

**OFFICE OF THE COMMISSIONER****CUSTOM HOUSE, KANDLA****NEAR BALAJI TEMPLE, NEW KANDLA****Phone : 02836-271468/469 Fax: 02836-271467****DIN-20250771ML00000EACF**

A	File No.	GEN/ADJ/ADC/42/2023-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADC/VS/03/2025-26
C	Passed by	Vishwajeet Singh, Additional Commissioner of Customs, Custom House, Kandla
D	Date of Order	04.07.2025
E	Date of Issue	04.07.2025
F	SCN No. & Date	F.No.GEN/ADJ/ADC/42/2023-Adjn-O/o Commr-Cus-Kandla dated 11.07.2023
G	Noticee / Party / Importer / Exporter	M/s. Star Exim Warehouse and Others.

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

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

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 12 8A के अंतर्गत प्रपत्र सीए-1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to,

**सीमा शुल्क आयुक्त (अपील )**

**7<sup>वीं</sup> मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”**

**“THE COMMISSIONER OF CUSTOMS (APPEALS),**

**Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,**

**Ashram Road, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ झूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क) अपील (नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the Appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो अथवा दंड में जहाँ केवल जुर्माना विवाद में हो, आयुक्त (अपील) के समक्ष मांग शुल्क का 7.5% की राशि का भुगतान करना होगा।

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

## **BRIEF FACTS OF THE CASE:-**

**M/s Star Exim Warehouse**, Shed No. 149 to 152, Phase-I, Sector-I, Kandla Special Economic Zone, Gandhidham, Kutch-370230 (herein after referred to as **“M/s. Star Exim”** or **“the unit”**), was allowed to operate SEZ unit for undertaking authorised operations viz. “trading and warehousing Service activities”, as per the Letter of Approval (LoA) No. 04/2021-22 dated 03.06.2021 (**RUD-1**), issued by the Development Commissioner, Kandla Special Economic Zone (KASEZ), Ministry of Commerce & Industry, Gandhidham-Kutch-370230. As per the Sr. No. 11 of the Annexure-A (**Trading Activity**) to the LoA, the items “Betel Nut/ Areca Nut~Whole (08028010), ~split (08028020), ~ground (08028030), ~Other (08028090) & Other (08029000)” were permitted with Sr. No.10 in the same Annexure-A, listing item “Betelnut Powder/product known as Supari (21069030)”. None of these items were listed in Annexure-B of the LoA dated 03.06.21 listing items approved for **“warehousing activity”**. In fact, of the 15 different items each of Annexure-A & B, listed respectively for trading activity and warehousing activity as authorized operations, only the item “Memory Cards CTH 85235220” was the common entry in both the Annexures A & B.

**2.** Further, as per the letter F.No. KASEZ/IA/04/2021-22/2797-99 dated 24.06.22 (**RUD-2**), the Competent Authority had approved to take on record the commencement of authorised operations for “warehousing activity only” with effect from 04.08.21 in terms of LoA, the validity of which was extended from 04.08.21 to 03.08.26. The unit was further clarified that “...this intimation was on record for their warehousing activity only and separate date for commencement of other activity i.e. trading activity was to be submitted or the extension was to be sought as per the provisions of Rule 19(4) of the SEZ Rules 2006, failing which the trading activity approved in the LoA would stand cancelled automatically”. Further, vide permissions no. KASEZ/IA/04/2021-22/3672-73 dated 22/23.07.21 & No. KASEZ/IA/04/2021-22/2301-02 dated 06/07.06.22, (**RUD-3, Coll’y**), the unit was permitted for warehousing of goods like Wall Paper, Hand knotted Silk Carpet, Hand knotted Woolen Carpet & Door Knob on behalf of DTA clients or DTA/Overseas Clients, in addition to the authorised operations by the UAC, subject to observance of the conditions specified in the LoA/LoP.

**3.** An intelligence gathered by the Directorate of Revenue Intelligence (herein after referred to as “DRI”) indicated that M/s Star Exim Warehouse, Kandla SEZ was importing consignments of arecanuts under the declaration of “Betel Nuts Splits and Powder” and physically importing whole consignment of Betel Nuts, with mis-declaration as Betel Nut Powder and diverting the imported Betel Nuts to the local market; that the unit was exporting “Betel Nuts Powder” (wrongly declared items) for fulfillment of SEZ procedures. Intelligence further suggested that one live import consignment of said unit was awaiting clearances at KASEZ with the same *modus operandi* wherein it was proposed in the intelligence to hold the containers and to carry

out 100% examination at KASEZ, as the whole consignment of 40 feet containers (04) would be consisting of whole Betel Nuts only and not Powder, as declared.

**4.** Acting upon the intelligence, investigation was initiated by DRI against the said importer by way of visiting the said warehouse unit premises of M/s Star Exim in KASEZ on 13.07.2022, for carrying out 100% examination of the four containers, but the same could not be initiated as the Prop. Shri Sadam Hingorja informed to be out of station with family and also informing that the goods shown 'under import' were already destuffed from containers and unloaded at his unit and were under warehousing/storage at the said warehouse and the keys thereof were with himself only. After telephonically confirming with Shri Sadam Hingorja, as it came to notice that the said import goods were already unloaded from the containers and were lying within the unit it was decided to seal the unit for physical verification afterwards, accordingly the unit was sealed by the DRI Officers under Panchnama dated 13.07.2022 (**RUD-4**). Further the KASEZ Officers were asked to arrange for guards at the unit as the premises was not having any compound wall or gates or watchman, and was accessible from public road.

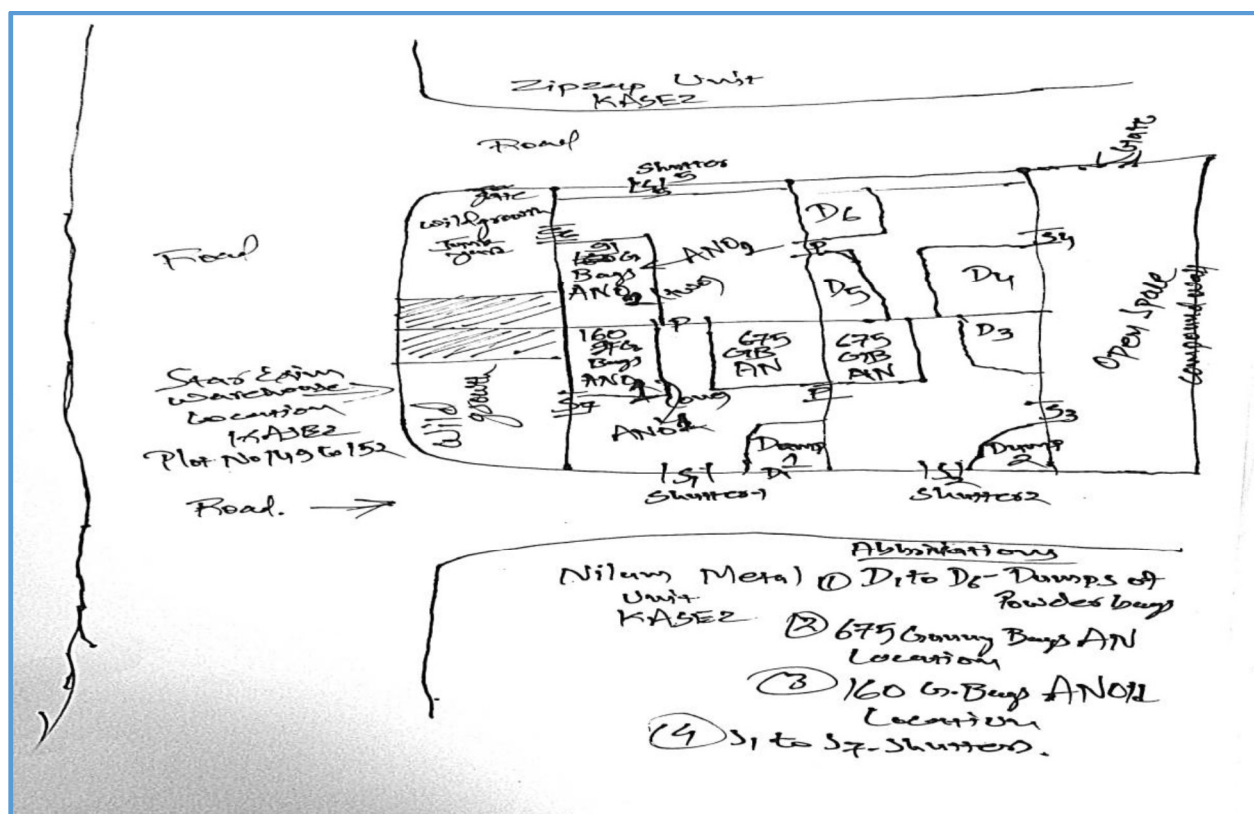
**5.** The necessary stock verification and 100% examination of goods was carried out, in daytime for want of electricity at the unit and in presence of Shri Sadam Hingorja, Prop. of M/s Star Exim, under five successive panchnamas respectively dated 19.07.2022, 22.07.2022, 23.07.2022, 26.07.2022 and 27.07.2022 (**RUD-5 Colly.**), as summarized below:

**5.1. On 19.07.2022,** the search of the warehousing unit of M/s Star Exim KASEZ was conducted by DRI officers in presence of its Proprietor Shri Sadam S. Hingorja, after informing all present the purpose of visit was to examine the import consignment of M/s Star Exim, KASEZ which had arrived through four 40' Containers Nos. (i) CRSU9281815, (ii) GESU5826200, (iii) PCIU9928227 and (iv) SEGU5165580, the goods of which were declared on import documents as "**108MT Areca nuts and powder in 1350 bags (CTH 08028020)**". As these were unloaded at that warehouse, Sh. Sadam led all present into the M/s Star Exim Warehouse- where the jute bags of import consignment of the above mentioned four containers were stacked, he also informed that few PP bags of areca nut powder, lying strewn in the dumps at corners of Warehouse were also part of that consignment, which he could not pin-point among the dumps of other bags stored unevenly.

**5.2.** Thus, it was found that the goods declared as "Areca Nut Split and Powder" in the import Bill of Entry, filed by the importer was mixed with the previously imported goods. Thus, he failed to identifiably segregate and pin point the exact import consignment destuffed last, from goods stored in mixed condition, within his warehouse. As the only alternative, the task of quantification of all remaining (balance) bonded stock held with the Star Exim warehouse was taken up. Shri Sadam S. Hingorja was asked for identifying and supplying the consignment wise details of the stocks of areca nut &

arecanut powders lying at his warehouse. He informed that as per his records, the warehouse should have total balance stock of “**2425 bags of Areca Nuts Split and Powder**” which were available as 1350 jute bags of Areca Nut Split + 370 jute bags of Areca Nut Splits, pertaining to other consignment and around **4 heaps of powdered substances**, stored in different sized PP Bags stored at rear side of the warehouse, the quantity of which comprised of above jute bags and around 700 to 800 areca nut powder bags. Shri Sadam S. Hingorja informed that that all of the available stock of 2425 bags lying at Star Exim Warehouse, belonged to M/s Faza Sanitary Ware Trading LLC, UAE, as the last imported stock of 1350 bags of Areca Nut Split and Powder was sold to them (M/s Faza) by their client M/s Suryastar Trading Private Ltd. Mumbai, vide invoice No. SST/22-23/001 dated 11.07.2022. Shri Sadam S. Hingorja was asked about the details/documents related with that physically available bonded stock, on which he produced the details/documents of the export/imports/intra unit transfers of all goods they had carried out since the issuance of Letter of Approval (LoA) dated 03.06.2021, by the Development Commissioner, KASEZ. Upon asking him as to why the stocks of different items were not maintained separately, he informed that as per the condition of the LoA, they were required to maintain separate registers for trading and warehousing service activities only, and as they were not carrying out any process on the import goods and providing warehousing service, they had not maintained any such records, he said that they had never carried out any domestic clearance of this product Areca Nut, hence no separate records were maintained and the warehoused goods were stored altogether –as imported and were to be cleared for export.

**5.3.** During the examinations dated 22.07.22 to 27.07.22 at the Unit, the location wise dumps or stocks were marked in the premises Star Exim Warehouse as shown in the sketch below:



**5.4** During the examination dated 27.07.22, of the remaining dumps at Star Exim Warehouse, marked as dump-D-3 to dump D-6, it was found that the seals of Shutter-3 of the Unit, for which locks and seals were applied from inside, at the end of earlier panchnama dated 26.07.22, the same (locks & seals) were removed and remnants thereof were not found around. Further the handles of shutters were neither broken nor bore any marks of forced break in.

**5.5** Simultaneously Sadam Hingorja, proprietor pointed out that from the fresh stock of Areca Nut splits marked AN675, total 13 bags were missing. Apart from that, one such bag of fresh areca nut AN 675 stock was found lying on the weighing scale. As the bonded stock of fresh Arecanut Split was from the stocks which were not disturbed since counting and weighments in the very first day of panchnama dated 19.07.22, the proprietor was asked to pursue the required procedure for the pilferage. On physical verifications of the remaining stocks in the Warehouse, viz. that of black Areca Nut Old, marked as ANO/1, total 160 single gunny bags & marked as ANO/2, total 91 single gunny bags, quantified on 23.07.22, were found alright & undisturbed as well as the stock of AN675 stored opposite shutter 1. Further, the remaining stocks dumps were found undisturbed and as left with the markings thereon during previous quantifications. On enquiring the Proprietor about the probable access or entry point for reaching inside of the locked and sealed warehouse premises of M/s Star Exim, he showed the rear side opening to road, which was falling opposite M/s Zipzap unit of KASEZ, which was located as 4x5 feet opening at around 10 feet high from the ground-level. The shutter-3 of the unit, which was found opened from inside and was found to be locked with a new padlock from outside.

Necessary process for the pilferage was pursued by Sh. Sadam with KASEZ security, Sadam was also asked by the officers to get the said opening fixed perfectly, for making the same inaccessible as high value bonded goods were under storage by his unit, M/s Star Exim. Accordingly, the opening of the unit was shut of the warehouse with help of artisan who fixed the sheets. On asking as to whether such theft had occurred earlier too at his premises, Sadam negated such occurrence. After the verification by the KASEZ security officer, the outside lock of shutter-3 was cut with help of seal-cutter.

In conclusion, the weighments as reflected in Table-1 below were carried out during the examinations of the stock of Star Exim Warehouse, KASEZ, viz. those listed at serial No.1 to 6 of the table-1, during the examination panchnamas on 19.07.22 & 23.07.22 and those serially listed from 7 to 8(a) were carried out during the panchnama dated 27.07.22, all of which were stored within warehouse and as identified by the importer to be representing the consignments of the Imported Areca Nut & Areca Nut Powders, under the warehousing scheme.

**Table-1**

<b>Sr. No.</b>	<b>Item description</b>	<b>Location marked in warehouse</b>	<b>Bags</b>	<b>Weighme nt per bag</b>	<b>Total wt. Kg.</b>	<b>Examinatio n dtd.</b>	<b>Smpl Mkd &amp; TR No.</b>
1	<b>Split arecanut double gunny packed</b>	AN 675	675	80 Kg	54000	19.07.2022	AN675/S1 & 1531
2	<b>Split arecanut double gunny packed</b>	AN 675	675	80 Kg	54000	19.07.2022	
3	<b>Split arecanut single gunny bag</b>	AN01	160	46.4 to 60.8 Kg	9060	23.07.2022	AN01/S1 & 1526
4	<b>Split arecanut single gunny bag</b>	AN02	91	52.8 to 62.2 kg	5270	23.07.2022	AN02/S1 & 1527
	<b>Total Split Arecanuts</b>		<b>1601</b>		<b>122330</b>		
5	<b>Reddish Powder original PP bags</b>	<b>D2</b>	17	13.96 to 51.77kg range	594.19	23.07.22	D2RP/S1 & 1520
5a	<b>Reddish Powder original PP bags</b>	D1	2	15.92kg & 25.70kg	41.62	23.07.22	D1RP/S1 & 1524
5b	<b>Brownish powder DUMP2</b>	D2	1	45.86	45.86	23.07.22	D2B/S1&1522
6	<b>Reddish powder refilled PP bags</b>	<b>D2</b>	15	12.31 to 44.72kg range	427.99	23.07.22	D2R/S1 & 1519
7	<b>Reddish powder Jumbo Bags</b>	<b>D3</b>	torn and damaged	7 Jumbo & 10 refilled bags	4160	27.07.22 (330250)	D3RP/S1 & 1528
7a	<b>Reddish powder Jumbo Bags</b>	<b>D3</b>	torn and damaged	12 Jumbo bags	14140	27.07.22 (330278)	

7c	<b>Reddish powder Jumbo Bags</b>	<b>D3</b>	torn and damaged	10 Jumbo bags	13690	27.07.22 (330279)	
7d	<b>Reddish powder Jumbo Bags</b>	<b>D3</b>	torn and damaged	13 Jumbo bags	13180	27.07.22 (330280)	
7e	<b>Reddish powder Jumbo Bags</b>	<b>D-5</b>	torn and damaged	11 Jumbo bags	12130	27.07.22 (330284)	D5RP/S1 & 1529
7f	<b>Reddish powder Jumbo Bags</b>	<b>D-5</b>	torn and damaged	10 Jumbo bags	9520	27.07.22 (330286)	
7g	<b>Reddish powder Jumbo Bags</b>	<b>D-5</b>	torn and damaged	6 Jumbo bags	2620	27.07.22 (330288)	
8a	<b>Brownish husk or coco peat type powder</b>	<b>D6</b>	torn and damaged	8 Jumbo bags	4170	27.07.22 (330287)	D6BP/S1 &1530
	<b>Total areca nut powder</b>			<b>77 jumbo bags, 25 refilled bags &amp; 20 original packed.</b>	<b>74673.8</b>		

The work of drawl of five samples each from different types of imported areca nut powders, as identified by the importer and weighted as shown above from similar goods from the Dumps D3, D5 & D6 was undertaken, whereby the samples from respective batch of Jumbo bags containing areca nut powder in forms as shown against them were drawn and placed in the zip-pouches, before marking and sealing them in the respective envelopes with corresponding labels/marks, as shown in last column of above table. The remaining three samples, marked as D1E/S1, D2E/S1 & D2G/S1 of Soil/Earth Type powders or & Brownish and Greyish Powders from Dump-1 and Dump-2 which were respectively issued vide TR No. 1525,1523 & 1521 are not discussed further as the same, quantified to be contained in 405 bags of weights 22.1MT in the Panchnamas, were identified by the corresponding laboratory reports as be inorganic matter (TR No.1521), friable & non-friable lumps with inorganic matters( TR No.1525 & 1523) viz. goods other than Areca Nut or Areca Nut powders. Further, the TRs showed varying percentages of “Ash Contents” in the samples in the range of 1.12% to 92.68%, corroborating the fact that the goods represented by the samples were having percentages of other materials along with Arecanuts.

**6.** During the above stock verification of the said warehouse, the goods said to be “powder of Areca Nut” were identified by Sadam and were found to be dumped in quite random and uneven manner in unidentifiable assorted packagings and weighments with similar PP bags containing earth, building materials etc. Further, the bonded stock of powders was not stored segregated but was found lying in dumps and in littering

damaged bags with no precise record of consignment wise receipt and dispatch produced by the warehouse owner, Mr. Sadam, who pointed all the dumps may be having imported goods. Upon applying the best methods for quantification of the stocks, positive difference was also noticed in stock position stated to be 2425 Bags (193.6 MT Net & 200.95MT Gross) and the quantity actually found (219.1 MT Gross), was noticed. No clarification to the same was given by Shri Sadam S. Hingorja, Prop. of the said warehouse. During the examinations, the DRI Officers had drawn total 13 representative samples from the different stocks lying in the warehouse during the panchnamas in presence of Shri Sadam Hingorja, Prop.. A set of samples so drawn was sent to Central Excise & Customs Laboratory, Vadodara vide Test Memo bearing No 15/2022 to 27/2022, all dated 28.07.2022 **(RUD-6)** on 29.07.2022, for exact identification of the materials under warehousing at the unit.

**In brief, during the imports and exports, the unit had mixed two distinct items, Areca Nut Split & Areca Nut Powder under import documents showing them both under a single CTH of Areca Nut Split & showing their consolidated weight and number of bags, thus resorting to mis-declaration of the goods** and had further failed to maintain proper accounting thereof separately itemwise and/or consignment wise.

