: 28-SEP-22 INMUNI: 4497609 IECB: 0809017628 0 GSTIN/TYPE: 24AAGF19068R12K GSN CB CODE: AARFD5233DCH002 TYPE: INV ITEM: 1 ECONT: 0 Nos: 1 1 0 PKG: 5400 G.WT: MTS: 135.432			
MUNDRA SEZ/PORT, MUNDRA, GUJARAT					
PART - II - INVOICE DETAILS					
A. REF. I.S. No.: 331 INVOICE NO. & DATE: 28-09-2022	3. P.O. No. & DUE: 24 LOG. NO. & DUE: 5 Contract No. & DUE: 0200349 CIF		6. AD. CODE: 7. IN TERM:		
	4. EXPORTER'S NAME & ADDRESS: JAY AMBE AGRO 93 OPP JADABA HALL, JETALPUR 382426		5. BUYER'S NAME & ADDRESS: JUBA TRADING COMPANY LTD PO BOX 178A JUBA SOUTH SUDAN		
B. TRANSACTION PARTIES	6. 3. THIRD PARTY NAME & ADDRESS:		7. BUYER/AEO STATUS:		
C. VAL. UTS:	1. INVOICE VALUE: 5495 USD	2. FOB VALUE/ FREIGHT/ INSURANCE: 40500 USD	3. DISCOUNTS: 14175 USD	4. COMMISSION: 270 USD	5. DEDUCT.: 0 USD
					6. EXCHANGERATE: 1 USD INR 78.7
	7. ITEM SNO: 1	8. HS CD: 10063090	9. DESCRIPTION: INDIAN LONG GRAIN NON BASMATI WHITE RICE PACKED IN 5400 BAGS IN 25KG BOPP STRONG BAGS	10. QUANTITY: 135	11. RATE: MTS 300
					12. VALUE/FC: 40500

Invoice No. 331 dated 28-09-2022 sent to the overseas buyer

INVOICE CUM PACKING LIST					
Date: 28-09-2022		Invoice No.: 331			
EXPORTER: JAY AMBE AGRO NEAR JADABA HALL, JETALPUR, JAMNAGAR, GUJARAT 382426 AHMEDABAD, GUJARAT GSTIN: 24AAOKJ0861ZC, IEC CODE: 0809017628 MOBILE: 9825111111 EMAIL: ambejaysam@gmail.com		IMPORTER: JUBA TRADING COMPANY LTD PO BOX 178A JUBA, SOUTH SUDAN 100% HIGH QUALITY PREMIUM RICE 100% SULFUR FREE 100% HALAL			
Port of Loading/ Shipment: Gross Weight: 135.432 MTS Date: Net Weight: 135.000 MTS		Transportation: By Sea		Payment Term: 100% Advanced Balance Upon Consignee: C.I.F. JUBA, SOUTH SUDAN	
Port of Unloading: Total Container: 135.000 MTS MOMBASA Port		Currency: USD		Delivery Term: C.I.F. JUBA, SOUTH SUDAN	
Commodity Description: 5400 BAGS PLACED IN 25KG BAGS INDIAN LONG GRAIN NON BASMATI WHITE RICE (INDIAN ORIGIN) 5.9 MM LENGTH 24.00% YELLOW 1.4% MOISTURE PACKED IN 25KG BOPP STRONG BAGS PACKED IN BAGS - THE KING Brand		HSN/CODE: 10063090	COUNTRY OF MANUFACTURE: INDIA	UOM: MTS	Unit Price (USD): 187
Declaration for Export Under Section 13 Understanding without Payment of Estimated Tax IIGSTTEUARN NO AD240222010090X0		Total/Amount (USD): 63,945.00			
24. PRINTED EMPTY BAGS TO BE SHIPPED WITH SHIPMENT FREE OF COST.					
Amount in USD (words): SIXTY THREE THOUSAND FOURTY FIVE ONLY		TOTAL SUB VALUE: ADVANCE: Total INVOICE Value: 63,945.00			
Foreign Exchange Rate: INR 11.00					
Amount in INR (words): EIGHTY ONE LAKH SIX THOUSAND SIX HUNDRED FORTY FIVE ONLY					
Bank Details: Bank Name: BANK OF BARODA Account Number: 1030500000001 IFSC Code: BARB0000001 SWIFT Code: BARBINBEML					
Declaration I/we hereby declare that the information on this invoice is true and correct and that the contents of this shipment are as stated above.					
For: ALL disputes with respect to this invoice - Date: 28-09-2022 are referred to Jetalpur jurisdiction					
Amount of Signatory:					

Copy of the same Invoice No. 331 dated 28-09-2022 submitted to the Customs Authorities

INVOICE CUM PACKING LIST

Date: 28-09-2022

Invoice No. 331

Exporter: JAY AMBE AGRO
NEAR JADARK HALL, JETAL PURA GAJU, JETAL PURA 394211
AHMEDABAD, GUJARAT
COTIN: 214454558724, ICS CODE: CM05017022
MOBILE NO: 91 9825141444
EMAIL: jayambeagro22@gmail.com

Importee: JUBA TRADING CO. PVT. LTD
PO BOX 19
JUBA, SOUTH SUDAN
NOTIFY: QUALITY PRINTERS
BAG: 10000000000000000000
FIELD: 8.5 TON
TELE: 011-41133333
FAX: 011-41133333

Port of Loading: Mundra (Gross Weight: 155.457 MT)
Port: Mundra (155.457 MT)

Transportation: Payment term: 10% Advance, Balance U/C
B/S

Port of Unloading: MOMBASA Port
Total Container: 520 (27 MT each)

Currency: USD
Delivery term: C.I.T. Mombasa, Kenya
C.I.T. C. O. T. Mombasa, Kenya, 724

Commodity Description:
100 BAGS RICE IN 25 KG BAGS
INDIAN LONG GRAIN NON BASMATI WHITE RICE
(INDIAN ORIGIN)
58 MM LENGTH
27.00% YELLOW
14% MOISTURE
Packing 25 KG DOPP STRONG BAGS
Packed in Buyer's "THE KING" Brand

HSN Code	Country of Manufacture	Qty	UOM	Unit Price (USD)	Total Amount (USD)
10061000	INDIA	100	KGS	300	30000.00

Supply Basis for Export Under C.I.T.
Unloading without Payment of Duties and Tax
IGST: 0.00%, AD27022018090X

2) PRINTED P.MT. BAGS TO BE SHIPPED WITH
SHIPMENT FREE OF COST

Amount in US Dollars: FIFTY FOUR THOUSAND NINE HUNDRED FORTY FIVE
ONLY

TOTAL FOB VALUE

40590.00

Foreign Exchange Rate: INR 81.00

Freight Cost

1417.00

Amount in INR (Rs.) : FORTY FOUR LAKHS FIFTY THOUSAND FIVE HUNDRED FORTY
FIVE ONLY

Insurance Cost

270.00

FOB+CIF Value

40847.00

Bank Details:

Bank Name: BANK OF BARODA
Account Number: 310365400161
IFSC Code: BARO0003103
Swift Code: BAROBINBBR44

Disclaimer: The parties certify that the information contained in this invoice is true and correct and that the contents of this document are in the original and are sealed above.

All disputes will arise in relation to this invoice. Date: 29-10-2022
are subject to the jurisdiction of the Courts of India.

Authorised Signatory

Copy of Debit Note issued by the exporter for receipt and processing of the export duty amount

Details of BRC indicating receipt of USD 54945

Directorate General of Foreign Trade Ministry of Commerce and Industry Government of India							
Bank Realisation Number	Date on which the amount is received in the bank	TGS Value realised in the foreign currency code	Bank Realisation Date	Shipping Bill Number	Shipping Bill Date	Shipping Bill Port	Bank Realisation Status
GARDASUBAL23032022	23/03/2023	01209/022-5120510	17/03/2023	241001	23/03/2022	MUMBAI SEZ	PEND
GARDASUBAL23032022	23/03/2023	01209/022-5120510	17/03/2023	241001	23/03/2022	MUMBAI SEZ	PEND
GARDASUBAL23032022	23/03/2023	01209/022-5120510	17/03/2023	241001	23/03/2022	MUMBAI PORT GUJARAT	PEND

6.4 For reimbursement of the export duty from the overseas buyer, the exporter had declared RBI Accounting Purpose Code No. P1306 which is for refund of taxes, however, the following discussion indicate that the said purpose code is not meant for the receipt of export duty and export proceeds:

The exporter has claimed that the deduction/ deduct amount claimed by them in the shipping bill have been received by them from the overseas buyers in the form of reimbursement of taxes. They have further informed that the said transactions have been made under the purpose code P1306.

RBI purpose codes are unique identifiers assigned to various international transactions, enabling banks and financial institutions to classify and process remittances accurately. RBI has notified purpose codes for reporting forex transactions for Payment and Receipt purposes.

The Purpose codes for reporting forex transactions (for the purpose of *Receipt of amounts*) are further categorized into 16 different 'Purpose Group Name' which includes Exports (of Goods), Transportation, Travel, Financial Services, Royalties & License Fees, Transfers among others.

The following purpose codes pertaining to Export (of Goods) refers to the receipt of forex in respect of exports made from India.

Gr. No.	Purpose Group Name	Purpose Code	Description
p1	Exports (of Goods)	P0101	Value of export bills negotiated / purchased/discounted etc. (covered under GR/PP/SOFTEX/EC copy of shipping bills etc.)
		P0102	Realisation of export bills (in respect of goods) sent on collection (full invoice value)
		P0103	Advance receipts against export contracts, which will be covered later by GR/PP/SOFTEX/SDF
		P0104	Receipts against export of goods not covered by the GR/PP/SOFTEX/EC copy of shipping bill etc.
		P0105	Export bills (in respect of goods) sent on collection.
		P0106	Conversion of overdue export bills from NPD to collection mode
		P0107	Realisation of NPD export bills (full value of bill to be reported)

Further, the purpose code P1306 referred by the exporter for reimbursement of taxes (i.e. export duty) falls under the group 'Transfer'.

Gr. No.	Purpose Group Name	Purpose Code	Description
13	Transfers	P1301	Inward remittance from Indian non-residents towards family maintenance and savings
		P1302	Personal gifts and donations
		P1303	Donations to religious and charitable institutions in India
		P1304	Grants and donations to governments and charitable institutions established by the governments
		P1306	Receipts / Refund of taxes

From the above, it is evident that the purpose codes under the group 'Transfer' pertains to forex transactions of personal nature such as personal gifts, family maintenance, donations etc. and the accounting purpose code P1306 falling under the said category is clearly not associated with the payments received in respect of exported goods. Thus, **the exporter had used wrong purpose code for receipt of the export duty amounts from the buyers**. Thus, the exporter had mis-represented the facts before the bank authorities also to process the receipt of export duty amounts from the overseas buyer. These amounts are not reflected in the bank realisation certificates obtained by the exporter from the bank.

6.5 Excess Ocean freight amounts wrongly declared in the Shipping Bills:

In addition to the shipments discussed in above para, in respect of the following **40** shipments of rice, the exporter had **declared higher amounts of ocean freight** in comparison to the actual ocean freight amounts paid by them, thus causing short payment of duty on the differential ocean freight amount in respect of these 40 shipments also. The total amount of excess freight declared by the exporter in respect of these shipments stood at **Rs.2,86,92,536/-**. Vide letter dated 16.01.2025, the exporter had submitted the details of the actual freight amounts along with freight invoices indicating the actual freight amounts paid by them to the Freight forwarders/Shipping line, which clearly indicated that in these **40** shipments, they have declared excess freight amounts.

Table C

S. No.	Custom House Code	Sb Number	Sb Date	Invoice Number	Invoice Term	Declared Fob Value In Rs	Duty Amount Paid	Declared Freight Amt In INR	Actual Freight Paid In INR	Excess Freight Declared	
1	INMUN1	2436066	13-07-2023	48/23-24	CF	73,76,198	14,75,240	28,18,368	10,13,742	18,04,626	
2	INMUN1	2436149	13-07-2023	51/23-24	CF	1,08,99,158	21,79,832	33,35,803	13,33,744	20,02,059	
3	INMUN1	2272984	06-07-2023	45/23-24	CF	70,28,640	14,05,728	10,32,332	9,12,874	1,19,458	
4	INMUN1	1412747	31-05-2023	33/23-24	CF	70,45,920	14,09,184	10,34,870	9,90,499	44,371	
5	INMUN1	1144662	19-05-2023	30/23-24	CF	70,45,920	14,09,184	10,12,851	9,90,499	22,352	
6	INMUN1	1063861	16-05-2023	012/23-24	CF	70,94,588	14,18,918	15,28,065	9,82,547	5,45,513	
7	INMUN1	1064829	16-05-2023	018/23-24	CF	35,47,294	7,09,459	7,64,033	4,95,846	2,68,187	
8	INMUN1	1064831	16-05-2023	019/23-24	CF	35,47,294	7,09,459	7,74,947	4,95,846	2,79,101	
9	INMUN1	1065248	16-05-2023	015/23-24	CIF	1,41,89,175	28,37,835	35,36,379	10,52,566	24,83,813	
10	INMUN1	9918835	10-05-2023	021/23-24	CF	67,67,145	13,53,429	19,20,996	9,83,137	9,37,859	
11	INMUN1	9702178	02-05-2023	014/23-24	CF	68,13,180	13,62,636	19,34,064	10,23,246	9,10,818	
12	INMUN1	9668742	29-04-2023	013/23-24	CIF	71,42,850	14,28,570	18,46,152	5,89,075	12,57,077	
13	INMUN1	9563391	26-04-2023	011/23-24	CIF	70,32,960	14,06,592	19,78,020	5,44,939	14,33,081	
14	INMUN1	9445075	21-04-2023	010/23-24	CF	1,31,86,800	26,37,360	37,36,260	23,51,019	13,85,241	
15	INMUN1	9294361	14-04-2023	008/23-24	CF	35,03,520	7,00,704	7,22,601	2,76,205	4,46,396	
16	INMUN1	9296404	14-04-2023	009/23-24	CF	1,31,38,200	26,27,640	37,22,490	23,23,439	13,99,051	
17	INHZA1	9233239	12-04-2023	006/23-24	CF	1,31,38,200	26,27,640	37,22,490	19,91,116	17,31,374	
18	INMUN1	9250113	12-04-2023	007/23-24	CF	35,58,263	7,11,653	6,56,910	2,85,441	3,71,469	
19	INMUN1	9123075	06-04-2023	004/23-24	CF	70,80,480	14,16,096	15,04,602	5,56,485	9,48,116	
20	INMUN1	9123094	06-04-2023	005/23-24	CF	70,80,480	14,16,096	15,04,602	5,56,485	9,48,117	
21	INMUN1	9096385	05-04-2023	001/23-24	CF	1,32,75,900	26,55,180	37,61,505	25,11,775	12,49,730	
22	INMUN1	9058911	04-04-2023	002/23-24	CF	1,32,75,900	26,55,180	37,61,505	23,33,093	14,28,412	
23	INMUN1	8621421	20-03-2023		680	CF	34,29,608	6,85,922	8,62,934	3,18,459	5,44,475
24	INMUN1	8528006	16-03-2023		679	CF	66,21,750	13,24,350	17,65,800	10,99,409	6,66,391
25	INMUN1	8499936	15-03-2023		678	CF	34,21,238	6,84,248	8,60,828	2,98,618	5,62,210
26	INMUN1	8406692	11-03-2023		676	CF	66,21,750	13,24,350	17,65,800	10,81,620	6,84,180
27	INMUN1	7925620	20-02-2023		664	CF	34,27,515	6,85,503	8,95,577	5,50,264	3,45,313
28	INMUN1	7932151	20-02-2023		665	CF	34,27,515	6,85,503	9,06,633	5,54,158	3,52,475
29	INMUN1	7408755	31-01-2023		641	CF	65,24,550	13,04,910	12,39,665	12,00,220	39,445
30	INMUN1	7289711	27-01-2023		640	CF	65,24,550	13,04,910	12,39,665	12,00,220	39,445
31	INIXY1	7309304	27-01-2023		637	CF	90,61,875	18,12,375	18,72,788	13,12,453	5,60,335
32	INMUN1	6878791	11-01-2023		632	CIF	1,27,84,200	25,56,840	29,82,980	25,16,560	4,66,420
33	INMUN1	6882768	11-01-2023		631	CF	70,80,480	14,16,096	12,83,337	6,21,162	6,62,175
34	INMUN1	6626482	02-01-2023		603	CF	66,25,800	13,25,160	13,03,074	12,49,361	53,713
35	INMUN1	6574218	30-12-2022		596	CF	66,25,800	13,25,160	13,03,074	12,67,999	35,075
36	INMUN1	5820847	30-11-2022		509	CF	72,08,190	14,41,638	10,04,778	6,86,483	3,18,295
37	INMUN1	5677435	24-11-2022		468	CIF	34,40,273	6,88,055	5,24,232	3,86,746	1,37,486
38	INMUN1	5521235	17-11-2022		436	CF	69,82,605	13,96,521	11,08,350	8,56,961	2,51,389
39	INMUN1	4894015	18-10-2022		373	CIF	32,68,350	6,53,670	11,43,923	4,10,646	7,33,277
40	INMUN1	4497609	28-09-2022		331	CIF	31,87,350	6,37,470	11,15,573	8,91,357	2,24,216
		Total					28,90,31,460	5,78,06,296	6,97,88,851	4,10,96,315	2,86,92,536

In respect of these shipments also, the exporter had not declared the true facts, before the customs authorities at the port of export at the time of effecting exports. They have **declared the higher ocean freight amounts in their export documents** such as shipping bills filed by them, in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines. It is a fact on record that the exporter had recovered the higher freight amounts from the overseas buyers of the export goods in comparison to the amounts paid by them to the freight forwarders & shipping lines in respect of their export shipments. These facts have been confirmed by the exporter in the details of their export shipments submitted by them under the provisions of section 108 of the Customs Act, 1962.