Secondly, the unit had failed to ensure the distinct storage of the imported bonded goods they warehoused, in segregated manner in identifiable or distinctively separate condition. Rather an attempt of mixing the said areca nut powders bags said to be bonded goods, in uneven dumps, alongwith other worthless goods like earth/building materials/foilage etc. in very similar PP bags, stored alongwith the bonded goods, in damaged condition, was made to thwart any attempt of stock-taking at any point of time. Further, the warehouse keeper had failed to ensure safe custody and upkeep of the imported bonded goods as the material was found leaking from damaged bags.

The balance stocks declared by the warehouse owner, before the commencement of quantification was **2425 bags/ 197.003MT Net/ 200.95MT Gross**, out of which he could identify and show only **1601 bags of arecanut split in gunny bags(122.33MT)- comprising of 1350 fresh stock in double gunny bags and remaining of Old Black Areca Nuts splits, in gunny bags.**

For final quantification and identification of the imported goods stored by the unit, the most important point in the situation was whether the alleged –reddish powder/husk-like material/brown powder| alleged to be imported Areca Nut Powders- in PP Bags, imported with split arecanut consignments in gunny bags by their clients in ratio from 10-30%, were in fact –Areca Nut Powder| or otherwise. For proper identification, samples were sent to CECL, Vadodara for testing. The brief of declared as well as found items are as below:

**Table-2**

	<b>BALANCE on 13.7.22 as declared</b>	
	<b>Number of BAGS imported AN Split/Powder(to be identified)</b>	<b>Balance WT in (MT)</b>
As declared:	2425	193.623 MT net / 200.95 MT Gross
Found as split areca nut on physical verification	1601	122.33 MT Gross
Found as powdered areca nut alongwith soil and debris	122	74.67 MT

**7.** The 13 representative samples drawn during the above examinations were forwarded to Customs House Kandla laboratory, for testing on 29.07.22, however it was intimated that the samples forwarded may not be tested at that laboratory as it was not equipped to confirm the declared descriptions as sought and it was suggested to get the same tested through CECL Laboratory Vadodara or CRCL, New Delhi, as both of them were having FSSAI accreditation for samples under Customs and Central Excise. Accordingly the samples were forwarded to CECL, Vadodara vide letter dated 05.08.22, for testing.

**8. STATEMENT OF SHRI SADAM HINGORJA, PROP. M/S STAR EXIM, KANDLASEZ WAS RECORDED ON 11.08.2022 (RUD-7).**

**8.1.** Shri Sadam Hingorja, Prop. M/s Star Exim, Kandla SEZ was issued summons dated 25.07.2022, 01.08.2022, 01.08.2022 and 02.08.2022, however he didn't produce himself before investigating officer before 11.08.22 and cited reasons like self-sickness or his expectant wife's medical conditions etc. for his non-appearance. During his statement dated 11.08.22, he *interalia* stated that on 13.07.2022, he was informed by the officer of DRI that for search of his warehouse premises of M/s Star Exim Warehouse, KASEZ, Gandhidham his presence was required. But as he was on pilgrimage of Ajmer Dargah with his family members, he had requested the officers that keys were with him and no other person in Gandhidham were appointed as representatives, hence the unit could be opened on his return. Accordingly he was available after 18.07.22 and the verification of the stocks within his warehouse premises was undertaken as reflected in the five panchnamas carried out between **19.07.22 to 27.07.22**, during which he had remained present and was given the copies of each of the examination panchnamas and was satisfied with the facts recorded therein. He further added that the stocks of arecanut powder containing bags were found stored in random manner, alongwith the earth/soil bags and building material bags in uneven dumps and during last Panchnama those had to be collectively weighted in jumbo bags and carrying out the weighments at weighbridge within KASEZ.

**8.2.** M/s Star Exim was providing warehousing services since June, 2021 to store the imported goods as per the orders of their clients and then would export the same on

their requirements/orders to the buyers names given by them(clients) by the unit, at the rates suggested by them(clients). In the capacity of the Custodian, he would file the warehousing bill of entry on their behalf, with their names shown as warehouse agents or first notify party on the import documents along with the actual names of clients. For export, they used to file shipping bill as exporters, with the names of clients shown below and would clear the goods, by engaging labourers. They would charge from their clients, the rent for usage of warehousing space in US dollars. Further he stated that they had not carried out any activities on the import cargo so stored at their warehouse, and the same was kept in 'as imported' condition only. He had no idea about the difference in quality and colour of imported arecanut powders stored at his warehouse. Being custodian of the cargo, he could not sale the imported goods to anyone without orders from his clients. As per him, **they had not done any domestic clearances till date, and that ratio of imported areca nut/betel nuts and powder would be 80-20% in consignments.**

**8.3.** On being asked about the records he had brought, he affirmed to have brought along the following record related to his unit,

(i) the bank statement of ICICI Bank for the period 01.08.21 to 31.07.22,

(ii) E-mail correspondence copy, 3 pages dated 29.05.22,

(iii) Warehousing storage Invoices No. GT-RENT-1 dated 06.03.22, GT-RENT-2 dated 05.04.21, Gt-RENT-3 Dtd.05.05.21, GT-RENT-4 dated 05.06.22 & SEW 001 dated 04.06.22 (not realised till date)

(iv) Allotment order dated 09.06.2021 issued to M/s Star Exim Warehouse, for annual lease rent of Rs.10,78,272/- and maintenance charges of Rs.20,736/-per annum to KASEZ.

The other documents related to areca-nut split and its powder, handled by them, viz. KYC & agreements with their clients, total four copies of Bills of Entry with invoices & packing list and one inter-unit transfer invoice (from GSM Global INC) and its TP for importation and the four Shipping bills exported on orders of their clients were submitted on 21.07.22. He stated that apart from above he was not having any other documents with him. As for the Balance Sheet and ITR they had not prepared these till date of statement.

**8.4.** On being asked about the weighment's records or E-Way bills or LR or transport documents of the goods handled by him till date as well as the stock register for the stocks handled by his warehouse, he responded that at the time of entry into KASEZ, they would submit the weighment slips, after verification of weight to the Gate Officers, only after which they were allowed to process Bill of Entry or Shipping Bill, hence they were not having any record of weighment slips. He further added that LR or e-way bill were not necessary as SEZ being foreign territory, hence they had no such records. On the point of the stock register, he produced a page showing stock register of Split Areca

nut and powder, wherein all the imports and exports were shown in weighments till date. He also added that on 19.07.22, he had furnished a balance stock register -client wise, according to which they had balance Stock of areca nut split and powder of **2425** bags with weight of **200950 kg Gross/200.95MT**, which was belonging to their client **M/s Faza Sanitariware, Dubai**. On being further asked as to why the balance quantity of the duty free goods were shown cumulatively as stock in his warehouse, and asked to specify the bags in stock for split areca nut and arecanut powder as per his records, with corresponding details of Bill of Entry or Inter unit transfers, under which those goods were procured at warehouse, he responded that he had not mixed arecanut split and Powder bags together in his warehouse but had not maintained any stock registers separately showing their consignment wise entries anywhere so he would not be able to confirm as to which of the stock under storage at his unit pertained to which specific bill or entry or inter-unit transfer, adding that the cargo was of one client who was planning for export of the same, hence also they had not maintained separate stock wise register.

**8.5.** On referring to the successive panchnama for examination of stocks the copies of which were given to him and out of which he had witnessed the proceedings of all didn't he agree that he had failed to maintain identifiable stock of Areca Nut powder at his warehouse which was found in random bags stacked in dumps at different corners, he responded that it was due to lack of knowledge of labourers and their mistakes those construction bags dumps were mixed with areca nut powder bags, which was the reason why those imported areca nut powders bags could not be counted or quantified easily.

**8.6.** On being asked as to whether the opening kept at the rear side at old premises with board of "**Shivam Steels Plot No. 149-50**" of KASEZ was not felt necessary for shutting up for the costly storage of his duty free consignments, during the repairing work he had carried out after allotment of premises, he responded that the construction work was ongoing, and sheets were kept as well as concrete bricks and partition blocks, but it was decided to resume work after rains.

**8.7.** On being asked about physical records and how did they receive orders for the import intimations as well as export or inter-unit transfers from their clients, Shri Sadam Hingorja stated that they were getting the documents of import/export through e-mails or through whatsapp messages from their clients, according to which they would file the bill of entry or shipping bills or would carry out the inter-unit transfers and hence no physical records had been maintained. On being asked about his responsibility in respect of the duty free goods warehoused at his place, he said that their work was to keep the goods safe and secure and the risk for shortage or damage was on them. That they would inform their clients at the time of import, if the weighment loss was more than 1%. That they had to export the goods without any activity thereon as per the orders of their clients to the names of consignees they informed to him.

**8.8.** On being asked, why the stock of imported areca nut powders were stored alongwith the soil/earth/sweepings etc. bags of PP of the similar packings, which were not identifiable or segregatable from each other and were much damaged and with their contents pouring out –i.e. getting mixed at his warehouse, Shri Sadam Hingorja stated that since they had not carried out any activity on the import goods, they had not repaired the damaged bags of areca nut powder. Further due to constraint of avoiding container detention charges as well as availability of space, they had to dump/store the arecanut powder bags in as is where is condition at different places at his warehouse. Further the labourers, in hurry of finishing work of destuffing may utilize such bags as ramp for unloading other bags of upper layers, thus many such bags were damaged. Neither any of their clients had raised concern about the quality of areca nut powders nor have they ever claimed any insurance/abatement against such shortage/damage till date. He added that they had not taken any insurance for the goods stored at his warehouse.

**8.9.** On being asked whether he was not supposed to properly account for and maintain segregated upkeep of the duty forgone goods stored at his warehouse which was meant for re-export, he responded that they did not carry out any activity on the goods under storage, further the quantity of goods imported and exported was maintained on the KASEZ website, hence there was no requirement of separate physical accounting of each shipment.

**8.10.** On being asked about the full details of registrations, who introduced them and when, when they had met last time, with whom he was communicating with for the transactions, full particulars etc. of all Indian client and overseas clients, Shri Sadam Hingorja stated that M/s Gopal Multitrade, Mumbai, M/s Surya Star Trading Private Limited, Mumbai and M/s Trade India Enterprises, UP were the Indian clients. M/s Faza Sanitary Ware Trading LLC, a foreign client, was located at Dubai. That he had communicated with Shri Gopal Mehra of M/s Gopal Multitrade, Mumbai, Shri Vijay Kumar of M/s Trade India Enterprises, UP, Shri Kishan of M/s SuryaStar Trading Private Limited, Mumbai and Mr. Murfad of Dubai in respect of M/s Faza Sanitary Ware Trading LLC Dubai. However, he confirmed that he was not having any other particulars about any of the above clients.

**8.11.** Apart from mentions in B/E, invoices and S/B only where the “**areca nut powder**” were mentioned alongwith “**Split Areca Nuts**”, whether any other documents like load port inspections, pre-shipment inspection certificates (PSIC), Food safety certificates or packing lists or any COO were available with him and if so he was asked to show the same on which Sadam Hingorja responded that they had warehoused their client’s goods in ‘as imported’ conditions, further as those goods were meant for export from SEZ, no requirement of FSSAI or COO were required for import/exportation. Further their clients were not supplying any PSIC or such documents till date, hence he

did not have any other documents than what he had produced. He further added that they generally receive invoice cum packing list showing the goods which they reflect on the bill of entry/shipping bills, hence apart from the records produced, he had no such documents to show.

**8.12.** On being enquired about the rent of warehouse occupied for storage of such imported goods was claimed by him from his respective clients and whether he had maintained any account thereof and he was asked to identify the payments from the bank statement he had produced, Sh. Sadam Hingorja responded that their business was in starting phase, for increasing volumes he had offered rent of 0.35 cent/ Sq. Feet of warehouse space occupied and labourer/handling charges. He further added that for their client Gopal Multitrade, the invoices of which he had produced were based on that rate because he was the importer and exporter, hence for 1500 sq. feet area he had charged over 500 USD from them per month, as for the other clients as the point on which the ratio was to be applied on buyer and seller clients was not informed from the clients, hence the bills would be claimed accordingly. He further added that the last bill of 2000USD from M/s Faza was advance bill the amount of which was not realized from them. On further enquiring about any receipt in his bank account he confirmed that no amount had been received till date from anyone against his bills raised. That he had single entry of Rs.7.5 lakh in 06/2022 as an advance from M/s Trade India Enterprise for their ongoing quantity of 3MT and for future proposal, apart from that no any entry against rent was there in his account, neither had he received in any other modes or manner.

**8.13.** On being asked about the obligations of himself as WH unit being Service provider in KASEZ and those of the units and of the clients associated with him he stated that he had to stock the goods imported for export and to file the documents on behalf of his clients, he could not clear the goods to anyone else then his clients' order. He further added that as warehousing unit he could not clear the goods outside KASEZ without requirement of his clients, for which he would have to pay the duty for the quantity cleared.

**8.14.** Whether he had conveyed his clients or actual importers/ exporters/anyone else whose goods were under storage at his warehouse to remain present during the panchnama or stock-taking exercise conducted between 19.7.22 to 22.7.22, and why didn't they chose to remain present he responded that he had communicated to his clients on phone, however as he was appointed by them to handle the local affairs they did not give any confirmation for attending the stock verification of the stored goods at his warehouse during the above period. On further query, he confirmed that he had informed Suryastar and Trade India after 18.07.22 about the stock verification but they had declined to come to Gandhidham.

**8.15** That he had no idea whether his clients were inter-connected with each other and he had no authority to ask for their financial transaction. On query of how the payments towards import goods were effected by him to the seller/exporters/inter-unit transferee companies and whether he had informed such transactions to KASEZ, he responded that the invoicing was done by them(his clients) with their customers/sellers directly, as he was only custodian of goods he had not carried out any such transactions towards sale/purchase price/proceeds with anyone till that day and due to that reason he had no reason to inform any transaction to KASEZ authority.

**8.16** That KASEZ officers had never carried out any inspection during Import or Export from his unit nor anyone had visited his warehouse till that date before 13.07.22. On query of records related with the transportation, loading, un-loading, storage costs etc. related to his operations and how was the same disbursed to the respective parties he stated that he had expenditure of around Rs. 2000-2500/- towards stuffing or de-stuffing of 40 feet container, though he had not maintained any records thereof and handed over the payments to labourers in cash only, further adding that for storage he had not received any amount from anyone till date.

**8.17** On being asked, what was the HS CODE /Tariff classification for **Areca Nut Split and Powder** imported and exported or transferred on inter-unit basis, why had he declared such descriptions commonly on the Bills of Entry & Shipping bills, like **“ARECANUTS SPLIT AND POWDER”**, **“betel nut packed in double gunny bags”** etc., Sadam Hingorja stated that he had used the HS Code Tariff classification 08028020 for his imports and exports of **“arecanut split and powders”**. That for one bill of entry 1004511 dated 05.04.2022, when the cargo was shown as **“betel nut packed in double gunny bags”** the CTH **08028090(Other)** was used, that he had cleared the same per the corresponding shipping bill 4007868 dated 16.05.22 by showing the same description and classification (0802809090) for that quantity of 1362 gunny bags, with the second part showing arecanut split and powder under the import bill of entry particulars under CTH 08028020. In short he had cleared the goods under storage on the basis of the import documents. Further, he stated that he received all his cargo of arecanut split/betel nut in double gunny bags, except for the first consignment of his warehouse of areca nut split and powder in PP bags, whereas the arecanut powder was received in PP Bags only.

**8.18.** On being asked which was the proportion of the areca nut powder bags he had received in import alongwith the areca nut split and which was the proportion of such powder in the goods exported by him and who decided the quantity and where were the packing list showing the quantities of each of these, Shri Sadam Hingorja stated that their clients used to forward the consignment in ratio of **10-30%** powders as per their contracts/orders in the import consignments, similarly for export, they used to instruct him on phone regarding proportion of arecanut powders to be dispatched in the export goods. They had decided the quantity of powders of arecanut in every case. He had not

filed any bill of entry showing bifurcated cargo, depending on the invoices & packing list as issued by respective client for which they were showing the cargo collectively as “areca nut split and powders” & “Betel Nut”.

**8.19.** On few invoices and packing lists “Double Gunny Bags/PP Bags” were declared which was not reflected further by him on the corresponding Shipping Bill though their import documents-sale invoices had shown it specifically why was it so, he responded that packing type option was not available in the system of KASEZ while filing of SB, hence he had not shown any such particulars on his shipping bills, but he agreed that the respective bags exported would be as per the invoice and packing list as issued by his clients before export. He added that further the weight of PP Bags was around 120-140 grams where that of Gunny Bag was 1.2Kg to 1.4 Kg per bag, hence the gross and net weights can easily differentiate between the types of bags.

**8.20.** On being asked as to when would he produce any Food Safety Clearance, Fumigation reports of load Ports or issued before export or test reports in respect of the goods warehoused and handled by him he answered that as responded earlier, he had not requirement of such certification for operation within KASEZ, hence he had never seen such documents till the day of statement. On query of the end use of the goods he had stored at warehouse, imported or exported he stated that he had no idea as to where his clients were utilizing those goods.

**8.21.** On query of whether he was present during the import unloading and export stuffing for his clients at M/s Stare Exim Warehouse and how many labourers were employed he responded that he used to attend each imports and attend seal-cutting for import containers and after explaining the gang of labourers the operation would leave for documentation for a while during the course of unloading. That in exports, after loading the cargo as per the invoice/packing list, the loaded container would go for KASEZ gate, where bottle seal would be applied by the Gate Duty Officers and export container would be allowed to leave for the port. He stated that around six to eight labourers’ gang was employed for work of loading or unloading of a 40 feet container.

**8.22.** On being asked as to how were those goods stocked in Import containers was received by him and why were there layers of dust on the mixed PP Bags on all the dumps on the areca-nut powder bags whereas the quantity of 1350 bags of areca nuts in double gunny bags kept at the Central Part in stacks of 675/675 bags were looking fresh he responded that the goods in gunny bags stored in central area were not having dust layers as that area was not having walls or construction material stacked with them. On being asked about of black stock of 251 single gunny bags areca nuts stock too was imported consignment only and which import consignment, Sadam Hingorja responded that it was imported cargo only but he could not specify the particular consignment/shipment under which that black arecanut split cargo in single gunny bags was imported further adding that it was your(officer’s) understanding that the

black stock of split areca nut of 251 bags in single gunny bags were different as marked as ANO (Areca Nut Old) Stock or burnt while stock verification, but for him it was just imported “areca nut split” only. On further asking Sh. Sadam that those were having varying weights unlike the stock of 1350 gunny bags and what was the use of such burnt areca nuts he responded that he had no Idea about varying packaging of that stock of black areca nut as compared to uniform weighments of 1350 bags of arecanut split in double gunny bags and further use thereof.

**8.23** On being asked as to why he had not taken care of storage of such betel nut powders as well as the Old stock of black areca nut splits (251) gunny bags marked as ANO-1 & ANO-2 in the rough sketch of panchnama dated 23.07.22 showing storage position within his warehouse like the 1350 bags of uniformly stacked gunny bags marked as 675GBAN, he stated that due to the space constraint and labourers errors the bags were not stacked uniformly in his warehouse.

**8.24** On being asked why were the soil/earth in the Dumps 1/2/3/5 & 6 were kept alongwith the imported areca nut powders identified by him and why was the condition of PP bags worn out and littering the contents and in this case how had he maintained the stock of such powder in bags or weights when the weight of assorted bag were different as well as leaking Shri Sadam Hingorja responded that for the problem of space and labourers the mixing of bags of imported arecanut powder with similar bags or earth/building materials had happened. He further added that the imported Areca Nut Powder bags were as received during the import, on which they had not carried out any alterations. He agreed to that due to variation of weights and condition of bags the quantification of such powders was not possible by individual bags.

**8.25** On being asked as to what was the use of areca nut powders and whether the same was sold at the rates different from the areca nut split, he responded that he did not know about the pricing or usage as being custodian he had never inquired such queries to his clients. On further query of whether he had taken any samples at the time of imports and how was the price of goods finalized at the time of purchase or sale he responded that he had never taken any samples at the time of Import and he was receiving information through phone or emails from his respective clients about upcoming import or export shipments, the price details etc. were as per invoices and packing lists conveyed to him by his clients.

**8.26.** On point of why was there difference in the areca nut powders like few PP bags were reddish coloured whereas other were of blackish or brownish colours and emanating smell like Menthol he responded that he had no idea about the difference in quality and colour of imported arecanut powders stored at his warehouse, initially he had noticed the visual and texture difference in powders of arecanut under the import consignment, and he had informed respective clients about the receipt of different

coloured powders, however as they did not raise any concern and hence he had treated the powders as such.