6.5.1 For ready reference, copy of Shipping Bill Number **2436149** dated **13.07.2023** is pasted below. As per the shipping bill, the ocean freight amount declared in respect of the said shipment is **Rs.33,35,803/-** whereas during investigation, the exporter had submitted the actual freight amount paid by them in respect of the aforesaid shipping bill which stood at **Rs.13,33,744/-**. Thus, excess freight amount declared in respect of the aforesaid shipment works out to be at **Rs.20,02,059/-**. The said excess freight amount has also been recovered by the exporter from the overseas buyer of the export goods but the exporter had not paid duty on **the said excess freight amount which is part and parcel of the actual assessable value** of the export goods.

Photo of shipping bill No. 2436149 dated 13.07.2023 indicating excess freight amounts declared

Details of the Actual Freight Amounts Paid

Name of the Person		UIN/ CIN	Category	Designation	Address	Issue Date	Number of Passports	Action Taken Without Valid Document	Action Taken Complaint Received	Passports Received from Consulate/Imports (in Foreign Country) (2022)
2. 2. 1. MR. SAVI VARDHAGAD	ADMINISTRATOR	20211923	3/2/2022	3/2/2022	CF	1,233,764	27,151	26,220	26,220	26,220

7. The aforesaid **deduction amounts** claimed by the exporter, as detailed in **Table A** above and **reimbursement of duty paid amounts** taken by them separately as detailed in **Tables B** above as well as the **excess freight amounts declared** by them in their export documents in respect of the shipments as detailed in **Tables C** above, were not included in the declared FOB Value of goods in respect of these shipments, as discussed in para 6 above. Investigation has revealed that these **deduction amounts/reimbursement of duty paid amounts** have also been claimed and/or recovered by them from the overseas buyer of the export goods in their bank accounts. Therefore, the deduction amounts/reimbursement of export duty amounts taken by the exporter from the overseas buyer in any manner whether or not by declaring the same in the export

documents or by mis-declaration of freight amounts in the export documents **appears to be forming part of the consideration received by the exporter** for delivery of the export goods on board the vessel after clearance of the shipments through the customs authorities at the port of export. Thus, these excess freight amounts and deduction amounts claimed by the exporter at the time of filing shipping bills and the amounts recovered separately from the overseas buyer over and above the declared invoice price as reimbursement of export duty, as discussed in above paras, also appear **liable to be included in the FOB Value for the purpose of calculation of the export duty.**

8. Legal Provisions:

8.1 Statutory provisions of the Customs Act, 1962 relevant to this case are enclosed as **Annexure-A** to this Show Cause Notice and the same are briefly discussed below:

8.2 The provisions of section 2(18), section 14 & section 16 of the Customs Act, 1962, Customs Valuation (Determination of Value of Export Goods) Rules, 2007, CBIC Circular No. 18/2008-Cus. dated 10.11.2008 are relevant for understanding various aspects of valuation of the export goods in the context of present case:

- a)** The term 'export' has been defined in "Section 2(18) of the Customs Act, 1962 as "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India."
- b)** **Section 14 of the Customs Act 1962, stipulates that 'for the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of theexport goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.**
- c)** In this provision the terms "**the price actually paid or payable for the goods**" and "**when sold for export from India for delivery at the time and place of exportation**" in the context of present case are very significant. For the process of export to be complete, the goods need to be taken out of India to a place outside India. This event can take place only after goods cross Indian borders. This is more so because the price has to be taken for sale of export goods when sold for export from India 'for delivery at the time and place of exportation'. The wording "**for the delivery-at the time and place for exportation**" has to be legally construed as "for delivery at the time and place of exportation on board the foreign going vessel". Thus, the time and place of delivery of the export goods will be when the goods are on-board the foreign going vessel which takes place after the goods are given a Let Export Order (LEO) by the jurisdictional Customs officer after examining the compliance to Customs law. By implication, all elements of cost that are required to be incurred to bring the goods 'for delivery at the time and place of exportation' to the foreign going vessel will have to be added to invoice price to arrive at a correct transaction value of export goods as per section 14 notwithstanding the manner as to how the financial transaction is organized by the exporter and the overseas buyer. It is amply clear that without incurring associated expenses the export goods cannot be simply brought to the place of exportation at the time of export. Thus, in the

impugned case, the price payable for the export goods for delivery at the time and place of exportation can be arrived at only after inclusion of associated costs including the amounts equal to the export duty which have been recovered by the exporters from the overseas buyers of the export goods.

- d) "FOB value" means the price actually paid or payable to the exporter for goods when the goods are loaded onto the carrier at the named port of exportation including the cost of the goods and all costs necessary to bring the goods onto the carrier at included in the term 'FOB Value'. The valuation shall be made in accordance with the World Trade Organisation (WTO) Agreement on Implementation of rule VII of General Agreement on Tariffs and Trade (GATT), 1994. There cannot be an exception to the well laid down principles of valuation.
- e) This method of calculation of 'FOB Value' is prescribed in various trade facilitation agreements such as 'Asean India Free Trade Agreement (AIFTA)' in a very clear manner as follows. FOB value shall be calculated in the following manner, namely:
 - (a) $\text{FOB Value} = \text{ex-factory price} + \text{other costs}$
 - (b) Other costs in the calculation of the FOB value shall refer to the costs incurred **in placing the goods in the ship** for export, **including but not limited to**, domestic transport costs, storage and warehousing, port handling, brokerage fees, service charges, et cetera.
- f) This in fact lays down the foundation for arriving at the assessable value of the export goods whereby various elements of costs, including the export duty, notwithstanding it is being paid to the exporter directly by the foreign buyer or otherwise, are required to be added to the invoice price. Costing exercise of addition of other cost elements in FOB Value is not limited to transit transportation cost, storage & warehousing alone. Without payment of export duty, let export order cannot be issued by the jurisdictional customs office and the goods cannot be loaded on the foreign going vessel to take them out of India. On this background it is observed that value of the export goods on which duty has been paid by the exporter of rice does not reflect an FOB value i.e. a price payable for delivery of goods at the time and place of exportation which is a basis for export assessment.
- g) This practice of payment of export duty by considering the FOB Value as cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard instructed that the existing practice of computation of the export duty by taking FOB price as the cum-duty price may be continued till 31.12.2008 and all the pending cases may be finalized accordingly. It was also clarified that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.
- h) In order to bring in uniformity, transparency and consistency in assessment of export of Iron Ore, CBIC vide Circular No. 12/2014 – Customs dated 17.11.2014 directed the field formations *inter alia* to monitoring the receipt of Bank Realisation Certificates for the purposes of

comparison with the final invoices submitted by the exporter to satisfy the accuracy of the assessed values. It also indicates that the total consideration received by the exporter from the buyer for sale of the export goods have to be considered for assessment of the export goods. In shipments exported on FOB incoterm basis, duty has to be calculated on the total considerations received by the exporter from the buyer whether or not they are included in the BRC. For shipments exported on CIF/CF/CI inco-term basis, FOB Value has to be deduced from the CIF/CF/CI value by deducting the actual freight amounts and/or insurance premium amounts paid by the exporter as the case may be.

i) **Relevance of time of export is further proved as Section 16 of the Customs Act, 1962 which provides for the date for determination of rate of duty and tariff valuation of export goods, stipulate that the rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force,- (a) in the case of goods entered for export under section 50, on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; (b) in the case of any other goods, on the date of payment of duty.** The afore-said statutory provision also indicate that time of export is relevant for valuation of the export goods.

From the above, it is evident that from 01.01.2009 onwards, the transaction value shall be the FOB Value of the export goods and the FOB value shall not be treated as the Cum-duty price of the export goods. The above practice has to be followed for all export commodities irrespective of the description of the export goods.

9. The investigation into undervaluation of rice shipments exported by **M/s Jay Ambe Agro** vide above mentioned Shipping Bills as discussed in **Tables A, B & C** above, revealed deliberate mis-statement and suppression of facts on part of the exporter, who was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on *ad valorem* basis on such goods. As discussed in above paras, the exporter had mis-declared the ocean freight amounts whereas they were very well aware of the actual freight amounts paid by them in respect of these shipments exported vide Shipping Bills mentioned in **Table C** above. Moreover, in respect of the shipments mentioned in **Tables B** above, the exporter had claimed/recovered the export duty from the overseas buyer without declaring these facts in the export documents. In respect of the goods exported by them through shipping bills as discussed in **Table A** above, the exporter had wrongly claimed the deduction in the shipping bills for export duty amounts and the exporter had claimed duty amounts by raising separate invoices and debit notes to the buyer but have not declared the same in the shipping bills and export invoices submitted to the customs authorities and thus have mis-declared the actual transaction value. Thus, the exporter had not declared the actual FOB Values in the shipping bills thereby intentionally evading the applicable duties of customs on such undue deduction amounts/excess freight amounts and export duty reimbursement amounts separately claimed and recovered by them from the buyers of the export goods without even claiming deduction of the same in the shipping bills.

10.1 As discussed in above paras, the valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14 ibid, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007

[hereinafter referred as 'CVR (E), 2007']. As per the provisions of Section 14 of the Customs Act, 1962, the value of export goods shall be the 'transaction value' of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation (i.e., the FOB price) when price is the sole consideration. As such, the sum total of price paid by the overseas buyer for delivery at the time and place of exportation would be the 'transaction value' of such goods.

10.2 Further, for the purpose of charging export duty, the value to be considered is the FOB price. This is so because, the terms "*for export from India for delivery at the time and place of exportation*" appearing in Section 14 of the Customs Act, 1962, means to FOB (Free On Board) value only. This has been clarified also by the Central Board of Excise and Customs (CBEC) vide Circular No. 18/2008, dated 10.11.2008, wherein it stated that in case of export shipments, *for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.*

10.3 In this case the value of the export goods shall be the transaction value thereof when the price is the sole consideration. As such, for determination of the transaction value of the export goods, the sole consideration received by the exporter from the buyer should be taken in to account, then it should be seen as to which prices are compulsory for delivery of the export goods on board the vessel. In this case, the exporter is insisting that the export duty is on reimbursement basis from the overseas buyer of the export goods. By doing so, the exporter is separately receiving a part of the export proceeds from the overseas buyer and not including the same in the assessable value of the export goods. It can be stated that the seller has imposed a condition on the buyer of the export goods which states that if the buyer does not pay him a fixed amount (equal to the 20% export duty on their declared lesser FOB value), they would not sell the export goods to the overseas buyer and would not deliver the same at the time and place of exportation. Thus, all such agreements wherein the seller had imposed a condition on the buyer by which buyer has to pay a part of the payment separately in the bank accounts of the seller on account of sale of the export goods, such payments are necessarily part of the consideration received by the seller for sale of the export goods. Likewise, the excess ocean freight amounts declared by the exporter are also part of the consideration received by the exporter from the buyer for sale of the export goods as such excess ocean freight amounts have not be paid by them to the shipping lines/freight forwarders for the transportation of the export goods. All such amounts which are equal to the export duty amounts claimed/recovered from the buyer and excess ocean freight amounts declared in the shipping bills are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon.

11.1 The **method of calculation of FOB Value** has been provided at the website of various reputed platforms such as 'Freightos', which also support the contention of DRI that export duty is also includible in the FOB Value if the same has been recovered by the seller from the buyer.

The description of the said platform as available on their website under the heading 'About Freightos' states that

Freightos® (NASDAQ: CRGO) is the leading, vendor-neutral booking and payment platform for international freight, improving world trade. WebCargo® by Freightos and 7LFreight by WebCargo form the largest global air cargo booking platform, connecting airlines and freight forwarders. Over ten thousand freight forwarder offices, including the top twenty global forwarders, place thousands of eBookings a day on the platform with over fifty airlines. These airlines represent over 2/3rds of global air cargo capacity. Alongside ebookings, freight forwarders use WebCargo and

7LFreight to automate rate management, procurement, pricing and sales of freight services, across all modes, resulting in more efficient and more transparent freight services. More information is available at freightos.com/investors.

The website of freightos <https://www.freightos.com/freight-resources/fob-calculator> was visited which provide FOB calculator tools for the ease of international freight industry. As per the said website, *FOB (Free on Board) Calculator is a tool used in international trade to determine the total cost of goods when they are shipped from the seller's location to the buyer's destination. The FOB price includes the cost of the goods, as well as various expenses incurred until the goods are loaded onto the vessel, such as packaging, loading, and inland transportation to the port of departure. It does not include the freight charges for transporting the goods from the port of departure to the port of destination or any other charges or taxes beyond the point of loading.*

From the above details available on their website, it is evident that all taxes before the point of loading of the export goods on board the vessel are included in the term 'FOB'. In the case of export of goods, loading of the export goods starts after issuance of the 'Let Export Order (LEO)' by the proper officer of the Customs. LEO is issued after payment of the export duty. As the export duty is leviable before the point of loading of the export goods on to the vessel the same is includable in the FOB Value of the export goods.

11.2 The above contention of DRI is also supported by the **Incoterms** which are widely used in the international transactions. **Incoterm or International Commercial Terms** which are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. These incoterms define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction. They are widely used in the international commercial transactions and procurement processes. These incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. As per Wikipedia, the Incoterms 2020 is the ninth set of international contract terms published by the International Chamber of Commerce with the first set published in 1936 (RUD-5). As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as under -

FOB – Free on Board (named port of shipment)

Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility does not end at that point unless the goods are "appropriated to the contract" that is, they are "clearly set aside or otherwise identified as the contract goods".^[20] Therefore, FOB contract requires a seller to deliver goods on board a vessel that is to be designated by the buyer in a manner customary at the particular port. In this case, the seller must also arrange for export clearance. On the other hand, the buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination.

11.3 As per the allocation of costs to buyer/seller according to incoterms 2020, in FOB terms, all costs related to loading of the export goods at origin, **export custom declaration**, carriage to the port of export, unloading of truck in port of export, loading on vessel/airplane in the port of export have to be borne by the seller of the goods and other expenses such as carriage to the port of import, insurance, unloading in port of import, loading on truck in port of import, carriage to the place of destination, import custom clearance, import duties and taxes and unloading at destination have to be borne by the buyer of the goods.

Thus, all cost until the loading of the export cargo on board the foreign going vessel have to be borne by the seller of the export goods which also include export customs declaration and cost related to it. Thus, it is evident that the export duty is includable in the FOB Value and the same have to be borne by the seller and it cannot be recovered by the seller from the overseas buyer. If the same is recovered, it becomes part of the consideration for sale of the export goods and thus becomes liable to be included in the FOB Value of the export goods.

12. Rejection & Re-determination of the Transaction Value:

12.1 As discussed in the above paragraphs, valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14, *ibid*, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [here-in-after referred as the CVR (E), 2007]. The export proceeds receivable in full consequent to negotiation and finalization of sale price between the exporter from India and their overseas buyer form 'transaction value' of such goods. The export Customs duty is leviable on the actual sale price at which the goods were sold. Where such sale price has been mis-declared and under-stated by the exporter, the actual sale price, i.e. the Transaction Value, needs to be taken into account for the purpose of valuation of the impugned export goods.

12.2 In respect of the shipments of rice covered by the Shipping Bills as shown in the Tables **A, B & C** above, it appears that **M/s Jay Ambe Agro** negotiated and finalized one price with their overseas buyer but in the contracts, the said price was intentionally bifurcated in two parts. The amount of duty payable by the exporter was deducted from the transaction value. In the shipping bills filed by the exporter, such undervalued and mis-declared transaction value was shown, which was lesser than the price that was actually finalized with the overseas buyer as consideration for the export goods. A part of the consideration was intentionally excluded from the transaction value of the export goods by adopting three different modus operandi as discussed in para 6 above. The difference between the actual price finalized with the overseas buyer and the price shown in the export documents were recovered/claimed by the exporter from the buyer separately by an arrangement of the buyer and the seller in this regard. The exporter and buyer may enter into any contract (oral or written), they may sell and purchase the export goods on any terms (such as FOB, CIF, CF, CI or ex-works basis) but for the purposes of calculation of the export duty, the transaction value in terms with the provisions of Section 14 of the Customs Act, 1962 has to be derived and such transaction value is the FOB Value of the export goods as discussed in above paras and for the purpose of calculation of the FOB Value of the export goods, abatement of the export duty is not available as per Section 14 of the Customs Act, 1962 read with CBIC Circular No. 18/2008-Customs dated 10.11.2008.