**8.27.** On being asked about the value of the goods warehoused and whether any security measure was established to maintain proper accountal thereof and whether he had got the relevant details as forwarded to his client-wise stocks during his period of operations he responded that the goods under storage was of around six to seven containers which belong to his clients, the importers or exporters may be able to give exact valuation hence he could not estimate the exact price of arecanut splits and powder in his warehouse.

**8.28.** Which was the last export from the warehousing unit and to whom, he responded that the last clearance was of 1400 bags of Areca Nut Split and Powder of 110.6MT from his client M/s Faza Sanitaryware Trading LLC, Dubai to M/s Stardream Gen Trading LLC, UAE, consignment of which was procured under inter-unit transfer from M/s GSM Global Inc, another KASEZ unit.

**8.29.** Which goods were procured for his operations from outside KASEZ and which were the other operations he was carrying out from the same WH whether their accountal was maintained by him and where were those goods as nothing apart from soil/arecanut split/powder bags were seen within his warehouse, Sadam responded that from his warehouse they used to carry out import warehousing of readymade clothes and had dealt two containers two months ago around three to four containers of carpets during initial stage around year ago and he or his clients had never procured any goods from outside KASEZ and all clearances were for export only except for the two containers of leggings cleared around two months ago from the date of statement.

**8.30.** He confirmed that he was handling the work of warehouse independently all by himself.

**8.31.** On being asked as to why he was not able to identify and pin-point the bags of imported areca nut powders and had he got any proof that those were the bags imported by him apart from the WH Bill of Entries produced, he responded that inspite of the condition of bags, the powders of different appearance were identified by him as imported arecanut powders. That no other documents apart from the BE and invoices cum Packing list were there regarding the powder. That there were no requirements from his buyers for laboratory reports etc., hence he had not carried out the identification of such powders till date of statement.

**8.32.** On showing him tables at **Part-3A (reproduced below)** reflecting bags and weight wise quantities received by him and **Part-3B** (in RUD) reflecting the values as declared by him, he was asked to point out any difference from the details produced by him and

asked whether he agreed with the same, on which he agreed after comparing each details of tables with those on his records:

**Part-3A (Transactions of M/s Star Exim Warehouse KASEZ in quantity terms (bags and weight))**

S R .		Imp BE	Im DT	Imp DESCR I BE/Inv oice	IMP QTY BAGS	Qty Kg	Exp sb	Exp sb dt		Exp declaratio n on SB Inv (as cargo of BE)	Exp qty bags	Exp qty KG	BAL qty bags	Bal qty KG
1		1002175	18.02.22	Areca Nut Split & Powder PPB	1789	128116	4004403	17.03.2022		Areca Nut Split & Powder(1002175 3x40)	1030	83000	759	45116
2		1004511	05.04.22	Betel Nuts pkd in DGB	1362	80700	4007868	16.05.2022		Betel Nuts (1002175 3x40 & 1004511 050422 4x40) PKD DGB	1362	80700	0	0
2	a						4007868	16.05.2022		Areca Nut Split & Powder (do) 380 Pkd DGB	380	27643	379	17473
3							4008463	26.05.2022		Areca Nut Split & Powder (1002175 3x40) PKD DGB	379	28450	0	-10977
4	I n t e r U n i t T r a n s f e r	7004344 dated 28.05.2022	28.05.22	Areca Nut 80Kg net 82Kg Gross	1800	144000	4011251	08.07.2022		Areca Nut Split & Powder (MERCH ANT EXP... SB)	1400	110600	400	33400
5		1008514	11.06.2022	Areca Nut Split and Powder	675	54000					0	0	1075	87400
6		1008934	18.06.2022	Areca Nut Split and Powder	1350	108000					0	0	2425	195400
				OVERALL	6976	514816					4551	330393	2425	184423

**8.33.A.** From the export valuation affected by him, as per the above details he was asked to explain how come the imported goods were exported below the cost price in few instances in response to which he said he had no idea on valuation of the goods which was a lookout of his clients.

**8.33.B.** On being asked regarding difference in the descriptions of the consignments as total three import consignments were procured with descriptions declared as “**areca nut splits and powder**” under CTH: 08028020, last consignment of 1350 bags of “**Betelnut in double gunny bags**” was imported under CTH: 08025090 alongwith a consignment of inter-unit transfer of 144 MT “**areca nuts CTH CTH:08025090 in 1800 double gunny bags**”, what were the difference among them and why were the same descriptions not followed in the corresponding Shipping bills, Shri Sadam Hingorja confirmed that he had followed the details and CTH for respective imports for the corresponding exports in direct imports as well as inter-unit transfers.

**8.33.C.** Shri Sadam was pointed out a discordancy in Part-3A which was observed as when his first consignment of **1759 bags of Areca Nut Split and Powder was received in PP Bags** and his second consignment of **1362 bags were imported as “betel nuts in double gunny bags”** which were exported as such as per part I of the S/B 4007868 dated 16.05.22, showing the same number of **Gunny BAGS with betel nuts of same weighment**. Part II of the same shipping bill No. 4007868 Dated 16.05.22 showed further clearance of “**380 Double Gunny Bags Areca Nut Split and Powder**”- he was asked for the reason of the change of the cargo’s packing, for the subsequent Shipping Bill No.4008463 dated 26.05.22 which is showing the clearance of **379 Double Gunny Bags** which can be balance from the first Import consignment (**in PP bags**), and where did he procure that stocks in gunny bags when the balance stock of first consignment should be in PP Bags only, on which he stated that there was filing mistake based on the documents i.e. supplied invoice and packing list by his client, based on which the same weighment was reflected on their SB, but the **export weighment was invariably checked** at the time of clearance as shown on their records.

**8.33.D.** Shri Sadam was asked to see the Sr. no. 2, 2A & 3 of **Table A** above, as against the balance stock of 379 mixed PP bags of 17473 Kg arecanuts split & powders were remaining from his first import, which he had exported as per part 2 of his Shipping Bill No.4008463 dated 26.05.22 (**379 bags**) showing the weight thereof as **28450 kg**, from the balance quantity remaining with him being only **17473Kg**. and was asked as to **which goods(weight) he had exported under the guise of “Areca Nut Splits and Powder weighting MT”** under that shipping bill, in response to which he concurred that there was mistake in filing of document regarding weight, leading to **excess 11 MT clearance**, the clarification which he would furnish in day or two from statement’s date, but failed.

**8.33.E.** He was asked to check the instances of sr.2, 2A &4 of the table 3A & 3B above, the per Kg. value of the import product “Split areca nut and powder” under his declared classification 08028020/90 was lesser than the minimum import price of 221/Kg, for the item under tariff head 08028020, when the exchange rates as shown in the B/E were applied and posed a query shall the import under MIP rate not render those goods under import of chapter CTH 08028010/20/30/90 as “prohibited” from “free” category

under the Customs Tariff Act, on which he responded that per his knowledge KASEZ being a foreign territory and such price criteria would not apply for the import goods for goods to be re-exported. On further referring to him that as per the condition of his LoA, the Unit Approval Committee has restricted the operations for prohibited goods, it appeared that he had procured the above goods in violation of the SEZ Act read with the Customs Tariff Act, what was his opinion and whether he was issued any approval by KASEZ till date for the same. Shri Sadam Hingorja responded that his answer is as per his earlier answer that this MIP criteria would not apply to his bill of entry.

**8.34.** Shri Sadam Hingorja was shown the calculation of the average wt. in Kg. per bag of the import items as well as the average weights of the export items in the same unit, kg/bag which showed difference and was asked to clarify the same in context of his confirmation that no activity was carried out by them on import cargo before exporting. In response of which he said that they had not carried out per bag weighment for any of the consignments, they always file documents on the given bags and weighments, which were weighted before clearance, hence the point of average weight or difference in the import average bags per consignment or export therefrom did not arise in his view and no such specified weight in kg per bag was mentioned on documents by their clients.

**8.35.** On being asked to go through the following provisions, Rule 27(1) of Special Economic Zone Rules, 2006 (herein after referred as SEZ Rules) reads as under,

*“Thus by the above rule, the Developer of SEZ and Units in SEZ are eligible to import<sup>[1]</sup> all types of goods, including capital goods (new or second hand), raw materials, semi-finished goods (including semi-finished Jewellery), component, consumables, spares goods and materials for making capital goods without payment of duty, taxes or cess, required for the purpose of **authorised operations** except the goods which are prohibited for import under Indian Tariff Classification (Harmonised System) for Import and Export.”*

In the tariff head covering Areca nut split viz. 08028020 the tariff has specified that minimum price for the tariff item was 221Rs/Kg for its free importability, otherwise it is “prohibited”- on going through his imports and inter-unit transfers, he had procured the goods at lower than that minimum price, whether he have not carried out “prohibited import” for those quantities or Development Commissioner given any authorization for over-ruling those primary criteria to his unit, Shri Sadam Hingorja stated that as per his knowledge Kandla SEZ was a foreign territory and such price criteria would not apply for the import goods and such goods to be re-exported and they didn't had any such authorization other than Letter of Approval issued by Office of the Development Commissioner, Kandla Special Economic Zone, Ministry of Commerce & Industry, Gandhidham-Kutch-370230.

**8.36.** On being asked to go through DGFT Notification No.20/2015-2020 dated 25.07.2018, wherein for all the items under chapter headings 080280, the criteria of

minimum import price of Rs.210 per kg was prescribed or else the same (CTH 08028010/20/30/90) are to be held under “prohibited category” from “Free”, Shri Sadam Hingorja stated he had no idea about the present condition under law and did not offer any comment.

**8.37.** Shri Sadam was asked that why inspite of not attending any summons since 27.07.22 and neither ensuring presence of any of the importer/exporters who were his clients during the examination of your mixed stocks of areca nut split and areca nut powders, lying in mixed position at your WH, where no other activity as approved under the LOA issued to you were seen or space was available, why was he pressing for NOC for further activities and whether he had got any proposals ready he responded that due to his sickness and family issue as informed by emails, he could not present himself during earlier four summons, and voluntarily informed after his recovery. As for new proposals, he had no emails at present but if he received any such proposal, he was not in situation of approving any proposals for other activities under the LOA. He also stood to loose his current clients based on which he had requested for unsealing the warehouse, so he can also approach new clients.

**8.38.** Vide letter dated 13.07.22, the Dy. Commissioner (Customs), KASEZ, Gandhidham was requested to provide the details like (i) Copy of original LoA and subsequent amendments till date in respect of Star Exim Warehouse, KASEZ (ii) details of Partners/Proprietors of the unit (iii) details of transactions (iv) In out movement of four containers of last consignment & (5) copy of Gate Register related to all clearances with vehicle numbers. In response per the letter sent by email dated 18.07.22, the soft copies of the records were supplied by the KASEZ (**RUD-8**), apart from the one LoA, commencement of authorized operations & two LoPs (**RUDs- 1,2,& 3 as referred to at para-1**) there were no other authorisation or permission issued to the unit for authorized operations limited to warehousing Services of 15 items listed per Annexure-B of the LoA dated 03.06.21.

## **9. FURTHER STATEMENT OF SHRI SADAM HINGORJA, PROP. M/S STAR EXIM, KANDLA SEZ WAS RECORDED ON 04.05.2023 (RUD-9).**

**9.1.** Shri Sadam Hingorja, Prop. M/s Star Exim, Kandla SEZ was shown Test Reports bearing no. RCL/Gandhidham/DRI/1519 to RCL/Gandhidham/DRI/1531 all dated 20.09.2022 received from CECL, Vadodara, which pertained to the 13 representative samples drawn during the stock verification and 100% examination of goods in presence of him under panchnamas dated 13.07.2022, 19.07.2022, 22.07.2022, 23.07.2022, 26.07.2022 and 27.07.2022, Shri Sadam Hingorja agreed with the test reports and did not propose to go for further testing of his stored goods. Further, on being asked about the test results which were showing presence of Tannin, soil & earth type powder and grayish powder, he stated after checking the records the two test reports pertained to **18.65 MTs** were of soil and earth type powder only.

**9.2.** On being asked the presence of **catechu** detected in respect of Test Report bearing no. RCL/Gandhidham/DRI/1519, RCL/Gandhidham/DRI/1527 to RCL/Gandhidham/DRI/1530, he stated that he agreed with the anomalies in the said 05 reports and told that **it was the powder as sent by his foreign client and no further working/process were taken by them at his warehouse so he did not know about the presence of catechu. He further added that they had not carried out any laboratory testing of the goods under storage.**

**9.3.** On being asked, regarding no transaction was carried out for clearance of the stored areca nut and powder nearly **200 MT since August, 2022, Shri Sadam Hingorja stated that their foreign client M/s Faza Sanitary Ware Trading LLC Dubai had not ordered for any transactions in respect of the stored imported goods.**

**10.** During the course of investigation, searches were conducted at the premises of the Indian Clients of M/s Star Exim, viz. **M/s SuryaStar Trading Private Limited, Mumbai, M/s Gopal Multitrade, Mumbai and M/s Trade India Enterprises, UP.** The outcome of the above searches is as follows:

**10.1.** A team of officers visited the premises of M/s. SuryaStar Trading Private Limited, Shop No. G-162, Ground Floor, Express Zone Mall, Next to Patel Vanika W.H. Highway, Goregan East, Mumbai, Suburban, Maharashtra-400063 and found that the said premises was closed. On enquiry, it was gathered that the said premises was closed from the last two months and the visiting officers could not obtain the contact details of the person of the said premises. A Visit Note dated 30.08.2022 (**RUD-10**) was prepared in this regard.

**10.2.** A team of officers had also visited the premises of M/s Gopal Multitrade, SH-28/GF, Sai Krupa Mall, L. T. Road, Opp. Railway Station, Dahishar- West, Thane, Maharashtra-400 068, the visiting officers found the said premises as locked and the name of company displayed on the front of shop was different than M/s Gopal Multitrade. The visiting officers could not trace either any information or company in the name of M/s. Gopal Multitrade nor any information in the name of its associated person Shri Gopal Mehra. A visit note dated 30.08.2022 (**RUD-11**) was prepared in this regard.

**10.3.** A team of officers visited the premises of M/s. Trade India Enterprises, C-45, C/o Narruddin, Sector-10, Noida-201301 under panchnama dated 01.11.2022 (**RUD-12**). During the course of searches carried out at the business premises of M/s. Trade India, some documents were resumed, however the proprietor did not turn up during the proceedings and from the premises the relevant records was resumed.

**11.** The Test Reports bearing No. RCL/Gandhidham/DRI/1519 to RCL/Gandhidham/DRI/1531, all dated 20.10.2022, was received on 17.11.2022, issued by Chemical Examiner, Gr-II, Central Excise & Customs Laboratory (CECL), Vadodara, pertaining to the 13 representative samples which were drawn during the stock verification and examination of the subject goods by the DRI Officers at the premises of M/s Star Exim, under panchnamas dated 13.07.2022, 19.07.2022, 22.07.2022, 23.07.2022, 26.07.2022 and 27.07.2022 at premises of M/s Star Exim Warehouse, Kandla briefed as per below **Table-4**:

**Table-4**

Sr. No.	Outcome of CECL, Vadodara Report	No. of samples
1	The sample has the characteristics of Cut Betel Nut.	<b>03</b>
2	The sample composed of Areca Nuts along with inorganic matter.	<b>07</b>
3	The sample composed of inorganic matter.	<b>03</b>

Based on the above said test reports of CECL, Vadodara and the difference which was noticed in the quantities showing the imported/stock position (**Net. 193.6 MT**) and quantity actually found (**219.1 MT Gross**) by the DRI Officers during the stock verification pending identification of the samples during the examination of the goods stored at premises of M/s Star Exim. As no clarification was tendered by Shri Sadam Hingorja, prop. of M/s Star Exim, the DRI, the Officers with a reason to believe that there appeared **mis-declaration of import goods with respect to description, quantity and other material particulars as carried out by the unit the bonded goods** were liable for confiscation under Section 111(m) and/or section 119 of Customs Act, 1962 in as much as the same had been mis-declared w.r.t description, quantity and other material particulars and the other goods were used for concealing above mentioned bonded goods. Accordingly, all the goods covered in the Panchnama were placed under seizure in pursuance of Section 111(m) and/or Section 119 of the Customs Act, 1962, read with the provisions of Section 110(1) of the Customs Act, 1962, vide Seizure Memo dated 10.01.2023 (**RUD-13**). The said Seizure Memo dated 10.01.2023 was served to Sh. Sadam S Hingorja, Prop. of M/s Star Exim on 10.01.2023, **alongwith the copies of all the test reports of CECL Vadodara & corresponding test memos overleaf, in respect of testing of the representative samples drawn at the premises of M/s Star Exim Warehouse, KASEZ, during the examination/stock taking process.**

**11.1** After necessary testing of the 13 representative samples pertaining to the subject goods imported by M/s. Star Exim, the Assistant Chemical Examiner, Central Excise & Custom Laboratory (CECL), Vadodara issued their Test Reports pertaining to the subject goods imported by M/s. Star Exim, bearing Test Report No. RCL/Gandhidham/DRI/1519 to RCL/Gandhidham/DRI/1531, all dated 20.10.2022

(RUD-14 coll'y). It was reported by CECL, Vadodara vide these Test Report are summarized as Table-5 below:

**Table-5**

Sr. No.	Test Memo No.	CECL Report Ref No.	Report received from CECL, Vadodara
1	15/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1519 dated 12.08.2022	The sample is in the form of Brown fine powder along with small lumps. It is composed of Areca Nut along with inorganic matter.
2	16/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1520 dated 12.08.2022	The sample is in the form of Brown fine powder along with small lumps. It is composed of Areca Nut along with inorganic matter.
3	17/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1521 dated 12.08.2022	The sample is in the form of greyish coarse powder. It is <b>mainly composed of inorganic matter.</b>
4	18/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1522dated 12.08.2022	The sample is in the form of Brownish coarse powder along with extraneous matter, friable and non-friable small lumps. It is composed of Areca Nut along with inorganic matter.
5	19/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1523dated 12.08.2022	The sample is in the form of Brown coarse powder along with friable and non-friable lumps. It is <b>mainly composed of inorganic matter.</b>
6	20/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1524dated 12.08.2022	The sample is in the form of Brown fine powder along with small lumps. It is composed of Areca Nut along with inorganic matter.
7	21/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1525dated 12.08.2022	The sample is in the form of brownish coarse powder along with lumps. <b>It is mainly composed of inorganic matter.</b>
8	22/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1526dated 12.08.2022	The sample has the characteristics of cut betel nut.
9	23/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1527dated 12.08.2022	The sample has the characteristics of cut betel nut.
10	24/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1528dated 12.08.2022	The sample is in the form of brownish coarse powder along with small lumps. It is composed of <b>Areca nut powder along with small amount of inorganic matter.</b>
11	25/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1529dated 12.08.2022	The sample is in the form of Brownish coarse powder. It is composed of <b>Areca nut powder</b> along with small amount inorganic matter.
12	26/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1530dated 12.08.2022	The sample is in the form of brownish husk & coarse powder along with friable lumps. It is composed of <b>Areca Nuts along with inorganic matter.</b>
13	27/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1531dated 12.08.2022	The sample has the characteristics of cut betel nut.

While the analysis of the above TRs was applied on the corresponding stocks of Areca Nut Powders and areca Nuts, found stored at the premises of Star Exim during the panchnamas, it was found upon the quantification that **the actual Gross quantities each of Areca Nut split and Areca Nut powders, as available at M/s Star Exim Warehouse by deducting the permissible ash contents recorded for fresh arecanut split's sample TR NO.1531 of the laboratory, were found limited to 122.16 MT & 70.22MT respectively**, i.e. total quantity of imported bonded goods found physically available under warehousing at M/s Star Exim Warehouse was **192.39MT Gross** only, as shown in the **Table-6** below. Comparing the admitted gross quantity of **200.95MT**, the unit was found to have shortage of total **8.564 MT** of imported bonded goods Arecanut Split & AN Powder under warehousing, which would not be available ever with the unit for fulfilling export obligations.