12.3 The receipt of these deduction amounts from the overseas buyers was apparently never disclosed to the concerned Customs authorities. The said amounts were received from the overseas buyer, as reimbursement of taxes/duties under **wrong RBI Purpose code P1306** which is not meant for receipt of the export duty. The reduced FOB Value declared in the export documents was presented as the true Transaction Value being paid for the export goods by the overseas buyer as the deduction amount was not reflected in the Bank Realization Certificate (BRC) in respect of these export shipment. The deduction amount was recovered separately in their bank account as reimbursement of taxes. Hence, it appears that the value declared by M/s Jay Ambe Agro to the concerned Customs authorities as the Transaction Value of the export cargo in respect of **48** shipments of rice covered by the Shipping Bills as shown in the Tables **A, B & C** above, is liable to be rejected under Rule 8 of the CVR(E), 2007 and the impugned export goods are liable to be valued at their

actual Transaction Value as established by the present investigation, in accordance with the provisions of Section 14 of the Customs Act, 1962, read with Rule 3 of the CVR(E), 2007.

12.4 The amount wrongly excluded from the FOB price was indeed part of the consideration negotiated and finalized between the exporter M/s Jay Ambe Agro and their respective overseas buyers and the said amount which was excluded from the FOB Value was duly claimed /received by the exporter from the overseas buyer in their bank account. Therefore, the differential value (equal to the deduction amount/excess freight amount and the amount claimed/received separately as reimbursement of duty) as shown in the Tables **A, B & C** above appear to be includable in the declared value (FOB Value) of the respective export shipments to arrive at the correct transaction value at which the said goods were sold for export from India for delivery at the time and place of exportation and export Customs duty as per the prevailing rate needs to be charged on the said value. M/s Jay Ambe Agro appears to be liable to pay the resultant differential duty in addition to the duty already paid by them.

12.5 In view of the above, in accordance with the provisions of Section 14 of the Customs Act, 1962, the amount of differential customs duty in respect of the Shipping Bills as mentioned in the Tables **A, B & C** at Para 6 above, wherein a part of export proceeds was apparently not declared to the concerned Customs authorities, and the same was not included in the declared transaction value has to be worked out on the basis of actual Transaction Value of the export goods revealed during the investigation.

13. Calculation of Differential Duty:

13.1 As discussed in above paras, the exporter had undervalued their export shipments of rice. For this three modus operandi were adopted by the exporter. In some of their export shipments mentioned at **Table A in para 6 above**, the FOB price were undervalued by an amount equal to the amount of export duty paid by them at the time of export. In such shipping bills, actual transaction value of the export goods has to be re-determined by adding the amount of export duty which were wrongly claimed as deduction in the shipping bills. These deduction amounts are liable to be included in the actual assessable value of the export goods and differential duty of **Rs.1,06,03,214/-** is liable to be recovered from the exporter in respect of these deduction amounts as summarized below. The detailed calculation of differential duty is shown in **Annexure- I** to this Show Cause Notice.

Table-D

S. No.	Custom House Code	SB Number	SB Date	Declared Fob Value In INR	Duty Amount Paid In INR	Deduction Claimed In INR	Payment Received as Reimbursement Of Taxes In INR	Re-Determined Fob Value In INR	Differential Duty in INR
1	INMUN1	2436066	13-07-2023	73,76,198	14,75,240	14,75,240	14,75,240	88,51,437	2,95,048
2	INMUN1	2436149	13-07-2023	1,08,99,158	21,79,832	21,79,832	21,79,832	1,30,78,989	4,35,966
3	INMUN1	2294541	07-07-2023	63,41,328	12,68,266	12,68,266	12,68,266	76,09,594	2,53,653
4	INMUN1	2272984	06-07-2023	70,28,640	14,05,728	14,05,728	14,05,728	84,34,368	2,81,146
5	INMUN1	1412747	31-05-2023	70,45,920	14,09,184	14,09,184	14,09,184	84,55,104	2,81,837
6	INMUN1	1310665	26-05-2023	70,45,920	14,09,184	14,09,184	14,09,184	84,55,104	2,81,837
7	INMUN1	1144662	19-05-2023	70,45,920	14,09,184	14,09,184	14,09,184	84,55,104	2,81,837
8	INMUN1	1063861	16-05-2023	70,94,588	14,18,918	14,18,918	14,18,918	85,13,505	2,83,784
9	INMUN1	1064829	16-05-2023	35,47,294	7,09,459	7,09,459	7,09,459	42,56,753	1,41,892
10	INMUN1	1064831	16-05-2023	35,47,294	7,09,459	7,09,459	7,09,459	42,56,753	1,41,892
11	INMUN1	1065248	16-05-2023	1,41,89,175	28,37,835	28,37,835	28,37,835	1,70,27,010	5,67,567
12	INMUN1	9918835	10-05-2023	67,67,145	13,53,429	13,53,429	13,53,429	81,20,574	2,70,686
13	INMUN1	9702178	02-05-2023	68,13,180	13,62,636	13,62,636	13,62,636	81,75,816	2,72,527
14	INMUN1	9668742	29-04-2023	71,42,850	14,28,570	14,28,570	14,28,570	85,71,420	2,85,714

15	INMUN1	9563391	26-04-2023	70,32,960	14,06,592	14,06,592	14,06,592	84,39,552	2,81,318
16	INMUN1	9445075	21-04-2023	1,31,86,800	26,37,360	26,37,360	26,37,360	1,58,24,160	5,27,472
17	INMUN1	9294361	14-04-2023	35,03,520	7,00,704	7,00,704	7,00,704	42,04,224	1,40,141
18	INMUN1	9296404	14-04-2023	1,31,38,200	26,27,640	26,27,640	26,27,640	1,57,65,840	5,25,528
19	INHZA1	9233239	12-04-2023	1,31,38,200	26,27,640	26,27,640	26,27,640	1,57,65,840	5,25,528
20	INMUN1	9250113	12-04-2023	35,58,263	7,11,653	7,11,653	7,11,653	42,69,915	1,42,331
21	INMUN1	9123075	06-04-2023	70,80,480	14,16,096	14,16,096	14,16,096	84,96,576	2,83,219
22	INMUN1	9123094	06-04-2023	70,80,480	14,16,096	14,16,096	14,16,096	84,96,576	2,83,219
23	INMUN1	9096385	05-04-2023	1,32,75,900	26,55,180	26,55,180	26,55,180	1,59,31,080	5,31,036
24	INMUN1	9058911	04-04-2023	1,32,75,900	26,55,180	26,55,180	26,55,180	1,59,31,080	5,31,036
25	INMUN1	8621421	20-03-2023	34,29,608	6,85,922	6,85,922	6,85,922	41,15,529	1,37,184
26	INMUN1	8528006	16-03-2023	66,21,750	13,24,350	13,24,350	13,24,350	79,46,100	2,64,870
27	INMUN1	8499936	15-03-2023	34,21,238	6,84,248	6,84,248	6,84,248	41,05,485	1,36,850
28	INMUN1	8406692	11-03-2023	66,21,750	13,24,350	13,24,350	13,24,350	79,46,100	2,64,870
29	INMUN1	7925620	20-02-2023	34,27,515	6,85,503	6,85,503	6,85,503	41,13,018	1,37,101
30	INMUN1	7932151	20-02-2023	34,27,515	6,85,503	6,85,503	6,85,503	41,13,018	1,37,101
31	INMUN1	7408755	31-01-2023	65,24,550	13,04,910	13,04,910	13,04,910	78,29,460	2,60,982
32	INMUN1	7289711	27-01-2023	65,24,550	13,04,910	13,04,910	13,04,910	78,29,460	2,60,982
33	INIXY1	7309304	27-01-2023	90,61,875	18,12,375	18,12,375	18,12,375	1,08,74,250	3,62,475
34	INMUN1	6878791	11-01-2023	1,27,84,200	25,56,840	25,56,840	25,56,840	1,53,41,040	5,11,368
35	INMUN1	6882768	11-01-2023	70,80,480	14,16,096	14,16,096	14,16,096	84,96,576	2,83,219
		Total		26,50,80,341	5,30,16,072	5,30,16,068	5,30,16,069	31,80,96,409	1,06,03,214

13.2 In several export shipments, as detailed in **Table B in para 6 above**, exporter had separately recovered the duty amounts from the overseas buyer of the cargo on the basis of separate export invoices and debit notes sent to the overseas buyer. These facts were not declared by them before the customs authorities at the port of export. Admittedly, these amounts have also been claimed/recovered by the exporter from the overseas buyer on reimbursement basis. Had the overseas buyer not paid these amounts to the exporter, they would not have sold the export goods to the buyer. Thus, these amounts claimed/recovered from the buyer are also part of the consideration received by the exporter for sale of their export goods. These amounts separately claimed/recovered by the exporter from the buyer are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs. 37,27,713/-** is liable to be recovered from the exporter in respect of these reimbursed export duty amounts. The detailed calculation of differential duty is shown in **Annexure- II** to this Show Cause Notice.