**Table-6 Quantification based on the test reports for the each of the representative samples and the dumps**

**Table-6 Quantification based on the test reports for the each of the representative samples and the dumps**

Quantification based on the test reports for the each of the representative samples and the dumps												
samples	srl No.	description	ttl qty	qty. ascertained KG	dt. Panchnama	insects /mould	mois ture %	ash %	tanin	catechu	% ash deduction applied, after allowing permissible 1.12% of TR1531	
1 AN675/S1	1531	Split Areca Nut AN675	1350 (80 KG)	108000	19.07.22	positive	6.4	1.12	positive	not detected	108000	
2 ANO2/S1	1527	Areca Nut Old	91 bags gunny	5270	23.07.22	positive	8.17	1.96	pos.	negative	5225.732	
3 ANO1/S1	1526	Areca Nut Old	160 bags gunny	9060	23.07.22	positive	8.18	2.44	pos.	negative	8940.408	
4 D6BP/S1 (typed ANO1/S1)	1530	Brownish husk or coconut type powder D6	8 Jumbo bags D6	4170	27.07.22		14.2	13.77	pos.	pos.	3642.495	
5 D5RP/s1	1529	Reddish powder Jumbo	27 JUMBO BAGS D5	24270	27.07.22		8.55	6.94	pos.	pos.	22857.486	
6 d3rp/s1	1528	Reddish powder Jumbo	42 JUMBO	45170	27.07.22		6.7	6.34	pos.	pos.	42812.126	
7 D1E/S1	1525	Soil/earth type powder	325 BAGS total D1	18120	27.07.22		5.84	85.11	neg.	neg.	0	
8 D1RP/S1	1524	red powder orig. pkg D1	2 BAGS IN D1 red	41.62	27.07.22		6.78	10.01	pos.	pos.	37.919982	
9 D2E/S1	1523	Soil/earth type powder	69 BAGS IN D2	3450	27.07.22		4.87	92.68	negative	negative	0	
10 D2B/S1	1522	brownish powder	1 BAG D2	45.86	27.07.22		12.6	18.17	pos.	negative	38.04087	
11 D2G/S1	1521	Greyish powder d2	11 bags D2	529.59	27.07.22		5.82	88.52	negative	negative	0	
12 D2RP/S1	1520	red powder orig. pkg D2	17 BAGS D2	594.19	23.07.22		4.94	22.54	pos.	pos.	466.9145	
13 D2R/S1	1519	refilled red powder d2	15 BAGS Red	427.99	23.07.22		5.59	15.7	positive	positive	365.58906	
total	13 samples		leaving item 7,9,11	197049.66							192386.71	
		7,9,11 (other than AN)		22099.59				AN Split 1,2,3,	1,2,3,		122166.14	
		G.TOTAL		219149.25				AN Powder 4,5,6,8,10,12,13			70220.57141	

12. Summons were issued on 25.07.2022, 05.08.2022, 10.08.2022 & 03.03.2023 (**RUD-15 Colly**) to the Indian Clients of the Unit, viz. M/s Gopal Multitrade, Mumbai, M/s

SuryaStar Trading Private Limited, Mumbai and M/s Trade India Enterprises, UP and the KASEZ based unit, M/s. GSM Global INC, Gandhidham, from which the betel nuts, were procured through “**inter unit transfer**” within KASEZ by M/s Star Exim, however none appeared to tender statements and give evidences out of any of the summoned persons.

Further, as regards the issuance of Show Cause Notice under Section 124 of Customs Act, 1962, in relation to confiscation of goods seized vide Seizure Memo dated 10.01.2023, and looking to the substantial time required to complete the investigation of the case, the Commissioner of Customs, Customs House, Kandla was requested for extension for issuance of the SCN which was granted for a further period of six months, in terms of proviso to Section 110(2) of the Customs Act, 1962. M/s. Star Exim were conveyed this aspect vide letter F. No. GEN/ADJ/ADC/42/2023-Adjn-O/o-Commr-Cus-Kandla dated 12.01.2023 (**RUD-16**), with a copy to all concerned.

### **13. Summary of the violations:-**

#### **13.1 RELEVANT PROVISIONS OF SEZ Rules 2006**

**13.1.1** Rule 27(1) of Special Economic Zone Rules, 2006 (herein after referred as SEZ Rules) allows the Developer of SEZ and Units in SEZ to import all types of goods, including capital goods (new or second hand), raw materials, semi-finished goods (including semi-finished Jewellery), component, consumables, spares goods and materials for making capital goods without payment of duty, taxes or cess, required for the purpose of **authorised operations** except the goods which **are prohibited for import under Indian Tariff Classification (Harmonised System) for Import and Export**. From the above it is evident that **in order to import the goods duty free**, following two criteria should primarily be satisfied:

- **Goods imported or procured must be covered under the authorised operations of SEZ Developer/Unit and**
- **Such goods should not be prohibited for import under Indian Tariff Classification (Harmonised System) for Import and Export.**

However, the said rule allows the Developer of SEZ and Units in SEZ to import the prohibited goods too subject **to the prior approval of Board of Approval (BOA)**. The phrase “*Authorised operations*” has been defined vide Section 2(c) of SEZ Act, 2005 to **mean operations which are authorised by the Board in case of Developer under Section 4(2) and by Development Commissioner (DC) in case of Units in SEZ under Section 15(9) of SEZ Act, 2005.**

**13.1.2** Import of goods by Developer of SEZ and Units in SEZ is exempted from **any duty of customs** leviable under Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force under Section 26(1)(a) of the SEZ Act, 2005.

**13.1.3** Written Bond cum legal undertaking has to be furnished under [sub-rule (5) of rule 12 and sub-clause (ii) of sub-rule (1) of rule 22] to the DC with THE CONDITIONS OF THE WRITTEN BOND-CUM-LEGAL UNDERTAKING THAT:

1. *We, the obligors shall observe all the provisions of the Special Economic Zones Act, 2005 and the rules and orders made thereunder in respect of the said goods.*

2. ***We, the obligors shall refund an amount equal to the benefits of exemptions, drawback, cess and concessions availed on account of the goods and services in terms of provisions of rule 25 of Special Economic Zones Rules 2006.***

3. *We, the obligors, shall furnish to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, at port or air-port or inland container depot or land customs station or a warehouse evidence to his satisfaction within a period of forty-five days from the date of dispatch from any warehouse or unit that the said goods have duly arrived in the Special Economic Zone.*

4. *We, the obligors shall be wholly and solely responsible for ensuring that there shall be no pilferage during transit of the said goods when dispatched from the place of import or the factory of manufacture or from the warehouse to the Special Economic Zone and vice versa and we, the obligors, shall pay the duty on pilfered goods, if any.*

5. ***We, the obligors shall maintain detailed accounts of all goods imported or procured from Domestic Tariff Area or consumed and utilized, in proper form, including of those remaining in stock and those sent temporarily outside the Special Economic Zone in the Domestic Tariff Area under our obligation, and shall produce such accounts for inspection of the Specific Officer or such other authorized officer.***

6. *We, the obligors shall, submit to the Development Commissioner and the Specified Officer, quarterly and half yearly returns within a period of thirty days following the close of quarter/half year, as prescribed under the Special Economic Zone Rules, 2006. In case of wrong submission of such information or failure to submit such information within the stipulated time, the permission granted to us for carrying out the authorized operations may be withdrawn and/or the permission for further imports/domestic procurement and sales in the Domestic Tariff Area may be stopped.*

7. *We, the obligors shall fulfill other conditions stipulated in the Special Economic Zone Act, 2005, Special Economic Zones Rules, 2006 and orders made thereunder, as amended from time-to-time.*

***If each and every one of the above conditions is duly complied with by us, the obligors, the above written bond-cum-legal undertaking shall be void and of no effect, otherwise the same shall remain in full force and effect and virtue.***

**13.1.4** Rules 34 to 38 of the SEZ Rules 2006, governing the safe custody of the bonded goods are reproduced as follows,

**34. Utilization of goods** — The goods admitted into a Special Economic Zone shall be used by the **Unit or the Developer only for carrying out the authorized operations** but if the goods admitted are utilized for purposes other than for the authorized operations **or if the Unit or Developer fails to account for the goods as provided under these rules, duty shall be chargeable on such goods as if these goods have been cleared for home consumption:**

Provided that in case a Unit is unable to utilize the goods imported or procured from Domestic Tariff Area, it may export the goods or sell the same to other Unit or to an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit, without payment of duty, or dispose off the same in the Domestic Tariff Area on payment of applicable duties on the basis of an import licence submitted by the Domestic Tariff Area buyer, wherever applicable.

**35. Co-relation of import consignment with corresponding export consignment** — **The Unit shall account for the entire quantity of goods imported or procured duty free, by way of export, sales or supplies in Domestic Tariff Area or transfer to other Special Economic Zone Unit or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or bonded warehouses and the balance held in stock:**

Provided that at no point of time the Unit shall be required to correlate every import consignment with its export or transfer to other Special Economic Zone Unit or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or sales in Domestic Tariff Area or supply to bonded warehouses except in case of goods covered under proviso to clause (d) of sub-rule (4) of rule 18 and goods held as stock and the Unit may adopt “First-in-First-Out” method and a consignment which has been received first, shall be deemed to have been utilized first.

**36. Filing of documents for admission and removal** — **All documents for admission of goods into and out of Special Economic Zone shall be filed before the Authorized Officer of Customs.**

**37. Duration of goods or services in a Special Economic Zone** —

(1) **The goods admitted to a Special Economic Zone shall be utilized, exported or disposed off in accordance with the Act and rules within the validity period of the Letter of Approval issued to the Unit or in the case of a Developer within a period of one year or such extended period as may be allowed by the Specified Officer under sub-rule (5) of rule 12.**

(2) On failure to utilize or dispose off goods as provided such **goods shall be liable for payment of duty as if the goods have been removed to Domestic Tariff Area on the date of expiry of the said validity period under sub-rule (1).**

38. Transfer of ownership and removal of goods — The goods or services admitted into Special Economic Zone without payment of duty or manufactured or produced or partly processed or semi-finished goods may be transferred or given on loan to a Unit or Developer within the same Special Economic Zone or in another Special Economic Zone or to an Export Oriented Unit or to a unit in Electronic Hardware Technology Park or to a Unit in Software Technology Park, Bio-technology Park Unit without payment of duty, subject to the following conditions, namely:— (i) the transferee or loanee Unit or Developer is entitled for duty free procurement of the goods for its authorized operations; (ii) **the supplying and receiving Unit or Developer, as the case may be, shall maintain proper account of goods transferred or of goods given or taken on loan;** (iii) the goods transferred or given on loan basis shall not be counted for the purpose of Net Foreign Exchange Earning by the Unit; (iv) the transferred goods (other than the raw material procured from Domestic Tariff Area) shall be accounted, as import by the receiving unit while the value of the same shall be deducted from the import of the transferring unit; (v) transfer or loan of goods to Units or Developers in other Special Economic Zones or to Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park unit or Bio-technology Park Unit shall be allowed with the prior written permission of the Specified Officer and subject to such conditions as may be imposed.

**13.2 Special Economic Zones (Customs Procedures) Regulations, 2003 issued vide Notification No. 53/2003-Customs (N.T.) dated 22-07-2003 governing the operations of SEZ units,**

**(i) Regulation 2(d) definitions "custodian"** means any person approved by the Commissioner of Customs under section 45 of the Act for the custody of imported goods unloaded in the customs area;

**(ii) Regulation 2(g) "Export and Import Policy "** means the Export and Import Policy, notified from time to time, in the Official Gazette by the Government of India in the Ministry of Commerce and Industry under section 5 of the Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992).

**(iii) Regulation 4(4) filing of bill of entry** (i) the zone unit or developer, as the case may be, shall file a bill of entry for home consumption in quintuplicate giving

therein, **complete description, model, make, specifications, purpose of import of goods such as** trading, manufacturing, nature of goods such as capital goods, raw materials, spares, consumables, with specially stamped endorsement as " special economic zone cargo" alongwith bill of lading or airway bill, a invoice, packing list and purchase order or contract for noting of the bill of Entry in the zone;

(ii) the bill of entry shall be assessed by the Custom officers in the zone;

**(iv) Regulation 9 for re-import or replacement or re-export of goods under following conditions,**

(i) the goods so found to be defective or damaged or otherwise unfit for use may be re-exported later on; or (ii) where the overseas supplier of such goods does not insist for re-export of such goods, the re-export of the same shall not be insisted provided such goods are either destroyed with the permission of proper officer, or shall be cleared into domestic tariff area on payment of duty as if cleared for home consumption.

**(v) Regulation 12 transfer of goods from one zone unit to another zone unit in the same zone or different zone, a zone unit may procure goods including capital goods or manufactured goods from another zone unit located in the same zone or in another zone,** subject to following conditions,

(v) Notwithstanding anything contained in clause (1), in case where supplying and receiving zone units are located in the same zone, the movement of goods including raw materials shall be allowed subject to maintenance of accounts by both receiving and supplying zone unit and no bill of entry shall be required to be filed with the customs authorities in the zone.

**(vi) Regulation 13 Export of goods by SEZ unit,**

**(1) Any goods manufactured, produced, reconditioned, re-engineered, imported or procured by the zone unit, as the case may be, as per the terms and condition of Letter of permission, may be exported out of India through airport or port or inland container depot, or land customs station or by post or courier or personal carriage, as the case may be, subject to the following conditions, namely:-**

(i) the zone unit shall file shipping bill in quadruplicate with customs officers in the zone, giving therein complete description of goods such as model, make, serial number, specification, alongwith relevant documents, namely, invoice, packing list, GR Form (in duplicate) for noting;

**(ii) the shipping bill shall be assessed by the customs officers in the zone in the manner and procedure as is followed in case of normal exports;**

(iii) the goods shall not be examined in routine and Let Export Order may be given on the basis of self-certification by the zone unit ;

**(vii) Regulation 32 Co-relation of import consignment with corresponding export consignment**

The zone unit **using homogenous material may be allowed** to adopt "**First-in-First-Out**" arrangement and a consignment which has been received first, **may be deemed to have been utilised first for** this purpose, and in such cases, co-relation of every import

**14. Violations noticed in the SEZ unit M/s Star Exim Warehouse, KASEZ:**

With reference to the observations above, the unit M/s Star Exim being a service provider **warehousing unit** and operating under the SEZ Act/Rules, established after approval from UAC Meeting No.165/25.03.21, followed vide the LoA No. **04/21-22 dated 03.06.21 issued by the DC KASEZ** for 15 specified items for –trading activity **“(including areca nut/split/ground/other of CH08 & betel-nut powder known as supari of CH21)** per Annexure-A thereof & 15 other items for warehousing service activity under **Annexure-B** thereof. The unit’s commencement of commercial activity/Authorised operations was approved by competent authority w.e.f. **04.08.21**. The list of violations by M/s Star Exim are as enumerated as follows:-

The unit resorted to declaring two distinct items under import/export and warehousing viz. “Arecanut Split” and “Arecanut powder”, though specifically listed separately under the LoA Annexure- A, were merged in descriptions on their import/export documents, by commonly declaring both of them under single CTH 08028020, though there are independent chapter heads available for each of the two products under ITC(HS) for both arecanut split and arecanut ground, which they had specifically sought permission and were listed under their LoA’s Annexure-A of “Trading Activity”, by the unit approval committee. The unit has declared “betel nut/areca nut” under heading 08028090(others) on the instance of import and on one occasion has received the “betel nut” under CTH 08028090 under Inter unit transfer, hence they were well aware of the separate classifications of item Arecanut. No separate accounting, storage or consignment-wise records were maintained to differentiate the bonded stocks. Apart from this, the condition of bonded stock of imported arecanut powders, as identified by the proprietor, were not warehoused in “safe custody” at unit, but rather were thrown in haphazard manner in mixed dumps in the Warehouse with other earth/building materials/sweepings etc. kept together in similar PP bags, found to be of varying weights, in worn out and damaged conditions with the contents littering, for which the custodian of the Unit could not clarify and gave excuses of space constraints, container detention charges, negligence of labourers engaged for stuffing/destuffing, balance stock can be found from KASEZ’s website for non-accountal of stored stocks. Further for the slit/damaged bags of powders said to be imported were not mended or carefully preserved as bonded stocks or the variation in colours and nature of powders as well as end use not enquired from any of their clients. He failed to produce any reliable records related with such communications/directions he said to have received for such mixed import/sale/export/transfer/purchase or valuation thereof.

Though having not carried out any activities thereupon, it was found that the unit had cleared total of 759 **“Double gunny bags of Arecanut Split and Powder”** per SB No.4007868/16.05.22 (380 bags) & NO.4008463/26.06.22 (379 bags), which were actually imported in PP bags as their first consignment of “Arecanuts split and powder”, Imported per B/E No.1002175/18.02.22, as referred to at the above table 3A. On point of why he had not shown the bag types in each of the Shipping Bills, the response was that KASEZ menu had not facility of entering type of bags, however he himself has reflected packings in few of the S/Bs. In the same last export as per S/B 4008463/26.06.22 where 379 bags of arecanut split and powders are shown to be exported, shown to be of total weight of 28.45 MT, the balance of such stock was only 17MT left from the first consignment, hence quantum of 11MT (an excess weighment of 10.997 MT) weight of “Arecanuts split and powderl were exported in excess of his available bonded stock, on point of which goods were that weight comprised, he dismissed it as clerical mistake, though having admitted every container exported from KASEZ were weighted before applying bottle seals at gates.

On the point of the average weights of bag, as calculated from imports declared and those declared exported were found to be mismatching, as explained in the tables Part 3A&3B above, for which the custodian could not give any satisfactory explanation contending that in their warehousing business there is no concept of average weight bags. The mis-matches were found abnormal especially on the face of the admissions at multiple places of the custodian to the effect that “no activity on the imported arecanut splits and powders were carried out by theml and the goods under storage were in “as imported” condition and they had never received/exported shortage/excess weights.

The unit has imported the “prohibited goods” at CIF lesser than MIP, in spite of clear condition to follow the MIP per the governing ITC(HS) CTH 0802 of the import value must be equal to or above Rs. 210/kg. Thus, he failed to observe specific LOA condition, without obtaining any authorisation for such imports/inter-unit transfer.

The custodian had failed to produce all records related with his warehouse (banking/PO/COO/Transport documents/correspondences with clients/Bond filed with KASEZ, inspite of four summons, issued under Section 108 of Customs Act 1962, following the search of unit, after informing to the Development Commissioner, KASEZ, since 13.07.22.

The unit failed to ensure distinct storage/accounting of the duty forgone goods entrusted to him, at any earmarked place within his premises and confirmed to have dumped the duty forgone powder bags alongwith similar bags of earth/soil/building materials in unquantifiable/irretrievable manner, with the contents leaking and mixing with each other. The reason or purpose of which could not be explained by the proprietor of the unit during the statements.

During the statements of Sadam S Hingorja, he held his clients/labourers/WH Space constraint/KASEZ etc. responsible respectively for (i)the declarations and

classifications, haphazard mixed storage/damages and maintenance of consignment wise account and balance of bonded goods under storage at his unit in his supervision. For the descriptions, he had declared on the Bill of Entries and Shipping Bills were based on the invoices/instructions he had received from his clients, inspite of well knowing that he was the responsible person for the safety and storage of the bonded goods and liable for penalty/ duty thereon. Overall projecting a case that he was a mere –warehouse service provider! carrying out orders of his clients, without any considerations of his obligations at all in respect of the bonded goods he was handling /warehousing/importing/exporting- and for which he had created the documents. Per the SEZ Act, he was to follow the conditions as laid down under the Act and ensure safe custody of the bonded goods and maintain a meticulous account for establishing FIFO based clearances with distinct storage. The LOA issued **under** sub-rule (3) of rule 17 of SEZ rules was subject to observation of the following conditions by the unit listed per Table-7 below, are found to be breached,

**Table-7**

<b>Sr</b>	<b>Condi. No.</b>	<b>Per UAC No.165/25.03.21 &amp; LOA No.04/21-22 dtd 03.06.21, LOP</b>	<b>Governing FTDR act.92 Sections</b>
1	(ii)	Restricted or prohibited items will not be allowed to be traded/WH restrictions will apply unless permitted by UAC	e.g. Section 11(2) upto five times of the value of goods for which contravention has been made.
2	(iii)	Item sr.11 allowed to be traded on condition that import CIF is not lesser than MIP prescribed under policy.	Violation of Section 15 FTDR Act92.
3	(vii)	Items will be subjected to the policy conditions specified in ITC HS Code wherever applicable	Do
4	(viii)	Unit shall maintain separate accts for trading and WH service activity and earmark separate space for both the activities.	LoP violated
5	(ix)	Submit separate APRs for both the activities	SEZ Act violated.
	(x)	shall maintain separate stock reg. for trading and wh service activity which will be subject to regular checking by the KASEZ authorities.	LoP violated
6	LOA 03.06.21	(x) You shall abide by the provisions of Special Economic Zones Act, 2005 and the rules and orders made thereunder.	Rule 18(5) & Rule 76 of SEZR [ <b>18(5) The Units in Free Trade and Warehousing Zones or Units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner’s instructions and shall be allowed for trading with or without labelling, packing or re-packing without any processing: 76. The –services! for the purposes of [1][clause] (z) of section 2 shall be the following, namely:— Trading, warehousing, ] Explanation: The expression “trading”, for the purposes of the Second Schedule of the Act, shall mean import for the purposes of re- export</b>

7	LOA 03.06.21	(xvii) for all services, provisions of Section 2(z) of the SEZ Act 2005 shall be applicable	Section 2(z)(iii):- —Services  means such tradable services which,- (iii) earn foreign exchange – violation of Section 15 FTDR Act, 92.
8	LOA 03.06.21	(xxxi)- obtain regi./clearance/mandatory requirement prescribed under any Act/Rules from concerned agencies before undertaking such activity.	Chapter 8 cover edible Fruit and Nuts. Main Note-1, This chapter does not cover inedible nuts or fruits. Hence PSIC/FASSAI required.

**15. Role and culpability of the involved persons/parties/ accomplices/clients associated with M/s Star Exim, KASEZ Gandhidham:-**

**15.1** M/s Star Exim Warehouse, Shed No. 149 to 152, Phase-I, Sector-I, Kandla Special Economic Zone, Gandhidham, Kutch-370230 (Email id: [stareximwarehouse@gmail.com](mailto:stareximwarehouse@gmail.com)) & its Proprietor Sh. Sadam Sumarbhai Hingorja, R/o- Near Taiyabah Masjid, New Sundarpuri, Gandhidham .(Email id: [sadamhingorja58@gmail.com](mailto:sadamhingorja58@gmail.com)).

- (a) The unit had merged the description and classifications of “Arecanut Split and arecanut powder” in their declarations and on associated Import/Export documents for their import and export consignments and related documentation by commonly declaring both in bags/weightment/valuations as well as under common classification, CTH 08028020. After receipt too he had never quantified accounted for or stored the items consignment wise, though there are independent headings available under ITC(HS), as sought and approved to them under the **trading activity Annexure-A** of the LoA. The unit had declared –betel nut/areca nut| under heading 08028090(others), residual heading of –Others|, in two instances whereas there are headings for Whole, Split and Ground arecanut available in the list of trading activity of the same LoA. On one occasion he had cleared part cargo of –1800 bags of betel nut of CTH 08028090| said to have received for warehousing under inter-unit transfer for export as “1400 bags Areca Nut Split & Powder under CTH 08028020”, though admitted to have not carried out any activities thereupon.

Thus the unit was well aware of the availability/applicability of specific classifications for the goods they handled, under the Tariff/Exim Policy and LoA issued for their authorised operations, but to defeat the aspect of valuation, Minimum Import Price(MIP), quantification or one-to-one correlation between the import and export goods on FIFO or any other methods, had resorted to mixing of two/three different items under common/residual Chapter heading. Upon asking about the end-use of the powders or the valuation or even the quantum of powders per consignments and the exact constitution of such powders, the unit holder has remained evasive and feigned ignorance attributing all liabilities on their clients. Further admitted to have never got it lab tested or why the same were supplied in uneven weightments or didn't bore any specific marked Packaging. Neither, his clients had ever enquired about the condition of storage

of bonded goods and how was he able to load the powder bags, which were damaged and mixed with the earth/building materials, among which these were stored helter-skelter in the PP Bags of similar sizes colours. From the details as prescribed in the LOA/LOP for the specific products he applied for trading/warehousing viz. Betel Nut/ Split Areca Nut/ Areca Nut Powder, he was well aware of availability of the specific CTH for each of the items he was warehousing, but had preferred a common CTH of 08028020 on the import/export documents for the arecanut and arecanut powders only.

- (b) During the period of quantification and his statements, he had made umpteen requests for un-sealing of his Warehouse in fifteen days' time and praying to restart of his warehousing activity as also was informed to give a prior intimation about movement of the detained goods by the DRI. However, inspite of being informed about the freedom of exporting/dealing with the said goods after intimation to the DRI office, he had failed to re-export/trade those goods from month of **August-22** till the same was placed under seizure on **10.01.23** per the seizure memo and supratnama issued to him, the reasons for the same could not be explained by Sh. Sadam during his statement.
- (c) During the entire period of operation, the unit has admitted to have failed in realization of any foreign revenue/warehousing charges from its "warehousing operations", the only authorized operation they were permitted under the LoA dated 03.06.2021 by the KASEZ. The reason for non-maintenance of any stock records, end usage of the arecanut products black/split/powders he had warehoused, valuation or supplying any communications between them and their clients did indicate shady business being run by the unit holder.
- (d) During the statements, full freedom was given to the proprietor for the queries posed, still for the reasons behind his resorting to mixed products under common description on the related import and export documents were not clarified. He could not give a satisfactory answer as to who had asked him to do such mis-declarations and mixing and the reason for the bad condition of storage in the warehouse. He blamed it upon labourers and gave other petty excuses for the violations.
- (e) Upon identification of the samples, for the query on the quantum of arecanut powders having been with presence of —Catechul in addition to Tannin, the act of mis-declaration by the Unit, was further confirmed as the respective presence would render the goods into preparations of arecanut, warranting the proper classification thereof under Chapter 21, instead of Chapter 8, as those were declared hither-to-far by the unit.

- (f) Apart from the above shortage, the balance stock of imported arecanut powder, as per the owner's own admission to be of **824 bags weighing 78.620MT Gross** (2425 bags having 200.95 MT declared in stock minus 1601 bags having 122.33 MT of split areca nut found), would mean that each of the balance PP bag of Arecanut Powder bag would be containing a gross weight of **95.41Kg**. During the quantification the Arecanut powder containing bags, those were found to be in varying ranges between 12.31kg to 51.77 kg, out of which those of **51.77kg** were found filled fully, the point of such sized bags containing 95.41Kg of powder was impossible. Neither there was any PP bag of "Arecanut powder having this weight (95Kg)" found from the warehouse during the quantifications and examination panchnamas in presence of its proprietor.
- (g) With the admitted service providing warehouse engaged in import and export of the bonded goods in "as such" conditions, without any activity on the goods or alteration in the bags received, however the average weightments of goods under import and the same goods under export were never tallied, and upon asking the proprietor, no satisfactory explanation could be furnished by him.
- (h) The warehouse has had not realized any foreign revenue or rentals at all on the services provided to their clients, as admitted by the proprietor Sh. Sadam Hingorja, during panchnama and statements, having none of the bills realized and simultaneously the unit incurring the transportation, handling and loading, unloading etc. charges for their successive import/export/warehoused consignments as well as incurring the annual rental of the unit which was over Rs. 10Lakh and maintenance of Rs.20,000/- per month, the very purpose, viability and survival of such unit of KASEZ is under cloud.
- (i) The warehouse did not explain reasons of any verification of KYC or his not having met their clients who had also not cared to visit to check the upkeep or situation of the premises of warehouse of M/s Star Exim ever or the condition of their goods under storage. Further, on query of interrelations among his clients and the financial transactions among his clients, he feigned ignorance. These responses raise doubt on the tendency of un-realised bills as well as advance payment of Rs.7.5Lakh from one Indian client as well as the degree of mutual reliance in storage of such high value goods with the unit.
- (j) The importer/any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, renders himself liable to penalty under **Section 112 (a)** of the Customs Act, 1962. In terms of **Section 112(b)** of Customs Act, 1962, acquiring possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or

purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, is liable to penalty under **Section 112 (b) of Customs Act, 1962**. Where the duty has not been levied or has not been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall, also be liable to pay a penalty under **Section 114A** of the Customs Act, 1962. Further, if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of Customs Act, shall be liable to a penalty under **Section 114AA** of Customs Act, 1962. Moreover, any person who contravenes any provision of Customs Act or abets any such contravention or who fails to comply with any provision of the Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty under **Section 117** of Customs Act, 1962.

- (k) In the instant case, by evading the applicable Customs Duties on **the goods found Short in their stock, viz. 8.564MT as on 27.07.22**, for only available **192.39MT** balance stock of Arecanut Split and Powders, with M/s Star Exim, only as calculated **per table 6 under Para 10.1 above, viz. 122.17 MT Split Areca Nut & 70.22MT Arecanut powders**, deducting the ash contents thereof as tested by laboratory and deducting the permissible ash percentage calculated in fresh AN Split stock of Sample AN675/S1 per the TR No.1531, as against the declared quantity of such **balance stocks under warehousing of 200.95 MT Gross quantity, as shown per tables-2 & Table-6 above. In addition to the allegedly pilfered stock of total 13 double gunny bags of Areca Nut splits (wt. 80x13=1040Kg or 1.04MT)**. For both the above stock of total  $8.564+01.04=9.604\text{MT}$  (**hereinafter referred to as the subject goods**), imported and claimed to be warehoused at M/s Star Exim, KASEZ, but not available with them for discharging their export obligation and neither any evidences related to their having been cleared domestically on discharging duty thereof from their Unit M/s. Star Exim has rendered themselves liable to Penalty under **Section 114A** of Customs Act, 1962.
- (l) Further, it appears that the unit has evaded the applicable Customs Duties on subject goods, which are not available with the warehouse, neither any reason for the same has been put forth by the Custodian. It is fraught that the subject goods might well have been illicitly cleared to DTA, without preparing any bills and without filing the DTA Bills of Entry by the unit, by resorting to mis-declaring

the quantities of each type of goods. Further in their Import and Export consignments, shown as Arecanut/Betelnut, Arecanut Split and Arecanut Powder, by not maintaining true records of stocks or ensuring safe custody of the bonded stocks of duty-free Import goods in distinguishable manner, distinctively segregated from the other goods, by violating the conditions of LOA and Bond cum Undertaking furnished by them, M/s. Star Exim and Sh. Sadam Hingorja, Proprietor of M/s Star Exim, have rendered the **subject goods liable for confiscation under Section 111 and 119 of Customs Act, 1962**. It is an admitted fact that all import related activities in the firm M/s. Star Exim were looked after by Sadam Hingorja, who confirmed to have himself carried out all the work on behalf of the bonded warehouse and who used to file the documents for import as well as export and was solely responsible as the custodian of the bonded goods for safe upkeep and accounting of such goods. He had dealt with domestic/overseas clients, suppliers and had dealt with the subject goods in connivance with the clients, notify party and other associates. Thus, M/s. Star Exim and its proprietor Shri Sadam S Hingorja were knowingly concerned in importing, warehousing, facilitating and dealing with the subject goods, which were found not available since 27.07.23, for fulfilling the export obligation. Neither the subject goods was found to have been cleared domestically on duty payment or ever reported to have been quantity arising from short received or destroyed during warehousing, by the unit, were liable to confiscation under Section 111 and 119 of Customs Act, 1962. Thus, M/s. Star Exim and Shri Sadam Hingorja are individually and separately liable for imposition of separate penalties under **Section 112 (a) and 112(b)** of the Customs Act, 1962.

- (m) From above facts and evidences, it appears that by way of abetting the mis-declaration of the quantity and value of goods in the import consignment covered under Bills of Entry No. 1002175 dated 18.02.2022, No.1008514 dated 11.06.22 & No.1008934 dated 18.06.22, with an intent of evasion of applicable Customs Duties, in violation of the conditions of LOA and the Bond cum Undertaking, furnished by M/s. Star Exim Warehouse, have rendered **the subject goods** liable for confiscation under Section 111 and/or 119 of Indian Customs Act, 1962.

However the PP Bags containing organic matter, or soil and earth or building material quantified as **22.1MT weight**, being concealment goods of similar bags, tested as –inorganic matter| i.e. **other than Arecanut/its powder** per TM Nos.**1521, 1523 & 1525** of the laboratory, which were utilized for mixing up in warehousing storage alongwith the similar bags claimed to be containing imported Arecanut powders, the bonded goods-identified by the custodian as imported under the mixed consignments declared as –Arecanut Splits and arecanut powder|, **which were though placed under seizure 10.01.23 but are not proposed to be confiscated being the goods of no value.**

- (n) Since M/s. Star Exim and Shri Sadam S. Hingorja have knowingly and intentionally made/signed/used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particulars viz. classification, descriptions, Quantity, Value etc., with intent to dispose the quantity of Arecanuts in DTA without issuance of Bill and without payment of Duty/taxes, therefore M/s. Star Exim and Shri Sadam S Hingorja shall also be separately liable to penalty under **Section 114AA** of the Customs Act, 1962.
- (o) For their various acts of non-cooperation, non-production of details and production of all the documents related to his warehouse as conveyed in each of the summons, including the correspondence, communications and thus was found to be mis-leading in the investigation Shri Sadam S Hingorja, proprietor of the unit, M/s. Star Exim has rendered himself liable to penalty under **Section 117** of Customs Act, 1962.

**15.2 Role and culpability of M/s Faza Sanitary Ware Trading LLC Ajman UAE having Identification No. 45610, (Email id: fazasanitarywaretrading@gmail.com).**

- (a) M/s. Faza Sanitary Ware Trading LLC Ajman UAE had failed to explain the reasoning behind the warehousing storage of the Indonesian origin Areca Nuts or its powder after procurements from Dubai/UAE which were forwarded to India based warehousing unit, M/s Star Exim, and then the same goods without any process, was further traded to the Dubai/UAE based customers, at sleek margins or even at losses.

Further, the reason for blending the consignments of Arecanut Split with Arecanut Powder bags, before forwarding to the said SEZ unit and then receiving back without any checks regarding the quantification or valuation thereof is beyond understanding. They didn't care to check the method of storage or the condition of the Unit where such storage of bonded goods was done by the unit.

- (b) Being a foreign based unit, they have entertained the indemnity in addition to the provisions of SEZ Act, especially as none of the other clients based in India, chose to respond to the Summons issued. For the fabrication and supply of the documents and mixed goods consignments and carrying out the shrouded transactions they have projected themselves as equally interested partner with the unit, in the wrongdoings. For want of non-cooperation of the custodian & the Indian clients/KASEZ based unit the inter-unit relationships and actual Transactions, communications among the alleged clients could not be surfaced neither the financial transactions and actual usage of the goods said to be under

storage at Star Exim by the persons involved, but overall it appeared that they were common motive and the equal stake holders in the mis-appropriation manipulations of the bonded goods they had transacted/handled through M/s Star Exim.

- (c) Their utter disregard for re-export of the said to be imported cargo, examined at the unit continuously for the period of around six months, do strengthen the fact of the fictitious transactions and the goods under storage being worthless goods and the misuse of SEZ scheme for covering the actual manipulations as well as the financial transactions as well as misuse of the bonded goods under the guise of warehousing.
- (d) Also during his statement the proprietor of Unit, had kept on claiming to have followed the instructions from his clients in handling their goods- who were the actual owners of goods for having imported/exported the goods on their descriptions/quantities- however in their agreements, the para 3 of General Terms and conditions at points (a) & (g) thereof it is found that the following service contract was in existence between the unit and “their clients”,

*“(a) All activities shall be carried out by service provider as per the provisions of SEZ Act 2005 read with SEZ Rules 2006 and Customs Act 1962, in the capacity of approved unit holding LOA issued by DC, FTWZ and in accordance with other laws time being in force.*

*(g) As agent, service provider will sign all documents jointly as required by law, however responsibility of true declarations and statutory compliances, rests with client, and client indemnifies Service Provider from any action arising from incorrect declarations made by client.”*

The above paras of the service contract too, the above clauses expose the inherent motive of the unit and its associated —clients, in carrying out the proposed transactions under the SEZ warehousing LoA, issued to M/s Star Exim, per the effect of which, none of them are to be held responsible for the proposed mis-declarations and the management and actual running of the unit are actually vested in the hands of foreign/Indian clients, re-exporting such goods to Gulf after —warehousing in India, without any value addition or obligations regarding the safe storage or quality wise imports or exports or valuations resorted. Thus they have engaged themselves in unbridled manipulations by adding powder alongwith arecanut splits, which were intentionally not accounted for or stored distinctively by M/s Star Exim Warehousing, KASEZ.

- (e) Since M/s. Faza Sanitaryware Trading LLC Ajman UAE has knowingly and intentionally made/signed/used or caused to be made/signed/used the import

documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.) which were false or incorrect in material particulars of the description, classification, actual Quantity, Value etc., with an intent to abet the clearance of exact quantity of Arecanut Split or betelnuts for export and which could have been cleared into DTA without issuance of any Bills and without payment of Duty/taxes, therefore M/s. Faza Sanitary Ware Trading LLC, Ajman (UAE) shall also be separately liable to penalty under **Section 114AA** of the Indian Customs Act, 1962.

- (f) For their various acts of non-cooperation, non-production of details and documents and mis-leading in the investigation by M/s.Faza Sanitaryware Trading LLC Ajman UAE as discussed supra have made themselves separately liable to penalty under **Section 117** of Indian Customs Act, 1962.

**15.3. Role and culpability of M/s Trade India Enterprises, C-45, C/o Narruddin, Sector-10, Noida-201301.**

**15.3.1.** Since M/s. **Trade India Enterprises, C-45, C/o Narruddin, Sector-10, Noida-201301**, have failed to turn up for investigation in response to the Summons dated 25.07.2022 & 03.03.2023 and knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular description, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at the Star Exim Warehouse and manipulate the transactions for manipulating the proposed clearances of the excess quantity in DTA without issuance of Bill and without payment of duty/taxes, therefore M/s. **Trade India Enterprises, C-45, C/o Narruddin, Sector-10, Noida-201301** shall also be separately liable to penalty under **Section 114AA** of the Indian Customs Act, 1962. **15.3.2** For their various acts of non-co-operation, non-production of details and documents and mis-leading in the investigation by M/s. **Trade India Enterprises, C-45, C/o Narruddin, Sector-10, Noida-201301** as discussed supra, have made themselves separately liable to penalty under **Section 117** of Indian Customs Act, 1962.

**15.4. M/s. Suryastar Trading Private Limited, Shop No. G-162, Ground Floor, Express Zone Mall, Next to Patel Vanika W.H. Highway, Goregan East, Mumbai, Suburban, Maharashtra-400063 (Email id: suryatrading2022@gmail.com).**

**15.4.1** Since M/s **Suryastar Trading Private Limited, Mumbai** have failed to turn up for investigation, in response to the Summons dated 25.07.2022 & 03.03.2023 and knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular description, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at the Star Exim Warehouse and manipulate the transactions for manipulating the proposed clearances of the excess quantity in DTA without issuance of Bill and without payment of Duty/taxes, therefore

**M/s Suryastar Trading Private Limited, Mumbai** shall also be separately liable to penalty under **Section 114AA** of the Indian Customs Act, 1962.

**15.4.2** For their various acts of non-co-operation, non-production of details and documents and mis-leading in the investigation by **M/s Suryastar Trading Private Limited, Mumbai** as discussed supra, have DIN: 20230771ML00003353EB SCN: F. No. GEN/ADJ/ADC/42/2023-Adjn O/o Commr-Cus-Kandla Dated 11.07.2023 made themselves separately liable to penalty under **Section 117** of Indian Customs Act, 1962.

**15.5. Role and culpability of M/s Gopal Multitrade, SH-28/GF, Sai Krupa Mall, L. T. Road, Opp. Railway Station, Dahishar- West, Thane, Maharashtra-400 068.**

**15.5.1** Since **M/s Gopal Multitrade, Thane** have failed to turn up for investigation in response to the Summons dated 25.07.2022 & 03.03.2023 and knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular description, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at the Star Exim Warehouse and manipulate the transactions for manipulating the proposed clearances of the excess quantity in DTA without issuance of Bill and without payment of Duty/taxes, therefore **M/s. Gopal Multitrade, Thane** shall also be separately liable to penalty under **Section 114AA** of the Indian Customs Act, 1962.

**15.5.2** For their various acts of non-co-operation, non-production of details and documents and mis-leading in the investigation by **M/s Gopal Multitrade, Thane** as discussed supra, have made themselves separately liable to penalty under **Section 117** of Indian Customs Act, 1962.