Table – E

S. No.	Custom House Code	Sb Number	Sb Date	Declared Fob Value in INR	Duty Amount Paid in INR	Amount Received Through Debit Note as Reimbursement of Taxes In INR	Re-Determined Fob Value in INR	Differential Duty in INR
1	INMUN1	6718623	05-01-2023	66,25,800	13,25,160	13,25,160	79,50,960	2,65,032
2	INMUN1	6626423	02-01-2023	66,25,800	13,25,160	13,25,160	79,50,960	2,65,032
3	INMUN1	6626482	02-01-2023	66,25,800	13,25,160	13,25,160	79,50,960	2,65,032
4	INMUN1	6574218	30-12-2022	66,25,800	13,25,160	13,25,160	79,50,960	2,65,032
5	INMUN1	5820847	30-11-2022	72,08,190	14,41,638	14,41,638	86,49,828	2,88,328
6	INMUN1	5677435	24-11-2022	34,40,273	6,88,055	6,88,055	41,28,327	1,37,611
7	INMUN1	5521235	17-11-2022	69,82,605	13,96,521	13,96,521	83,79,126	2,79,304
8	INMUN1	5199371	02-11-2022	69,91,110	13,98,222	13,98,222	83,89,332	2,79,644
9	INMUN1	4894015	18-10-2022	32,68,350	6,53,670	6,53,670	39,22,020	1,30,734
10	INIXY1	4625019	04-10-2022	1,18,05,000	23,61,000	23,61,000	1,41,66,000	4,72,200
11	INIXY1	4625218	04-10-2022	1,18,05,000	23,61,000	23,61,000	1,41,66,000	4,72,200
12	INIXY1	4625402	04-10-2022	1,19,62,400	23,92,480	24,00,350	1,43,62,750	4,80,070
13	INMUN1	4497609	28-09-2022	31,87,350	6,37,470	6,37,470	38,24,820	1,27,494
				9,31,53,478	1,86,30,696	1,86,38,568	11,17,92,043	37,27,713

13.3 Apart from the above, in several shipments of rice, as detailed in **Table C in para 6 above**, the exporter had declared excess freight amounts in comparison to the actual freight amounts paid by them to the freight

forwarders/shipping lines for transportation of the export goods to the country of destination. Only the ocean freight amounts actually paid by the exporter are eligible for deduction from the CIF/CF value for calculation of the FOB Value of the export goods. Therefore, the excess freight amounts declared by the exporter are not eligible/allowed for deduction as per the provisions of Section 14 of the Customs Act, 1962. These excess freight amounts claimed by the exporter are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs. 57,38,508/-** is liable to be recovered from the exporter in respect of these excess freight amounts also. The detailed calculation of differential duty is shown in **Annexure- III** to this Show Cause Notice.

Table – F

S. No.	Custom House Code	SB NUMBER	SB DATE	Fob Value in INR	Duty Amount Paid in INR	Declared Freight Amount in INR	Actual Freight Amount Paid in INR	Excess Freight Declared in INR	Re-Determined Fob Value by Addition Of Excess Freight Deduction in INR	Differential Duty Amount in INR
1	INMUN1	2436066	13-07-2023	73,76,198	14,75,240	28,18,368	10,13,742	18,04,626	91,80,824	3,60,925
2	INMUN1	2436149	13-07-2023	1,08,99,158	21,79,832	33,35,803	13,33,744	20,02,059	1,29,01,216	4,00,412
3	INMUN1	2272984	06-07-2023	70,28,640	14,05,728	10,32,332	9,12,874	1,19,458	71,48,098	23,892
4	INMUN1	1412747	31-05-2023	70,45,920	14,09,184	10,34,870	9,90,499	44,371	70,90,291	8,874
5	INMUN1	1144662	19-05-2023	70,45,920	14,09,184	10,12,851	9,90,499	22,352	70,68,272	4,470
6	INMUN1	1063861	16-05-2023	70,94,588	14,18,918	15,28,065	9,82,547	5,45,518	76,40,106	1,09,104
7	INMUN1	1064829	16-05-2023	35,47,294	7,09,459	7,64,033	4,95,846	2,68,187	38,15,480	53,637
8	INMUN1	1064831	16-05-2023	35,47,294	7,09,459	7,74,947	4,95,846	2,79,101	38,26,395	55,820
9	INMUN1	1065248	16-05-2023	1,41,89,175	28,37,835	35,36,379	10,52,566	24,83,813	1,66,72,988	4,96,763
10	INMUN1	9918835	10-05-2023	67,67,145	13,53,429	19,20,996	9,83,137	9,37,859	77,05,004	1,87,572
11	INMUN1	9702178	02-05-2023	68,13,180	13,62,636	19,34,064	10,23,246	9,10,818	77,23,998	1,82,164
12	INMUN1	9668742	29-04-2023	71,42,850	14,28,570	18,46,152	5,89,075	12,57,077	83,99,927	2,51,415
13	INMUN1	9563391	26-04-2023	70,32,960	14,06,592	19,78,020	5,44,939	14,33,081	84,66,041	2,86,616
14	INMUN1	9445075	21-04-2023	1,31,86,800	26,37,360	37,36,260	23,51,019	13,85,241	1,45,72,041	2,77,048
15	INMUN1	9294361	14-04-2023	35,03,520	7,00,704	7,22,601	2,76,205	4,46,396	39,49,916	89,279
16	INMUN1	9296404	14-04-2023	1,31,38,200	26,27,640	37,22,490	23,23,439	13,99,051	1,45,37,251	2,79,810
17	INHZA1	9233239	12-04-2023	1,31,38,200	26,27,640	37,22,490	19,91,116	17,31,374	1,48,69,574	3,46,275
18	INMUN1	9250113	12-04-2023	35,58,263	7,11,653	6,56,910	2,85,441	3,71,469	39,29,732	74,294
19	INMUN1	9123075	06-04-2023	70,80,480	14,16,096	15,04,602	5,56,486	9,48,116	80,28,596	1,89,623
20	INMUN1	9123094	06-04-2023	70,80,480	14,16,096	15,04,602	5,56,485	9,48,117	80,28,597	1,89,623
21	INMUN1	9096385	05-04-2023	1,32,75,900	26,55,180	37,61,505	25,11,775	12,49,730	1,45,25,630	2,49,946
22	INMUN1	9058911	04-04-2023	1,32,75,900	26,55,180	37,61,505	23,33,093	14,28,412	1,47,04,312	2,85,682
23	INMUN1	8621421	20-03-2023	34,29,608	6,85,922	8,62,934	3,18,459	5,44,475	39,74,082	1,08,895
24	INMUN1	8528006	16-03-2023	66,21,750	13,24,350	17,65,800	10,99,409	6,66,391	72,88,143	1,33,278
25	INMUN1	8499936	15-03-2023	34,21,238	6,84,248	8,60,828	2,98,618	5,62,210	39,83,447	1,12,442
26	INMUN1	8406692	11-03-2023	66,21,750	13,24,350	17,65,800	10,81,620	6,84,180	73,05,930	1,36,836
27	INMUN1	7925620	20-02-2023	34,27,515	6,85,503	8,95,577	5,50,264	3,45,313	37,72,828	69,063
28	INMUN1	7932151	20-02-2023	34,27,515	6,85,503	9,06,633	5,54,158	3,52,475	37,79,990	70,495
29	INMUN1	7408755	31-01-2023	65,24,550	13,04,910	12,39,665	12,00,220	39,445	65,63,995	7,889
30	INMUN1	7289711	27-01-2023	65,24,550	13,04,910	12,39,665	12,00,220	39,445	65,63,995	7,889
31	INIXY1	7309304	27-01-2023	90,61,875	18,12,375	18,72,788	13,12,453	5,60,335	96,22,210	1,12,067
32	INMUN1	6878791	11-01-2023	1,27,84,200	25,56,840	29,82,980	25,16,560	4,66,420	1,32,50,620	93,284
33	INMUN1	6882768	11-01-2023	70,80,480	14,16,096	12,83,337	6,21,162	6,62,175	77,42,655	1,32,435
34	INMUN1	6626482	02-01-2023	66,25,800	13,25,160	13,03,074	12,49,361	53,713	66,79,513	10,743
35	INMUN1	6574218	30-12-2022	66,25,800	13,25,160	13,03,074	12,67,999	35,075	66,60,875	7,015
36	INMUN1	5820847	30-11-2022	72,08,190	14,41,638	10,04,778	6,86,483	3,18,295	75,26,485	63,659
37	INMUN1	5677435	24-11-2022	34,40,273	6,88,055	5,24,232	3,86,746	1,37,486	35,77,759	27,497
38	INMUN1	5521235	17-11-2022	69,82,605	13,96,521	11,08,350	8,56,961	2,51,389	72,33,994	50,278
39	INMUN1	4894015	18-10-2022	32,68,350	6,53,670	11,43,923	4,10,646	7,33,277	40,01,627	1,46,655
40	INMUN1	4497609	28-09-2022	31,87,350	6,37,470	11,15,573	8,91,357	2,24,216	34,11,566	44,843
Total				28,90,31,460	5,78,06,296	6,97,88,851	4,10,96,315	2,86,92,536	31,77,23,996	57,38,508

13.4 In view of the above-mentioned three modus operandi followed by the exporter for evasion of export duty, their re-determined assessable value in respect of total 48 export shipments have been calculated as shown in below table. Accordingly, the differential duty payable by the exporter M/s Jay Ambe Agro works out to be at **Rs. 2,00,69,435/-** as shown in below Table. The detailed calculation of the differential duty amounts has been shown in **Annexure I, II & III** to this Show Cause Notice.