**15.6. M/s GSM Global INC, Unit No. 106 & 206, Ground Floor & First Floor, Dwarika SDF, Kandla SEZ, Gandhidham, Kutch-370230 (Email id: gsmglobal2021@gmail.com)**

**15.6.1.** This unit of KASEZ had effected inter-unit transfer of 1800 bags Arecanuts to M/s Star Exim, on their client M/s Faza's requirements as alleged, out of which 1400 bags were re-exported by M/s Faza Sanitaryware UAE. As for the remaining stock of 400 bags of Betel Nuts, on account of Faza, said to be warehoused at M/s Star Exim which the unit's proprietor failed to pin-point identify during quantifications- as to where or which was the stock of arecanuts (08028090) of M/s GSM Global, 1800 bags AN (144MT) procured under alleged inter-unit transfer, during the examination panchnamas or during statements. In spite of being enquired specifically as to whether the old stock of **Black Areca Nut Splits in gunny bags** was the stock of M/s GSM or otherwise the custodian could not confirm, hence M/s GSM's Proprietor's presence was required, especially as the goods he had sold to M/s Faza and lying under warehousing at the said unit was —Betel Nuts and not —Areca Nut Splits, only the presence of which

were found as balance with M/s Star Exim. Further, the identity and financial transactions they had carried out with M/s Faza/any other clients could have been ascertained for identifying the exact nature of –warehousing| or NFE realization committed by the SEZ unit, but inspite of the summons dated 05.08.2022, 10.08.2022 & 03.03.2023 the proprietor of unit M/s GSM Global INC had failed to join himself for the investigation.

**15.6.2. M/s GSM Global INC, KASEZ** have failed to turn up for investigation in response to the Summons dated 05.08.2022, 10.08.2022 & 03.03.2023 and has knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular descriptions, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at theirs and at the premises of M/s Star Exim Warehouse and facilitated them in manipulating the transactions and proposed clearances of the excess quantity in DTA without issuance of Bill, filing Bill of Entry for Home Clearances and without payments of Customs Duty/taxes, therefore M/s **GSM Global INC, KASEZ** shall also be separately liable to penalty under **Section 114AA** of the Indian Customs Act, 1962.

**15.6.3.** For their various acts of non-co-operation, non-production of details and documents and mis-leading in the investigation by **M/s GSM Global INC, KASEZ** as discussed supra, have made themselves separately liable to penalty under **Section 117** of Indian Customs Act, 1962.

### **15.7. DUTY DEMAND AND VALUATION: -**

(i) The customs duty is applicable on 13 pilfered bags of the consignment imported last of Areca Nut split in double gunny bag, having weight of 80Kg each, said to have been stolen/pilfered from the said unit on the intervening night of 26 and 27th July 2022 by the custodian, which were not recovered/traced out till date. As those were part of the bonded goods and already considered as under warehousing during first quantification panchnama dated 19.07.22. Further till the last statement of the proprietor of the unit the said bonded quantity of 1.04MT, pilfered from his warehouse, was admittedly no more in the custody, ownership or available with the unit for fulfilling export obligation with the custodian, **allegedly since 27.07.22**. Hence the duty incident thereon ought to have been discharged voluntarily by the custodian on FIFO basis, from the date of imports of such stock, as per the conditions of LoA read with the Bond furnished under the SEZ Act, owing to his failure in accounting for and identifying the stocks imported in corresponding consignment and preserving securely and distinctively the said bonded goods under warehousing and which were meant for export. The estimated duty incidence of those 13 bags viz. 1040Kg/1.04MT Arecanut Split CTH 08028020, having tariff value of USD 7065/MT, as per the contemporaneous Notification No. 62/2022-

Cus(NT) dated 15.07.22, , as applicable on 27.07.22, with the applicable BCD and IGST, shall be as per Table-8 as follows:

Table-8

Qty.	Tariff rate Notif, value	Exc, Rate USD (Imp)	AV in Rs.	BCD @100% Rs	IGST @5% Rs.	Total Rs.
1.04	7065	80.95	594788	594788	59479	6,54,267

(ii) For the shortage in quantity of Arecanut Split and Arecanut Powders imported in mixed consignments, the actual quantity of shortage was arrived at from the laboratory Test Results as described under Para 10.1 and **Table- 6 thereunder**. Further, as per the SEZ Rules 2006, by applying the FIFO method, the shortage of bonded quantity of –Arecanuts and Arecanut Powders| have to be treated to be the part of the mixed consignment, imported under the **B/E No.1008514 dated 11.06.22 of total 675 bags (54MT)**, as the last stock of such goods was exhausted by the unit since **S/B No. 4008463 dated 26.05.22 (Table Part-3A under Para 7.32)**. Accordingly, as on that date **11.06.22**, the prevalent Tariff value of similar goods was **USD 5477/MT**, as per the effective Notification No.46/2022-Cus(NT) dated 31.05.22, with the prevalent Exchange Rate of USD for import being Rs.78.50/USD, the duty due was as calculated per Table-9 as under,

Table-9

Qty.	Tariff rate Notif, value USD/MT	Exc, Rate USD (Imp )	AV in Rs.	BCD @100% Rs	IGST @5% Rs.	Total Rs.
8.564	5477	78.50	3682044.7	3682045	368204.5	4050249

Following the laboratory test results, as calculated per the Table-6 under Para-10.1 supra, the actual gross quantities of Areca Nut split and Areca Nut powders as available at M/s Star Exim Warehouse were limited to gross weight of 122.17MT & 70.22 MT respectively, i.e. total quantity of bonded goods under warehousing being not more than 192.386MT gross of imported goods only, as against the admitted gross weight of 200.95 MT in 2445 bags, further the bags having been destroyed and stored as not countable or quantifiable manner the gross weight was the only criteria applicable for ascertaining the balance Bonded Stock at the unit. Thus, there was an **outright shortage of 8.564 MT of arecanut split and powders from the difference in Gross weights**, which were, though imported and should have been maintained under distinguishable warehousing and in safe custody by the unit. However this stock was not actually found available with them at time of the quantification as identified from the tested samples of powders from the laboratory testing.

The short quantity of 8.564MT + 1.04MT of pilfered Areca Nut Split bags were the goods which were not found under —actual warehousing/ control or possession of the unit, though reflected as or Part of —the balance stock/ on their own records, thus the subject goods were neither available for export ever, nor the same were found to have been legally cleared for Domestic Consumption by the unit by raising bills and filing proper Bill of Entry for home consumption and cleared after discharging the full duty components leviable thereon, neither the same was ever reported as short received or destroyed by the unit or their clients with the KASEZ, anytime during their period of LoA.

(iii) As per the conditions laid down under the legal provisions of Special Economic Zone Act and Rules made there under governing the removal of goods in the Domestic Tariff Area, it is provided that a unit may sell goods and services in the Domestic Tariff area on payment of Customs duties under Section 30 of the SEZ Act, 2005 read with Rule 47 of SEZ Rules, 2006, as applicable to the import of similar goods into India, under the provisions of the Foreign Trade Policy.

(iv) The DTA sale is subject to restrictions/prohibitions under ITC (HS) or any other law applicable in respect of import of like goods into India, unless exempted otherwise. The Section 30 of SEZ Act, 2005 provides for levy of Customs Duty equivalent to the import duty on the goods cleared from SEZ to DTA. Since the Customs Duty is leviable on import of goods under Section 12 of Customs Act, 1962, it implies that the duty in case of DTA sale of goods from SEZ to DTA is chargeable under Section 12 of the Customs Act, 1962. As apparent from the facts discussed in foregoing paras, M/s. Star Exim had not available quantity of 13 gunny bags pilfered from their warehousing & **8.564** MT of Areca Nut Splits & Powder, which were likely to have been cleared without payment of duty to DTA i.e. total **9.604MT** found short in the stock, as per the observation of proprietor during the last panchnama during quantification, from KASEZ to DTA and failed in making the payment of appropriate Customs Duty voluntarily. M/s. Star Exim have thus violated the provisions Customs Tariff Act, 1975, Section 12 and various other provisions of Customs Act, 1962 read with of Section 30 of the SEZ Act, 2005 and Rule 47 of SEZ Rules, 2006. Hence the good actually imported into DTA in India were liable to Customs duty on imports.

(v) Also, with regard to the **balance goods covered under the seizure memo dated 10.01.23 and claimed to be part of the imported consignments warehoused by M/s Star Exim without any duty payments till date as meant for export** by the unit. Which are found to be stored in quite negligent manner, M/s. Star Exim are liable to pay applicable Customs Duty on the entire stock on their failure of exporting within the specified time limit of KASEZ.

(vi) Had DRI not initiated the investigation against the fraudsters / conspirators and M/s. Star Exim in the instant matter, this scandal of duty evasion by way of resorting to import under mixed descriptions and non-maintenance of accounting and mixing of arecanut powders with other worthless goods to hide the clandestine clearance of imported goods without payment of Duty would have continued indefinitely.

Considering the deliberate act of fraud, collusion, wilful mis-statements, suppression of material facts and diversion of goods into DTA without permission of proper officer, the extended period of demand under Section 28 (4) of the Customs Act, 1962 is attracted in the instant case, and for the subject goods found short, the Customs Duty amounting to Rs. **47,04,516/-** as calculated above is liable to be demanded and recovered alongwith due interest thereon, from M/s. Star Exim under Section 28(4) of the Customs Act, 1962 read with Section 28AA of the said Act.

**ISSUANCE OF SCN DATED 11.07.2023:-**

**15.8. In view of the above, M/s Star Exim Warehouse, Shed No. 149 to 152, Phase-I, Sector-I, Kandla Special Economic Zone, Gandhidham, Kutch-370230 were issued Show Cause Notice bearing no. F.No.GEN/ADJ/ADC/42/2023-Adjn O/o Commr-Cus-Kandla dated 11.07.2023** wherein they were called upon to show cause in writing to the **Additional Commissioner of Customs**, Customs House, Kandla, having his office situated Near Balaji Temple, Kandla, Kutch (Gujarat), within 30 days from the receipt of the Show Cause Notice as to why: -

(i) **01.04 MT** of Split Areca Nuts, having declared assessable value of **Rs. 5,94,788/-** (Rupees Five Lakhs Ninety-Four Thousand Seven Hundred Eighty Eight), as detailed in para 15, should not be held liable for confiscation under Section 111(d), 111(f), 111(j), 111(m) & 111(o) of the Customs Act, 1962. However, goods are not available for confiscation.

(ii) **8.564 MT** of Arecanut and Powders, having assessable value of **Rs. 36,82,045/-** (Rupees Thirty Six Lakh Eighty Two Thousand Forty five only), bonded stock on records of the unit, as detailed in para 11, should not be held liable for confiscation under Section 111(d), 111(f), 111(j), 111(m) & 111(o) of the Customs Act, 1962. However, goods are not available for confiscation.

(iii) The classification of Arecanut Splits & Powders mentioned at above paras, declared cumulatively under 08028020 (Arecanut Split), adopted by M/s. Star Exim Warehouse, KASEZ not representing the applicable CTH thereof, should not be rejected and the subject goods should not be re-classified under appropriate CTH thereof viz. **08028020** (Arecanut split) & **08028030** (Areca nut ground) respectively for Arecanut Split and Arecanut ground, as listed in the LoA as well as Exim policy.

(iv) the Customs duty amounting to **Rs. 6,54,267/-** in respect of 01.04MT goods (13 pilfered PP/Jute bags of Arecanut Split) and **Rs. 40,50,249/-** in respect of the short quantity of 8.564MT stock of Arecanut Split and Arecanut Powders, calculated as per table 6 under Para 10.1 above and table-8 & 9, which are more likely to have been cleared/removed in to DTA, as described above without proper documents/discharge of duty, should not be demanded and recovered under Section 28(4) of Customs Act, 1962 from the unit/importer of the KASEZ.

(v) Interest at appropriate rate should not be demanded and recovered on the duty demanded at (iv) above, under Section 28AA of the Customs Act, 1962.

(vi) Penalty should not be imposed upon them under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

(vii) The Bond furnished by them against the consignments imported duty free under the provisions of the SEZ Act, 2005 and Rules framed thereunder but sold as such to the domestic market, should not be enforced and security, if any, furnished with the bond, should not be encashed and appropriated towards their duty liability, interest thereon, fine and penalties.

**15.9** Further, the following persons/companies/firms/concerns as shown in Col.2 of Table-10 were also called upon to show cause in writing to the **Additional Commissioner of Customs**, Customs House, Kandla, having his office situated Near Balaji Temple, Kandla, Kutch (Gujarat), within 30 days from the receipt of the Show Cause Notice as to why penalty should not be imposed on them individually under below mentioned penal provisions, separately under the Customs Act, 1962:-

**Table-10**

Sr. No.	Name	Penal provisions under the Customs Act, 1962				
		(3)	(4)	(5)	(6)	(7)
1	Shri Sadam S Hingorja	112(a)	112(b)	114A	114AA	117
2	M/s Faza Sanitary Ware Trading LLC				114AA	117
3	M/s Trade India Enterprises				114AA	117
4	M/s Suryastar Trading Private Limited				114AA	117
5	M/s Gopal Multitrade				114AA	117
6	M/s GSM Global INC				114AA	117

## **16. DEFENSE REPLY AND SUBMISSIONS:-**

**16.1** I find that in response to the above referred SCN bearing no. F.No.GEN/ADJ/ADC/42/2023-Adjn O/o Commr-Cus-Kandla dated 11.07.2023, M/s Star Exim Warehouse (Proprietor Shri Sadam S Hingorja) and M/s GSM Global INC have filed their defense replies.

### **16.2 Defense Reply filed by M/s Star Exim Warehouse:-**

**(i)** M/s Star Exim Warehouse (Proprietor Shri Sadam S Hingorja) have filed their reply to the above referred SCN dated 11.07.2025 on 26.05.2025 wherein they have denied all the allegations and averments made in the said SCN.

**(ii)** They have submitted that the entire case of department is based on alleged shortage of 01.04 MT and 8.564 MT computed on the basis of ash content and a literal assumption at Para 15.8 of the notice that this quantity “are more likely to have been cleared/removed into DTA” without an iota of evidence.

**(iii)** In this regard, they have placed reliance on the decision of Hon'ble Tribunal at Ahmedabad in the case of another unit in KASEZ, namely, Brew Barron LLP, Smt. Suchita Bharatsinh Narawat, Ramesh Kumar Gour versus Commissioner of Custom-Kandla Customs, 2024 (12) TMI 174-CESTAT Ahmedabad. It has been their submission that in identical facts and circumstances, it was held that:-

*“4.5 Further as regard the demand on said 511 cases found short we find that apart from the shortages, there is virtually no other evidence on record to reflect upon the clandestine activities of the appellant. As per the settled law such shortages, by themselves cannot lead to the fact of clandestine removals so as to justify confirmation of demands. Reference can be made to the Hon'ble Allahabad High Court decision in the case of Minakshi Castings reported in 2011 (274) E.L.T. 180 (All) as also the Hon'ble Punjab & Haryana High Court in the case of CCE, Ludhiana v. Neo Products (India) and to another decision of the Hon'ble Punjab & Haryana High Court in the case of CCE & ST, Ludhiana v. Anand Founders & Engineers reported as 2016 (331) E.L.T. 340 (P & H). It has been held in the above decisions that the clandestine removal charges based on shortages in stock cannot be upheld in the absence of any other evidence brought on record by the revenue showing such illegal activities on part of an assessee. The said decisions stand followed by the Tribunal in many number of cases. In as much as in the present case the entire case of the Revenue is based upon the shortages detected at the time of visit of Officers without there being any other evidence, we find no reasons to uphold the demand.”*

**(iv)** In their defense reply dated 26.05.2025, it has been submitted that by relying upon the above decision, they say and submit that demand of custom duty solely based on ash content arrived by testing of samples by department and without citing any evidence of removal from KASEZ to DTA is not tenable in the eyes of law.

**(v)** They have further submitted that in as much as the demand is not sustainable, they are not liable to pay interest under Section 28AA and consequently the goods are not liable for confiscation under Section 111 and hence they are also not liable to penalty under Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962.

**(vi)** They have also submitted that the imposition of penalty on the firm/concern or the proprietorship concern and the sole proprietor separately is not permissible, as duly held by Hon'ble High Court of Bombay in the case of Gyanchand Jain, 2015(321) ELT 199 (Bom.). Hence, it is their contention that Shri Sadam S Hingoraj, Proprietor of M/s Star Exim Warehouse is not separately liable for penalty under Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962.

**(vii)** They have further submitted that it is a settled legal position that when the goods are not available for confiscation having been cleared at the material time, imposition of redemption fine is not in accordance with law as enunciated by Larger Bench of Hon'ble Tribunal in the case of Shiv Kripa Ispat Pvt Ltd V/s Commr. of C. Ex & Cus. Nasik, 2009 (248) E.L.T. 623 (Ri-LB) as well as by Hon'ble High Court of Bombay in the case of Finesse Creations Ltd., 2009 (246) E.L.T. 122 (Bom.) which is duly maintained by Hon'ble Supreme Court as reported at 2010 (255) ELT A 120 (SC). Hence, no fine is imposable on the goods, as proposed in the notice.

**(viii)** They have further submitted that as per principles of natural justice, they are to be put to proper notice by way of pinpointing the declaration, statement or document which they have knowingly or intentionally made, signed or used or caused to be made, signed or used in the present case in as much this is not done, the notice is issued in breach of principles of natural justice and therefore cannot be sustained. That the notice even otherwise does not bring out any evidence pointing to knowledge or intention on their part to abet import of Areca nut so as to justify imposition of penalty under Section 114AA of the Customs Act, 1962.

**(ix)** They have also submitted that they will make final submissions in due course and may seek cross-examination on receipt of specific statement or document envisaged under Section 114AA of the Customs Act, 1962.

**(x)** It is also their submission that Section 117 is a residuary provision and could not have been invoked once Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962 have been invoked, in light of the decision of Hon'ble High Court of Bombay in the case of Frigorificio Allana Private Ltd. 2024 (12) TMI 101- Bombay High Court.

### **16.3 Defense Reply filed by GSM Global Inc:-**

**(i)** In their defense reply dated 09.10.2023, M/s GSM Global Inc have denied all the allegations levied on them vide above referred show cause notice. It has been submitted that they neither have any concern/objection/issue with the allegations levied by your good office against the other Co-noticees nor they have any concern/objection/issue regarding the outcome/decision of your good office in respect of other co-noticees.

**(ii)** that, the allegation levied vide paragraph number 15.6 of the SCN dated 11.07.2023 is summarised below: -

- i) The non-co-operation in investigation proceeding despite of issue of summon dated 05.08.2022, 10.08.2022 & 03.03.2023 due to which the officials of DRI is not able to identify the goods which was sold by them and alleged to be lying in the warehouse of Co-Noticee No. 1 and financial transactions with the Co Noticee No. 3. For various acts of non-co-operation, non-production of details of documents and misleading in the investigation it is proposed to impose **penalty u/s 117 of Customs Act,**

**1962.**

- ii) Failed to turn up for the investigation in response to the summons and has knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.) which were false or incorrect in material particular, descriptions classifications, Quantity, Value etc with an intent to manipulate the bonded goods warehoused at theirs and at the premises of M/s Star Exim Warehouse and facilitated them in manipulating the transactions and proposed clearances of the excess quantity in DTA without payments of Customs Duty/taxes. Due to this allegation, it is proposed to impose penalty **u/s 114AA of the Indian Customs Act, 1962.**

**(iii)** The submission to the allegation as summarised above in Point No. 4(i) and the proposed action of imposition of penalty u/s 117 is as follow: -

- i) We denied and objected the alleged fact that summons dated 05/08/2022 & 10/08/2022 are ever served on me by the learned Investigating Authority (DRI). No proof of service of such summon are available on record (RUD-15). If the learned Investigating Authority (DRI) wish to brought the proof of service of above referred summon then I would like request your good office to provide us opportunity of being heard after supplying the proof of service of summons as may be provided by the learned Investigating Authority (DRI). Further I pray before your good office to make the necessary arrangement to provide me opportunity to Cross-Examine Shri. Laxmikant J Parmar, Senior Intelligence Officer, DRI, GRU, Regional Unit.
- ii) I agreed that the summon dated 03/03/2023 was served on me vide email dated 03/03/2023 on my firm registered email id gsmglobal2021@gmail.com. In response to this summon, I submit a letter dated 10/03/2023 through email along with the documents of transaction with the M/s Star Exim Warehouse. The copy of said letter is annexed as Annexure -1 to this letter and prayed before your good office to take it on record.
- iii) It seems that the learned Investigating Authority (DRI) deliberately suppress the most crucial fact of receipt of my letter dated 10/03/2023 in response to their summon before your Hon'ble Adjudicating Authority just to only harass your noticee. It is also submitted that the learned Investigating Authority (DRI) never get back to us for any more information which indicate that the learned Investigating Authority (DRI) was satisfied with my response.

- iv) It is worth to attract your due attention towards the reason for issue of summon mentioned by the learned Investigating Authority (DRI) in the summon dated 03/03/2023 which is reproduced below: -

AND WHEREAS, I consider your attendance to

(a) give evidence and / or

(b) produce documents or things of the following description in your possession or under your control:

1. To tender statement.
2. To explain documents and evidences.
3. As above

- v) It is submitted that the learned Investigating Authority never mentioned that my presence is required to identify the goods sold by me in the premises of Noticee No. 1. However, the learned Investigating Authority claimed that my presence is required to identify the goods which not seems from the reason mentioned in all the 3 summons. This fact proves that the learned Investigating Authority are used to issue the template summons without application of mind or with a malafide intention to hide the real reasons for issue of summons. Further it is to note that the goods were sold in year 2022 and the summon was served to me in 2023. It is not practical possible for a human to identify the goods which was sold 1 year ago.
- vi) From the section 117, It is clear that the penalty is imposable when there is any contravention or fails to comply with the provision of this Act. The contravention or fails to comply is the charging point for imposable of penalty. However, the present SCN is silent about the section/provision which is alleged to be contravention or alleged to be failure to comply by us.
- vii) It is submitted that the penalty cannot be imposable u/s 117 for non-co operation, non-production of details and misleading in the investigation as alleged where there is no contravention or failure to comply with the provision of this act.
- viii) It is not possible to effectively defend myself to the proposed action of impose of penalty u/s 117 of Custom Act, 1961 unless the provision/section is communicated to me which your good office believes to be contravene or fails to comply with.
- (iv) From the above submission, they have prayed to : -
- I) Drop the penalty u/s 117 of Custom Act, 1961  
OR Provide opportunity to Cross-Examine Shri. Laxmikant J Parmar, Senior Intelligence Officer, DRI, GRU, Regional Unit.  
AND
  - II) Provide the copy of such Invoice, Packing List, Bill of Lading, Bill of Entry etc. which alleged to be false or incorrect. AND

- III) Provide opportunity of personal hearing before passing any final order.  
OR  
IV) Pass the necessary, Interim order as your good office deems fit.

They have attached copy of letter dated 10.03.2023 addressed to Shri Laxmikant J Parmar, Senior Intelligence Officer, DRI, Gandhidham, Kutch.



To,  
Shri Laxmikant J Parmar,  
Senior Intelligence Officer,  
DRI, Plot No. 193, Sector 4,  
Gandhidham, Kutch  
Gujarat.

Date- 10.03.2023

Sir,

**Sub: Investigation into import consignment of M/s Star Exim Warehouse,  
Kandla SEZ**

**Ref: Summon u/s 108 vide DIN: 202303DDZ1000000E0BA.**

It is submitted that we enter into a sale transaction with the M/s Faza Sanitary Ware Trading LLC, Shop No. 999, Ajman, Industrial 2, PO Box No. 7854, UAE. On the instruction of the M/s Faza Sanitary Ware Trading LLC the goods were transferred/delivered to M/s Star Exim Warehouse, Kandla SEZ.

Following documents is attached for your perusal which are self-explanatory: -

- 1) Copy of Invoice dated 28/05/2022.
- 2) Copy of Intra SEZ Transfer no. 7004344 dated 28/05/2022,

I hope that above refereed information is sufficient for your investigation and we most humbly prayed before your goodself to treat this letter as compliance to you summon dated 03/03/2023.

We sincerely regret the inconvenience caused to you due to delay in response.

If any further information is required, please feel free to make us know.

Yours sincerely,

DINESH  
KUMAR  
GOYAL

Digitally signed by  
DINESH KUMAR  
GOYAL  
Date: 2023.03.10  
19:13:31 +05'30'

(Dinesh Kumar Goyal)

Karta

Further, they have attached copy of e-mail dated 10.03.2023 vide which reply was sent to DRI Gandhidham Regional Unit, Kutch.

10/9/23, 7:16 PM Gmail - Investigation into import consignment of M/s Star Exim Warehouse, Kandla SEZ-reg.

 GSM Global <gsmglobal2021@gmail.com>

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**Investigation into import consignment of M/s Star Exim Warehouse, Kandla SEZ-reg.**  
2 messages

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**Gandhidham** <drganru@nic.in> 3 March 2023 at 16:23  
To: gsmglobal2021@gmail.com

Gentleman,

Please find attached herewith Summons for necessary compliance.

Regards,  
DRI, Regional Unit Gandhidham



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 **202303031551.pdf**  
205K

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**GSM Global** <gsmglobal2021@gmail.com> 10 March 2023 at 19:19  
To: Gandhidham <drganru@nic.in>

Respected Sir/Madam

Please find the letter dated 10-03-2023 along with other attachments and treat the attached letter as compliance to your summon.

—  
Regards

GSM Global INC  
Ground & First Floor,  
Unit No.106,206, Dwarika SDF,  
KASEZ, Gandhidham, Kachchh, Gujrat - 370230.  
[Quoted text hidden]

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**3 attachments**

-  **Invoice.pdf**  
161K
-  **Intra SEZ .pdf**  
185K
-  **Letter Dated 10-03-2023.pdf**  
822K

Apart from the above, no other co-noticees have filed any defense reply in the matter.

## 17. RECORD OF PERSONAL HEARING:-

**17.1** I find that opportunities for personal hearing were accorded to the noticees in the matter of the above referred SCN dated 11.07.2023 on 07.10.2024, 16.10.2024, 06.11.2024, 28.11.2024, 13.03.2025 and 25.03.2025. However, none of the noticees have appeared before the adjudicating authority. It is further to be mentioned that although M/s Star Exim have responded to the PH opportunities accorded to them vide letters dated 07.10.2024, 13.03.2025 and 26.05.2025, they have requested adjournment on one ground or the other.

**17.2** Thus, I find that as sufficient opportunities for personal hearing have been given to the noticees in the above referred SCN dated 11.07.2023 and since none have appeared before me so far, I would proceed with the documents/information available on record.

## **18. DISCUSSIONS AND FINDINGS:-**

**18.1** I have carefully gone through the subject SCN bearing no. F.No.GEN/ADJ/ADC/42/2023-Adjn O/o Commr-Cus-Kandla dated 11.07.2023 and the defense replies filed by M/s Star Exim Warehouse and M/s GSM Global Inc.

**18.2** I find that an investigation was initiated by DRI against M/s Star Exim Warehouse Shed No. 149 to 152, Phase-I, Sector-I, Kandla Special Economic Zone, Gandhidham, Kutch-370230 by way of visiting the said warehouse unit premises of M/s Star Exim in KASEZ on 13.07.2022 but as the Proprietor was not available at the premise, the same was sealed and subsequently, necessary stock verification and 100% examination of goods of M/s Star Exim, KASEZ which had arrived through four 40' Containers Nos. (i) CRSU9281815, (ii) GESU5826200, (iii) PCIU9928227 and (iv) SEGU5165580 was carried out in presence of Shri Sadam Hingorja, Proprietor of M/s Star Exim, under five successive panchnamas respectively dated 19.07.2022, 22.07.2022, 23.07.2022, 26.07.2022 and 27.07.2022. I also find that during the examinations, the DRI Officers had drawn total 13 representative samples from the different stocks lying in the warehouse during the panchnamas in presence of Shri Sadam Hingorja, Proprietor and a set of samples so drawn was sent to Central Excise & Customs Laboratory, Vadodara vide Test Memo bearing No 15/2022 to 27/2022, all dated 28.07.2022 on 05.08.2022.

**18.3** I also find that during the course of Panchnama proceedings as referred above, **visible violations/contraventions** were noted by the DRI Officers which have been mentioned elaborately in the SCN bearing no. F.No.GEN/ADJ/ADC/42/2023-Adjn O/o Commr-Cus-Kandla dated 11.07.2023. For the sake of ease of reference, the same are summarised as under:-

**(i)** The unit resorted to declaring two distinct items under import/export and warehousing viz. "Arecanut Split" and "Arecanut powder", though specifically listed separately under the LoA Annexure- A, were merged in descriptions on their import/export documents, by commonly declaring both of them under single CTH 08028020, though there are independent chapter heads available for each of the two products under ITC(HS) for both arecanut split and arecanut ground, which they had specifically sought permission and were listed under their LoA's Annexure-A of "Trading Activity", by the unit approval committee. The unit has declared "betel nut/areca nut" under heading 08028090(others) on the instance of import and on one occasion has received the "betel nut" under CTH 08028090 under Inter unit transfer, hence they were well aware of the separate classifications of item Arecanut. No separate accounting, storage or consignment-wise records were maintained to differentiate the bonded stocks. Apart from this, the condition of bonded stock of imported arecanut powders, as identified by the proprietor, were not warehoused in "safe custody" at unit, but rather were thrown in haphazard manner in mixed dumps in the Warehouse with other earth/building materials/sweepings etc. kept together in similar PP bags, found to be of varying weights, in worn out and damaged conditions with the contents littering, for which the custodian of the Unit could not clarify and gave excuses of space constraints, container detention charges, negligence of labourers engaged for stuffing/destuffing, balance stock can be found from KASEZ's website for non-accountal of stored stocks. Further for the slit/damaged bags of

powders said to be imported were not mended or carefully preserved as bonded stocks or the variation in colours and nature of powders as well as end use not enquired from any of their clients. He failed to produce any reliable records related with such communications/directions he said to have received for such mixed import/sale/export/transfer/purchase or valuation thereof.

(ii) Though having not carried out any activities thereupon, it was found that the unit had cleared total of 759 “**Double gunny bags of Arecanut Split and Powder**” per SB No.4007868/16.05.22 (380 bags) & NO.4008463/26.06.22 (379 bags), which were actually imported in PP bags as their first consignment of “Arecanuts split and powder”, Imported per B/E No.1002175/18.02.22, as referred to at the above table 3A. On point of why he had not shown the bag types in each of the Shipping Bills, the response was that KASEZ menu had not facility of entering type of bags, however he himself has reflected packings in few of the S/Bs. In the same last export as per S/B 4008463/26.06.22 where 379 bags of arecanut split and powders are shown to be exported, shown to be of total weight of 28.45 MT, the balance of such stock was only 17MT left from the first consignment, hence quantum of 11MT (an excess weight of 10.997 MT) weight of “Arecanuts split and powder” were exported in excess of his available bonded stock, on point of which goods were that weight comprised, he dismissed it as clerical mistake, though having admitted every container exported from KASEZ were weighted before applying bottle seals at gates.

(iii) On the point of the average weights of bag, as calculated from imports declared and those declared exported were found to be mismatching, as explained in the tables Part 3A&3B above, for which the custodian could not give any satisfactory explanation contending that in their warehousing business there is no concept of average weight bags. The mis-matches were found abnormal especially on the face of the admissions at multiple places of the custodian to the effect that “no activity on the imported arecanut splits and powders were carried out by them” and the goods under storage were in “as imported” condition and they had never received/exported shortage/excess weights.

(iv) The unit has imported the “prohibited goods” at CIF lesser than MIP, in spite of clear condition to follow the MIP per the governing ITC(HS) CTH 0802 of the import value must be equal to or above Rs. 210/kg. Thus, he failed to observe specific LOA condition, without obtaining any authorisation for such imports/inter-unit transfer.

(v) The custodian had failed to produce all records related with his warehouse (banking/PO/COO/Transport documents/correspondences with clients/Bond filed with KASEZ, in spite of four summons, issued under Section 108 of Customs Act 1962, following the search of unit, after informing to the Development Commissioner, KASEZ, since 13.07.22.

(vi) The unit failed to ensure distinct storage/accounting of the duty forgone goods entrusted to him, at any earmarked place within his premises and confirmed to have dumped the duty forgone powder bags alongwith similar bags of earth/soil/building materials in unquantifiable/irretrievable manner, with the contents leaking and mixing with each other. The reason or purpose of which could not be explained by the proprietor of the unit during the statements.

(vii) During the statements of Sadam S Hingorja, he held his clients/labourers/WH Space constraint/KASEZ etc. responsible respectively for (i)the declarations and classifications, haphazard mixed storage/damages and maintenance of consignment wise account and balance of bonded goods under

storage at his unit in his supervision. For the descriptions, he had declared on the Bill of Entries and Shipping Bills were based on the invoices/instructions he had received from his clients, inspite of well knowing that he was the responsible person for the safety and storage of the bonded goods and liable for penalty/ duty thereon. Overall projecting a case that he was a mere –warehouse service provider carrying out orders of his clients, without any considerations of his obligations at all in respect of the bonded goods he was handling /warehousing/importing/exporting- and for which he had created the documents. Per the SEZ Act, he was to follow the conditions as laid down under the Act and ensure safe custody of the bonded goods and maintain a meticulous account for establishing FIFO based clearances with distinct storage. The LOA issued **under** sub-rule (3) of rule 17 of SEZ rules was subject to observation of the following conditions by the unit listed per Table-7 below, are found to be breached,

**Table-7**

<b>Sr</b>	<b>Cond i. No.</b>	<b>Per UAC No.165/25.03.21 &amp; LOA No.04/21-22 dtd 03.06.21, LOP</b>	<b>Governing FTDR act.92 Sections</b>
1	(ii)	Restricted or prohibited items will not be allowed to be traded/WH restrictions will apply unless permitted by UAC	e.g. Section 11(2) upto five times of the value of goods for which contravention has been made.
2	(iii)	Item sr.11 allowed to be traded on condition that import CIF is not lesser than MIP prescribed under policy.	Violation of Section 15 FTDR Act92.
3	(vii)	Items will be subjected to the policy conditions specified in ITC HS Code wherever applicable	Do
4	(viii)	Unit shall maintain separate accts for trading and WH service activity and earmark separate space for both the activities.	LoP violated
5	(ix)	Submit separate APRs for both the activities	SEZ Act violated.
	(x)	shall maintain separate stock reg. for trading and wh service activity which will be subject to regular checking by the KASEZ authorities.	LoP violated
6	LOA 03.06 .21	(x) You shall abide by the provisions of Special Economic Zones Act, 2005 and the rules and orders made thereunder.	Rule 18(5) & Rule 76 of SEZR [ <b>18(5) The Units in Free Trade and Warehousing Zones or Units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner’s instructions and shall be allowed for trading with or without labelling, packing or re-packing without any processing: 76. The –services for the purposes of [1][clause] (z) of section 2 shall be the following, namely:— Trading, warehousing, ] Explanation: The expression “trading”, for the purposes of the Second Schedule of the Act, shall mean import for the purposes of re- export</b>
7	LOA 03.06 .21	(xvii) for all services, provisions of Section 2(z) of the SEZ Act 2005 shall be applicable	Section 2(z)(iii):- –Services means such tradable services which,- (iii) earn foreign exchange – violation of Section 15 FTDR Act, 92.

8	LOA 03.06 .21	(xxxi)- obtain regi./clearance/mandatory requirement prescribed under any Act/Rules from concerned agencies before undertaking such activity.	Chapter 8 cover edible Fruit and Nuts. Main Note-1, This chapter does not cover inedible nuts or fruits. Hence PSIC/FASSAI required.
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Thus, I find that M/s Star Exim Warehouse, Proprietor Shri Sadam S Hingoraj had indulged into various violations of the provisions of the SEZ Act, 2005 and the LoA issued to them as summarized above and detailed in the above referred SCN dated 11.07.2023 issued to them.

**18.4** I also find that the Test Reports bearing No. RCL/Gandhidham/DRI/1519 to RCL/Gandhidham/DRI/1531, all dated 20.10.2022, was received on 17.11.2022, issued by Chemical Examiner, Gr-II, Central Excise & Customs Laboratory (CECL), Vadodara, pertaining to the 13 representative samples which were drawn during the stock verification and examination of the subject goods by the DRI Officers at the premises of M/s Star Exim, under panchnamas dated 13.07.2022, 19.07.2022, 22.07.2022, 23.07.2022, 26.07.2022 and 27.07.2022 at premises of M/s Star Exim Warehouse, Kandla briefed as per **Table-4 above**. For the sake of ready reference, the same is reproduced as under:

**Table-4**

Sr. No.	Outcome of CECL, Vadodara Report	No. of samples
1	The sample has the characteristics of Cut Betel Nut.	<b>03</b>
2	The sample composed of Areca Nuts along with inorganic matter.	<b>07</b>
3	The sample composed of inorganic matter.	<b>03</b>

**18.5** I find that based on the above said test reports of CECL, Vadodara and the difference which was noticed in the quantities showing the imported/stock position (**Net. 193.6 MT**) and quantity actually found (**219.1 MT Gross**) by the DRI Officers during the stock verification pending identification of the samples during the examination of the goods stored at premises of M/s Star Exim. As no clarification was tendered by Shri Sadam Hingorja, Proprietor of M/s Star Exim, the DRI Officers with a reason to believe that there appeared **mis-declaration of import goods with respect to description, quantity and other material particulars as carried out by the unit the bonded goods** were liable for confiscation under Section 111(m) and/or section 119 of Customs Act, 1962 in as much as the same had been mis-declared w.r.t description, quantity and other material particulars and the other goods were used for concealing above mentioned bonded goods. Accordingly, all the goods covered in the Panchnama were placed under seizure in pursuance of Section 111(m) and/or Section 119 of the Customs Act, 1962, read with the provisions of Section 110(1) of the Customs Act, 1962, vide Seizure Memo dated 10.01.2023.

**18.6** I also find that after necessary testing of the 13 representative samples pertaining to the subject goods imported by M/s. Star Exim, the Assistant Chemical Examiner, Central Excise & Custom Laboratory (CECL), Vadodara issued their Test Reports pertaining to the subject goods imported by M/s. Star Exim, bearing Test Report No. RCL/Gandhidham/DRI/1519 to RCL/Gandhidham/DRI/1531, all dated 20.10.2022. Summary of the test reports is shown at **Table-5** above. For the sake of ready reference, the same is reproduced as under:-

**Table-5**

Sr. No.	Test Memo No.	CECL Report Ref No.	Report received from CECL, Vadodara
1	15/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1519 dated 12.08.2022	The sample is in the form of Brown fine powder along with small lumps. It is composed of Areca Nut along with inorganic matter.
2	16/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1520 dated 12.08.2022	The sample is in the form of Brown fine powder along with small lumps. It is composed of Areca Nut along with inorganic matter.
3	17/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1521 dated 12.08.2022	The sample is in the form of greyish coarse powder. It is <b>mainly composed of inorganic matter.</b>
4	18/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1522dated 12.08.2022	The sample is in the form of Brownish coarse powder along with extraneous matter, friable and non-friable small lumps. It is composed of Areca Nut along with inorganic matter.
5	19/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1523dated 12.08.2022	The sample is in the form of Brown coarse powder along with friable and non-friable lumps. It is <b>mainly composed of inorganic matter.</b>
6	20/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1524dated 12.08.2022	The sample is in the form of Brown fine powder along with small lumps. It is composed of Areca Nut along with inorganic matter.
7	21/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1525dated 12.08.2022	The sample is in the form of brownish coarse powder along with lumps. <b>It is mainly composed of inorganic matter.</b>
8	22/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1526dated 12.08.2022	The sample has the characteristics of cut betel nut.
9	23/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1527dated 12.08.2022	The sample has the characteristics of cut betel nut.
10	24/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1528dated 12.08.2022	The sample is in the form of brownish coarse powder along with small lumps. It is composed of <b>Areca nut powder along with small amount of inorganic matter.</b>
11	25/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1529dated 12.08.2022	The sample is in the form of Brownish coarse powder. It is composed of <b>Areca nut powder</b> along with small amount inorganic matter.
12	26/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1530dated 12.08.2022	The sample is in the form of brownish husk & coarse powder along with friable lumps. It is composed of <b>Areca Nuts along with inorganic matter.</b>
13	27/2022 dated 28.07.2022	RCL/Gandhidham/DRI/1531dated 12.08.2022	The sample has the characteristics of cut betel nut.