The port wise summary of differential duty payable by M/s Jay Ambe Agro is as under:

Table-G

Port Code	No. of Shipping Bills	Declared FOB Value in Rs.	Duty Paid in Rs.	Deduction Amount Claimed in Rs.	Export Duty Amount received through Debit Notes in Rs.	Excess Freight Declared in Rs.	Re-determined FOB Value in Rs.	Total Differential Duty in Rs.
INHZA1	1	1,31,38,200	26,27,640	26,27,640		17,31,374	1,74,97,214	8,71,803
INIXY1	4	4,46,34,275	89,26,855	18,12,375	71,14,480	5,60,335	5,41,29,335	18,99,012
INMUN1	43	30,04,61,343	6,00,92,273	4,85,76,053	1,15,16,216	2,64,00,827	38,69,54,439	1,72,98,620
Totals	48	35,82,33,818	7,16,46,768	5,30,16,068	1,86,30,695	2,86,92,536	45,85,80,987	2,00,69,435

14. Obligation under Self-assessment and Reasons for raising duty demand by invoking extended period:

14.1 The exporter had subscribed to a declaration as to the truthfulness of the contents of the Shipping Bill in terms of Section 50(2) of the Customs Act, 1962, in all their export declarations. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, '**Self-Assessment**' had been introduced in Customs. Section 17 of the Customs Act, 1962, effective from 08.04.2011, provides for self-assessment of duty on export goods by the exporter himself by filing a Shipping Bill, in electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make an entry for the export goods by presenting a Shipping Bill electronically to the proper officer. As per Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulation, 2019 (issued under Section 157 read with Section 50 of the Customs Act, 1962), the Shipping Bill shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which was defined as particulars relating to the export goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Shipping Bill number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it was the exporter who must doubly ensure that he declared the correct classification / CTH of the export goods, the applicable rate of duty, value, the benefit of exemption notification claimed, if any, in respect of the export goods while presenting the Shipping Bill. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 08.04.2011, it was the added and enhanced responsibility of the exporter to declare the correct description, value, Notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the export goods.

14.2 In view of the discussion supra, it is evident that the partners of the exporter firm M/s Jay Ambe Agro, were well aware about the actual value of the export goods. They have knowingly got indulged in preparation and planning of forged / manipulated export documents, which they used to forward to the Customs broker in relation to Customs clearance of the said export goods at the time of exportation by way of wilful mis-declaration and intentional suppression of these facts in the Shipping Bills filed by them and thus they appear to have evaded the applicable Customs duty on export of rice.

14.3 In the event of short levy of Customs duty by reason of collusion, any wilful mis-statement or suppression of facts by the exporter or the agent or employees of the exporter, such duty can be recovered by invoking extended period of five

years as provided in **Section 28(4) of the Customs Act, 1962**. In this case, it appears that the exporter has knowingly and deliberately mis-declared the transaction value (i.e. FOB Value) of the export goods. Hence, the extended period of five years is rightly invokable in this case to recover the differential duty as detailed in **Annexure -I, Annexure -II and Annexure -III** of this Show Cause Notice. Further, **M/s Jay Ambe Agro** is also liable to pay interest on their said differential duty liability as per the provisions of Section 28 AA of the Customs Act, 1962, at applicable rate.

15. From the scrutiny of the documents gathered/submitted during investigation by the exporter M/s Jay Ambe Agro, scrutiny of the export data and statements of Sh. Jeewat Kumar Maheshwari, partner of the said export firm who was involved in export of rice from various ports of India, it appears that—

- i. Sh. Jeewat Kumar Maheshwari, Partner of M/s Jay Ambe Agro was the key person who on behalf of M/s Jay Ambe Agro negotiated and finalized the sale price of rice, exported by M/s Jay Ambe Agro to various overseas buyers, vide 48 Shipping Bill as detailed in **Tables A, B & C in para 6** above.
- ii. The declared FOB value in respect of shipping bills listed in **Tables A, B & C**, did not reflect the correct transaction value of the export goods;
- iii. As discussed in above paras, the actual transaction value (i.e. FOB Value) was not declared by them in their export documents. They have undervalued and mis-declared their transaction value with intent to evade applicable duty of customs which is leviable @ 20% *ad valorem* on the actual transaction value of the export goods in following manners:
 - In respect of Shipping bills listed in **Table A** above, the FOB Value was undervalued by them by an amount equal to the amount of export duty paid on export of rice and the said amount was wrongly claimed as deduction in the shipping bills and the said amount was recovered from the overseas buyer on the basis of separate invoices and debit notes raised to the buyer.
 - In respect of the shipping bills listed in **Table B**, above the declared FOB Value was undervalued by an amount equal to the amount of export duty paid by them on export of rice cargo, however, the said amounts were not claimed as deductions in the shipping bills, in fact, they have declared 'nil' deduction amount in the shipping bills. Thus, exporter had outrightly mis-declared the actual transaction value at the time of export. The said amounts were recovered by them from the overseas buyer on the basis of separate invoices and debit notes raised to the buyer.
 - In respect of the shipping bills listed in **Table C**, the declared FOB Value was further undervalued by an amount equal to the excess freight amounts declared by the exporter in the shipping bills which were over and above the actual freight amounts paid by them. The ocean freight amounts actually paid by the exporter are eligible deductions from the CIF Value. By declaring the excess freight amounts, exporter had wrongly claimed excess deductions of freight

amounts which are not eligible. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.

Thus, the declared FOB value in respect of all these shipments did not reflect the correct transaction value of the goods for delivery of the export goods at the time and place of exportation (i.e. on board the foreign going vessel after clearance from the customs authorities at the port of export).

- iv. The FOB value of export goods in all these cases was mis-declared by M/s Jay Ambe Agro to the Customs authorities in the shipping bills filed by them which was supported by their export invoices for lower value, resulting in suppression and mis-declaration of actual transaction value at the time of assessment of the export goods. As such, the value of export goods in respect of all these Shipping Bills was mis-represented to be lower than the actual transaction value, thereby causing evasion of export duty leviable on rice shipments exported by them;
- v. The value of export goods pertaining to each of these Shipping Bills are liable to be rejected and reassessed as per their actual transaction value as ascertained during investigation, by taking into account the amount which was excluded from the declared value at the time of assessment, as brought out in above paras;
- vi. The balance amount not included in the declared FOB Value and wilfully suppressed by not declaring to Customs with an intention to misrepresent the transaction value of the export goods, is liable to be assessed to duty at the applicable rate as detailed in '**Annexure -I, Annexure -II and Annexure -III**' of this Show Cause Notice and the same is recoverable along with interest at applicable rate;
- vii. The act of undervaluation and mis-declaration of actual transaction value in respect of Shipping Bills listed in Tables **A, B & C** by M/s Jay Ambe Agro has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962 and consequently, M/s Jay Ambe Agro have rendered themselves liable to a Penalty under the provisions of Section 114A and Section 114AA of the Customs Act, 1962;
- viii. Sh. Jeewat Kumar Maheshwari, Proprietor of M/s Jay Ambe Agro, appears to be the person who knowingly or intentionally either made, signed and used or caused to be made, signed and used, the custom purpose export invoices, exporter and banking purpose export invoices/debit notes and Shipping Bills for export of rice by M/s Jay Ambe Agro, which were incorrect as regards to the value of export goods for payment of export duty. The goods covered under Shipping Bills listed in Tables **A, B & C** above, contained the declarations made by M/s Jay Ambe Agro which were false and incorrect in material particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were finalized/signed in the overall supervision of Sh. Jeewat Kumar Maheshwari who was handling the day to day business of the export firm. This fact has been admitted by Sh. Jeewat Kumar Maheshwari in his statement recorded u/s 108 of the Customs Act, 1962. In view of this, it

appears that Sh. Jeewat Kumar Maheshwari is the key person who has orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. Sh. Jeewat Kumar Maheshwari is, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by M/s Jay Ambe Agro. The act of Sh. Jeewat Kumar Maheshwari regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by M/s Jay Ambe Agro has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, Sh. Jeewat Kumar Maheshwari has rendered himself liable to penal action under the provisions of Section 114 (ii) and 114AA of the Customs Act, 1962;

16. CBIC vide Notification No. 28/2022-Customs (N.T.) dated 31.03.2022 had stipulated that in cases of multiple jurisdictions as referred in Section 110AA of the Customs Act, the report in writing, after causing the inquiry, investigation or audit as the case may be, shall be transferred to officers described in column (3) of the said Notification along with the relevant documents. For cases involving short levy, non-levy, short payment or non-payment of duty, as provided in Section 110AA (a) (ii), the functions of the proper officer for exercise of powers under Section 28 of the Customs Act, 1962 have been assigned to the jurisdictional Pr. Commissioner/ Commissioner of Customs in whose jurisdiction highest amount of duty is involved. Since, in the present case, exports have been made from three (03) different ports, as mentioned in **Table G in para 13.4 above**, however the highest amount of differential export duty is in respect of Mundra Port, Gujarat. Hence, Mundra Port, Gujarat, being the port involving highest revenue, this Show Cause Notice is being made answerable to Principal Commissioner/ Commissioner of Customs, Mundra Port, Gujarat, for the purpose of issuance as well as adjudication of Show Cause Notice under Section 110AA read with Notification No. 28/2022-Customs (N.T) dated 31.03.2022.

17.1 Now therefore, M/s Jay Ambe Agro having its registered office at 93, Opposite Jadaba Hall, Near HP Petrol Pump, Jetalpur, Ahmedabad, Gandhinagar, Gujarat-382426 (bearing Importer Exporter Code No. 0809017628), through its Partners are hereby called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., the Principal Commissioner of Customs, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat -370421 (INMUN1) as to why—

- i. The declared assessable value of **Rs. 35,82,33,818/-** in respect of 48 shipments of rice exported vide Shipping Bills detailed in '**Annexure-I, II & III**', should not be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3 (1) *ibid* and Section 14 (1) of the Customs Act, 1962;
- ii. The actual assessable value in respect of Shipping Bills detailed in '**Annexure-I, II & III**', should not be re-determined at **Rs.45,85,80,987/- (Rupees Forty Five Crore Eighty-Five Lakhs Eighty Thousand Nine Hundred Eighty Seven Only)** under the provisions of Section 14 (1) of the Customs Act, 1962, Rule 3 (1) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 by taking into account – (a) the amounts claimed as deduction in the shipping bills,

which were equivalent to amount of export duty claimed by them; (b) excess ocean freight amounts claimed/recovered and (c) undeclared export duty reimbursement amounts - which were claimed/recovered by them from the overseas buyer of the goods, as discussed in **Para 6 & 13** of this Show Cause Notice;

- iii. The differential (export) duty amounting to **Rs. 2,00,69,435/- (Rupees Two Crore Sixty-Nine Thousand Four Hundred Thirty-Five Only)** payable, as calculated and shown in '**Annexure-I, II and III**' to this Show Cause Notice, in respect of Shipping Bill filed by them at three different ports, should not be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28(4) of the Customs Act, 1962;
- iv. The interest on the afore-said total differential duty amount of **Rs.2,00,69,435/-** should not be demanded and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;
- v. The shipments of rice exported vide Shipping Bills detailed in '**Annexure-I, II & III**' to this Notice having re-determined assessable value of **Rs. 45,85,80,987/-**, should not be held liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962;
- vi. Penalty should not be imposed upon them under the provisions of section 114A and Section 114AA of the Customs Act, 1962.

17.2 Now therefore, Sh. Jeewat Kumar Maheshwari, Partner of M/s Jay Ambe Agro (having Importer Exporter Code No. 0809017628), is hereby called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., Principal Commissioner of Customs, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat -370421 (INMUN1), as to why penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 should not be imposed upon them for their acts and omissions in evasion of Customs Duty amounting to **Rs. 2,00,69,435/-** on export of rice through his partnership firm.

18. The noticees are further called upon to intimate in writing as to whether they wish to be heard in person by the adjudicating authority before the case is adjudicated within 30 days from the date of receipt of this show cause notice. If no reply of this notice is received and / or they fail to appear before the adjudicating authority, when the case is posted for hearing, the case will be liable to be decided *ex parte* on the basis of the evidences available on record without any further notice to them.

19. The noticee have the option to avail the facility under the provisions of Section 28(5) of the Customs Act, 1962, which reads "where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged 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 by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under Section 28AA and the penalty equal to fifteen percent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing" and get the proceedings initiated by this Notice concluded under the provisions of Section 28(6) of the

Customs Act, 1962.

20. The original copies of the relied upon documents, if required, can be inspected by the noticee / noticees in the office of the Principal Director General, Directorate of Revenue Intelligence, 7th Floor, 'D' Block, I. P. Bhavan, I.P. Estate, New Delhi during office hours on any working day with prior appointment.

21. This Show Cause Notice is issued without prejudice to any other action that may be taken against the noticee / noticees mentioned hereinabove or any other persons / firms connected with the case under the Customs Act, 1962 or any other law for the time being in force.

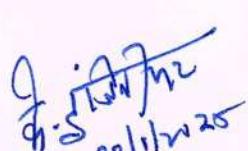
22. Documents relied upon are detailed in **Annexure -'R'** attached to this Show Cause Notice. Scanned copy of the Relied Upon documents is also attached in CD Form with this Show Cause Notice.

23. The Non-RUDs may also be collected, if required, by the notice/ noticees from the office of the Principal Director General, Directorate of Revenue Intelligence, 7th Floor, 'D' Block, Indraprastha Bhavan, I.P. Estate, New Delhi during office hours on any working day with prior appointment within 30 days of receipt of this notice.

24. A copy of the Show Cause Notice is also transmitted to M/s Jay Ambe Agro and Sh. Jeewat Kumar Maheshwari, Partner M/s Jay Ambe Agro at their email ids info@jayambeagro.com, jeewatmaheshwari22@gmail.com & Jayambeagro09@gmail.com in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962 so that such service through email shall be deemed to have been received by the noticees in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962.

25. The Noticee(s) have an option to make an application under Section 127B of the Customs Act, 1962 prior to adjudication of the case to the Hon'ble Settlement Commission to have the case settled in such form and in such manner specified in the rules.

26. The department also reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.


(K. Engineer)
Pr. Commissioner of Customs
Customs House Mundra,

F.No. GEN/ADJ/COMM/34/2025-Adjn

Dated 20.01.2025

To the Noticees,

- 1) M/s Jay Ambe Agro, 93, Opposite Jadaba Hall, Near HP Petrol Pump, Jetalpur, Ahmedabad, Gandhinagar, Gujarat-382426 (Jayambeagro09@gmail.com and info@jayambeagro.com)
- 2) Sh. Jeewat Santhosh Kumar Maheshwari, Partner of M/s Jay Ambe Agro, Residing at D 303, Karnavati Apartment-II, Near Shriram Residency, Narol, Ahmedabad, Gujarat, 382405; Earlier residing at A1/B1, Yogeshwar Tenament, Opp Samrat Nagar, Ghodasar, Ahmedabad, Gikarat- 380050 (jeewatmaheshwari22@gmail.com)

Copy for necessary action to: -

- 1) The Principal Commissioner/ Commissioner of Customs, Kandla, Kandla Custom House, Near Balaji Temple, Kandla-370210 (INIXY1), Email: commr-cuskandla@nic.in;**
- 2) The Principal Commissioner/ Commissioner of Customs, Ahmedabad, 1st Floor, Custom House, Near All India Radio, Income Tax Circle, Navrangpura, Ahmedabad-380009 having jurisdiction over Custom House Hazira, Hazira By Pass Road, Choriyashi at Post Hazira-394270. (INHZA1);**
- 3) The Director General, Central Economic Intelligence Bureau, 6th Floor, B-Wing, Janpath Bhawan, Janpath, New Delhi-110001;**
- 4) The Additional Director, DRI Hqrs, 7th Floor, Drum Shape Building, I.P. Bhawan, I.P. Estate, New Delhi; and**
- 5) Guard File.**