**18.7** I also find that while the analysis of the above TRs was applied on the corresponding stocks of Areca Nut Powders and Areca Nuts, found stored at the premises of Star Exim during the panchnamas, it was found upon the quantification

that the actual Gross quantities each of Areca Nut split and Areca Nut powders, as available at M/s Star Exim Warehouse by deducting the permissible ash contents recorded for fresh arecanut split's sample TR NO.1531 of the laboratory, were found limited to 122.16 MT & 70.22MT respectively, i.e. total quantity of imported bonded goods found physically available under warehousing at M/s Star Exim Warehouse was **192.39MT Gross** only, as shown in the **Table-6 above**. Therefore, I find that after comparing the admitted gross quantity of **200.95MT**, the unit was found to have shortage of total **8.564 MT** of imported bonded goods Arecanut Split & AN Powder under warehousing, which would not be available ever with the unit for fulfilling export obligations. For the sake of ready reference, **Table-6** showing the quantification based on the test reports for each of the representative samples and the dumps is reproduced as under:-

**Table-6 Quantification based on the test reports for the each of the representative samples and the dumps**

Quantification based on the test reports for the each of the representative samples and the dumps												
smples	srl No.	description	ttl qty	qty.ascertained KG	dt. Panchnama	insects /mould	mois ture %	ash %	tanin	catechu	% ash deduction applied, after allowing permissible 1.12% of TR1531	
1	AN675/S1	1531	Split Areca Nut AN675	1350 (80 KG)	108000	19.07.22	positive	6.4	1.12	positive	not detected	108000
2	ANO2/S1	1527	Areca Nut Old	91 bags gunny	5270	23.07.22	positive	8.17	1.96	pos.	negative	5225.732
3	ANO1/S1	1526	Areca Nut Old	160 bags gunny	9060	23.07.22	positive	8.18	2.44	pos.	negative	8940.408
4	D6BP/S1 (typed ANO1/S1)	1530	Brownish husk or cocopeat type powder D6	8 Jumbo bags D6	4170	27.07.22		14.2	13.77	pos.	pos.	3642.495
5	D5RP/s1	1529	Reddish powder Jumbo	27JUMBO BAGS D5	24270	27.07.22		8.55	6.94	pos.	pos.	22857.486
6	d3rp/s1	1528	Reddish powder Jumbo	42 JUMBO	45170	27.07.22		6.7	6.34	pos.	pos.	42812.126
7	D1E/S1	1525	Soil/earth type powder	325 BAGS total D1	18120	27.07.22		5.84	85.11	neg.	neg.	0
8	D1RP/S1	1524	red powder orig. pkg D1	2 BAGS IN D1 red	41.62	27.07.22		6.78	10.01	pos.	pos.	37.919982
9	D2E/S1	1523	Soil/earth type powder	69 BAGS IN D2	3450	27.07.22		4.87	92.68	negative	negative	0
10	D2B/S1	1522	brownish powder	1 BAG D2	45.86	27.07.22		12.6	18.17	pos.	negative	38.04087
11	D2G/S1	1521	Greyish powder d2	11 bags D2	529.59	27.07.22		5.82	88.52	negative	negative	0
12	D2RP/S1	1520	red powder orig. pkg D2	17 BAGS D2	594.19	23.07.22		4.94	22.54	pos.	pos.	466.9145
13	D2R/S1	1519	refilled red powder d2	15 BAGS Red	427.99	23.07.22		5.59	15.7	positive	positive	365.58906
total		13 samples		leaving item 7,9,11	197049.66							192386.71
			7,9,11 (other than AN)		22099.59				AN Split 1,2,3,	1,2,3,		122166.14
			G.TOTAL		219149.25				AN Powder 4,5,6,8,10,12,13			70220.57141

18.8 Therefore, I hold that after comparing the admitted gross quantity of 200.95MT, the unit was found to have shortage of total 8.564 MT of imported bonded goods Arecanut Split & AN Powder under warehousing for which no plausible explanation has been provided by M/s Star Exim Warehouse during the course of investigation by the DRI Officers nor during the course of present

**adjudication proceedings. I also find that in his statement dated 04.05.2023, Shri Sadam S Hingorja was shown the above Test Reports received from CECL Vadodara and he had agreed with such Test Reports and did not propose to go for further testing of his stored goods which is clearly corroborative evidence to the fact that he was aware that there existed shortage of stock in his warehouse and the imported goods amounting to 8.564 MT were cleared to DTA without payment of applicable duty.**

**18.9** I also find that for the shortage in quantity of Arecanut Split and Arecanut Powders imported in mixed consignments, the actual quantity of shortage i.e. **8.564 MTs** was arrived at from the laboratory Test Results as described under **Para 11.1** and **Table- 6** thereunder. Further, I find that as per the SEZ Rules 2006, by applying the FIFO method, the shortage of bonded quantity of “Arecanuts and Arecanut Powders” have to be treated to be the part of the mixed consignment, imported under the B/E No.1008514 dated 11.06.22 of total 675 bags (54MT), as the last stock of such goods was exhausted by the unit since S/B No. 4008463 dated 26.05.22 (Table Part-3A under Para 7.32). Accordingly, I find that as on that date 11.06.22, the prevalent Tariff value of similar goods was USD 5477/MT, as per the effective Notification No.46/2022-Cus(NT) dated 31.05.22, with the prevalent Exchange Rate of USD for import being Rs.78.50/USD, the duty due has been calculated and shown in **Table-9** above. For the sake of ease of reference, the same is reproduced as under:-

**Table-9**

Qty.	Tariff rate Notif, value USD/MT	Exc, Rate USD (Imp )	AV in Rs.	BCD @100% Rs	IGST @5% Rs.	Total Rs.
8.564	5477	78.50	3682044.7	3682045	368204.5	4050249

**18.9** I also find that during the course of proceedings undertaken by the officers of DRI, **pilferage** was reported by Shri Sadam S Hingorja, Proprietor of M/s Star Exim Warehouse in respect of 13 bags of the imported consignment of Areca Nut Split in double gunny bags having weight of 80 Kg each which were said to have been stolen/pilfered from the said unit on the intervening night of 26<sup>th</sup> and 27<sup>th</sup> July, 2022 which were not recovered till the date of issuance of the SCN dated 11.07.2023 as discussed in detail at **Para 5.4** above. I find that as those were part of the bonded goods and already considered as under warehousing during first quantification panchnama dated 19.07.22. Further till the last statement of the proprietor of the unit the said bonded quantity of 1.04MT, pilfered from his warehouse, was admittedly no more in the custody, ownership or available with the unit for fulfilling export obligation with the custodian, **allegedly since 27.07.22**. Hence, I find that the duty incident thereon ought to have been discharged voluntarily by the custodian on FIFO basis, from the date of imports of such stock, as per the conditions of LoA read with the Bond furnished under the SEZ Act, owing to his failure in accounting for and identifying the stocks imported in corresponding consignment and preserving securely and distinctively the said bonded goods under warehousing and which were meant for export. The estimated duty incidence of those **13 bags viz. 1040Kg/1.04MT Arecanut Split CTH 08028020, having tariff value of USD 7065/MT, as per the contemporaneous Notification No. 62/2022-Cus(NT) dated 15.07.22, , as applicable on 27.07.22, with the applicable BCD and IGST, has been shown at Table-8 above.** For the sake of ready reference, the same is reproduced as under:-

Table-8

Qty.	Tariff rate Notif, value	Exc, Rate USD (Imp)	AV in Rs.	BCD @100% Rs	IGST @5% Rs.	Total Rs.
1.04	7065	80.95	594788	594788	59479	6,54,267

**18.10** I find that the total stock shortage of 9.604 MTs (8.564MT + 1.04MT) as discussed above were the goods which were not found under “actual warehousing”/ control or possession of the unit, though reflected as or Part of “the balance stock” in their own records. Therefore, I find that the subject goods were never available for export nor the same were found to have been legally cleared for Domestic Consumption by the unit by raising bills and filing proper Bill of Entry for home consumption and cleared after discharging the full duty components leviable thereon. I also find that M/s Star Exim Warehouse had never reported the said goods as short received or destroyed by the unit or their clients with the KASEZ, anytime during their period of LoA.

**18.11** I find that as per the conditions laid down under the legal provisions of Special Economic Zone Act and Rules made there under governing the removal of goods in the Domestic Tariff Area, it is provided that a unit may sell goods and services in the Domestic Tariff area on payment of Customs duties under Section 30 of the SEZ Act, 2005 read with Rule 47 of SEZ Rules, 2006, as applicable to the import of similar goods into India, under the provisions of the Foreign Trade Policy. The DTA sale is subject to restrictions/prohibitions under ITC (HS) or any other law applicable in respect of import of like goods into India, unless exempted otherwise. The Section 30 of SEZ Act, 2005 provides for levy of Customs Duty equivalent to the import duty on the goods cleared from SEZ to DTA. Since the Customs Duty is leviable on import of goods under Section 12 of Customs Act, 1962, it implies that the duty in case of DTA sale of goods from SEZ to DTA is chargeable under Section 12 of the Customs Act, 1962. I find that it appears that M/s. Star Exim have thus violated the provisions Customs Tariff Act, 1975, Section 12 and various other provisions of Customs Act, 1962 read with of Section 30 of the SEZ Act, 2005 and Rule 47 of SEZ Rules, 2006. Hence the good actually imported into DTA in India were liable to Customs duty on imports.

**18.12** I also find that if the Department had not initiated the investigation against the M/s. Star Exim in the instant matter, this scandal of duty evasion by way of resorting to import under mixed descriptions and non-maintenance of accounting and mixing of arecanut powders with other worthless goods to hide the clandestine clearance of imported goods without payment of Duty would have continued indefinitely. Considering the deliberate act of fraud, collusion, wilful mis-statements, suppression of material facts and diversion of goods into DTA without permission of proper officer, the extended period of demand under Section 28 (4) of the Customs Act, 1962 is attracted in the instant case, and for the subject goods found short, the Customs Duty amounting to **Rs. 47,04,516/- (Rs.40,50,249/- + Rs.6,54,267)** as calculated above in **Table-8** and **Table-9** above is liable to be demanded and recovered alongwith due interest thereon, from M/s. Star Exim under Section 28(4) of the Customs Act, 1962 read with Section 28AA of the Act *ibid*.

**18.13 Confiscation of goods u/s 111 of the Customs Act, 1962:-**

(i) I find that from the facts that have emerged during the course of investigation by DRI, M/s Star Exim Warehouse had imported the goods falling under CTH 0802 at CIF

value lesser than MIP (Minimum Import Price), in spite of clear condition to follow the MIP per the governing ITC (HS) CTH 0802 that the import value must be equal to or above Rs. 210/kg in violation of the FTDR Act, 1992 (Foreign Trade Development and Regulation). Read with DGFT Notification No.20/2015-20 which mandates that the import of arecanuts is prohibited, however, import is free, if CIF value is **Rs.251/- per Kilogram or above**. From the facts that have been placed on record before me, I find that M/s Star Exim Warehouse have engaged in import of goods falling under CTH 0802 wherein the CIF value is lesser than the prescribed value of Rs. 251/- per kilogram and as such they have engaged in import of prohibited goods in terms of the above legal provisions read with Section 2(33) of the Customs Act, 1962 which has rendered the goods liable for confiscation u/s **110(d) and 111(o) of the Act ibid**.

(ii) The unit had merged the description and classifications of “Arecanut Split and arecanut powder” in their declarations and on associated Import/Export documents for their import and export consignments and related documentation by commonly declaring both in bags/weightment/valuations as well as under common classification, CTH 08028020. After receipt too he had never quantified accounted for or stored the items consignment wise, though there are independent headings available under ITC(HS), as sought and approved to them under the **trading activity Annexure-A** of the LoA. The unit had declared –betel nut/areca nut under heading 08028090(others), residual heading of –Others, in two instances whereas there are headings for Whole, Split and Ground arecanut available in the list of trading activity of the same LoA. On one occasion he had cleared part cargo of –1800 bags of betel nut of CTH 08028090 said to have received for warehousing under inter-unit transfer for export as “1400 bags Areca Nut Split & Powder under CTH 08028020”, though admitted to have not carried out any activities thereupon.

(iii) I further find that M/s Star Exim Warehouse had merged the description and classifications of “Arecanut Split and Arecanut Powder” in their declarations and on associated Import/Export documents for their import and export consignments and related documentation by commonly declaring both in bags/weightment/valuations as well as under common classification, CTH 08028020. After receipt too he had never quantified accounted for or stored the items consignment wise, though there are independent headings available under ITC(HS), as sought and approved to them under the trading activity Annexure-A of the LoA. The unit had declared –betel nut/areca nut under heading 08028090(others), residual heading of “Others”, in two instances whereas there are headings for Whole, Split and Ground arecanut available in the list of trading activity of the same LoA. Thus the unit was well aware of the availability/applicability of specific classifications for the goods they handled, under the Tariff/Exim Policy and LoA issued for their authorised operations, but to defeat the aspect of valuation, Minimum Import Price (MIP), quantification or one-to-one correlation between the import and export goods on FIFO or any other methods, had resorted to mixing of two/three different items under common/residual Chapter heading. Upon asking about the end-use of the powders or the valuation or even the quantum of powders per consignments and the exact constitution of such powders, the unit holder has remained evasive and feigned ignorance attributing all liabilities on their clients. Further admitted to have never got it lab tested or why the same were supplied in uneven weightments or didn't bore any specific marked Packaging. Thus, I find that the above referred acts of omission and commission by M/s Star Exim Warehouse has rendered the goods liable for confiscation u/s **111(f) of the Customs Act, 1962**.

(iv) I also find that the investigation conducted by DRI has specifically established that the imported goods viz. Arecanut Splits and Arecanut Powder were found to be in shortage during the course of physical stock taking of the goods lying at the warehouse of M/s Star Exim Warehouse and on the basis of the lab report submitted by CECL Vadodara in respect of the 13 Test Samples forwarded to them. A total quantity of 9.604 MTs of the imported goods were found to be short during such investigation conducted

by DRI. It was further observed from the report received from CECL in respect of test samples forwarded that in some cases the test samples composed mainly of inorganic matter and in some cases the same were found to be arecanut powder mixed with small amount of inorganic matter. Further, no plausible explanation could be provided by Shri Sadam S Hingorja, Proprietor of M/s Star Exim Warehouse in respect of the same and he could only cite ignorance or blame his clients and workers. Further, no separate stock of the imported goods was ever maintained by him. It is also an established fact that the shortage of goods was never communicated to the proper officer in contravention of the LoA issued to them. Thus, in view of the above, I find that the quantity of imported goods amounting to 9.604 MTs on which duty exemption was availed are liable to be confiscated u/s **111(j) and 111(m) of the Customs Act, 1962.**

**Thus, I find that the total quantity of imported goods viz. Arecanuts split and Arecanuts Powder amounting to 9.604 MTs as referred to in Para 15.8 (i) and 15.8 (ii) of the above referred SCN dated 11.07.2023 are liable for confiscation u/s 111(d), 111(f), 111(j), 111(m) and 111(o) of the Customs Act, 1962 which has further rendered M/s Star Exim Warehouse liable to penalties as prescribed in the Customs Act, 1962.**

**19. OBSERVATIONS ON THE DEFENSE REPLY FILED BY M/S STAR EXIM WAREHOUSE ON 26.05.2025.**

**19.1** As discussed in **Para 16.2** above M/s Star Exim Warehouse (Proprietor Shri Sadam S Hingorja) have filed their reply to the above referred SCN dated 11.07.2025 on 26.05.2025 wherein they have denied all the allegations and averments made in the said SCN. I find that their defense is mainly centered on the judgment pronounced by the Hon'ble Tribunal at Ahmedabad in the matter of Brew Barron LLP, Smt. Suchita Bharatsinh Narawat, Ramesh Kumar Gour versus Commissioner of Custom-Kandla Customs, 2024 (12) TMI 174-CESTAT Ahmedabad.

**(ii)** I find that the aforesaid Order passed by the Hon'ble Tribunal has not been accepted by the Department and **Filing (stamp) no Tax Appeal: 18273 of 2025** and **Tax Appeal no 353 of 2025** have already been filed by the Department before the Hon'ble High Court of Gujarat. Further, I find that as discussed in the foregoing paragraphs, the investigation has pointed out towards multiple violations on part of M/s Star Exim Warehouse which includes mixing of two separate classifications, non-maintenance of proper accounts of the stock imported by them, test reports indicating samples to be containing inorganic matter, violation of the conditions of LoA. Thus, apart from shortage of stock which was noticed during the course of investigation, the above visible deviations were observed in the tax behavior of M/s Star Exim Warehouse which has resulted into shortage of imported goods on which duty exemption was availed by them. Thus, I humbly find that the aforesaid judgment of the Hon'ble Tribunal at Ahmedabad which has been appealed against by the Department does not appear to be squarely applicable in the instant case. This being the case, the defense reply submitted by them cannot be given further credence for the purposes of adjudication of this SCN dated 11.07.2023.

**(iii)** However, **I do find force in their contention that the imposition of penalty on the firm/concern or the proprietorship concern and the sole proprietor separately is not permissible**, as duly held by Hon'ble High Court of Bombay in the case of Gyanchand Jain, 2015(321) ELT 199 (Bom.). Hence, their contention that Shri Sadam S Hingoraj, Proprietor of M/s Star Exim Warehouse is not separately liable for penalty under Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962

is correct in as much as the Proprietorship Firm namely M/s Star Exim Warehouse and the sole proprietor of the firm namely M/s Sadam S Hingoraj appear to be one and the same.

**(iv)** It has also been submitted by them that it is a settled legal position that when the goods are not available for confiscation having been cleared at the material time, imposition of redemption fine is not in accordance with law as enunciated by Larger Bench of Hon'ble Tribunal in the case of Shiv Kripa Ispat Pvt Ltd V/s Commr. of C. Ex & Cus. Nasik, 2009 (248) E.L.T. 623 (Ri-LB) as well as by Hon'ble High Court of Bombay in the case of Finesse Creations Ltd., 2009 (246) E.L.T. 122 (Bom.) which is duly maintained by Hon'ble Supreme Court as reported at 2010 (255) ELT A 120 (SC). Hence, no fine is imposable on the goods, as proposed in the notice. In this connection, I would like to place my reliance on the decision in **Visteon Automotive Systems India Limited v. CESTAT, Chennai 2018 (9) G.S.T.L. 142 (Mad.)** and **Synergy Fertichem Pvt. Ltd v. State of Gujarat 2020 (33) G.S.T.L. 513 (Guj.)** which are more recent and wherein the learned High Courts have held that the availability of the goods is unnecessary for imposing the redemption fine or penalty. Thus, I find that it can be inferred from the above referred judicial pronouncements that even if goods have been cleared in the past and were never seized by the department, in such cases, redemption fine is imposable if it is found that the goods were liable for confiscation.

**(v)** I also find that they have further submitted that as per principles of natural justice, they are to be put to proper notice by way of pinpointing the declaration, statement or document which they have knowingly or intentionally made, signed or used or caused to be made, signed or used in the present case in as much this is not done, the notice is issued in breach of principles of natural justice and therefore cannot be sustained. That the notice even otherwise does not bring out any evidence pointing to knowledge or intention on their part to abet import of Areca nut so as to justify imposition of penalty under Section 114AA of the Customs Act, 1962. They have also submitted that they will make final submissions in due course and may seek cross-examination on receipt of specific statement or document envisaged under Section 114AA of the Customs Act, 1962. I find that the above referred SCN dated 11.07.2023 has vividly detailed the omissions, commissions and violations and they have been made aware of the same by virtue of issuance of the SCN dated **11.07.2023** and further in observance of the principles of natural justice they were statutorily given 30 days time from receipt of the notice to submit reply and six opportunities for personal hearing as detailed above have been accorded to them. As a matter of fact, they have filed the interim defense reply on **26.05.2025** only and have not appeared before the adjudicating authority. Further, as adjudication is time bound, given the opportunities provided to them, I find that the matter needs to be adjudicated without any further delay in the interest of justice.

## **20. PENALTIES ON M/S STAR EXIM WAREHOUSE/SHRI SADAM S HINGORJA:-**

**20.1** I find that the subject SCN dated 11.07.2023 has proposed penalties **u/s 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962 on M/s Star Exim Warehouse/ Shri Sadam S Hingorja**, Shed No. 149 to 152, Phase-I, Sector-I, Kandla Special Economic Zone, Gandhidham, Kutch-370230. In view of the discussions made in the foregoing paragraphs, the various acts of omission and commission on part of M/s Star Exim Warehouse has led the imported goods totaling to 9.604 MTs liable to confiscation u/s 111(d), 111(f), 111(j), 111(m) and 111(o) of the Customs Act, 1962 and accordingly I hold that they are liable to penalties as applicable under the Customs Act, 1962. **However, I find that in terms of the proviso to Section 114A of the Customs Act, 1962 where any penalty has been levied under the above section, no penalty**

**is leviable under Section 112 or Section 114 of the Act** *ibid*. For the sake of ready reference, the relevant provision is reproduced as under:-

**“Section 114A. Penalty for short-levy or non-levy of duty in certain cases.** -

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has <sup>2</sup> [\*\*\*\*]been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under <sup>3</sup> [sub-section (8) of [section 28](#)] shall also be liable to pay a penalty equal to the duty or interest so determined:*

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**Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.”**

**20.2** In view of the above, I find that as the subject SCN dated 11.07.2023 proposes demand of Custom Duty u/s 28(4) of the Customs Act, 1962 and interest u/s 28AA of the Act, *ibid*, **I find it proper to impose penalty as prescribed u/s 114A of the Customs Act, 1962 on M/s Star Exim Warehouse/Shri Sadam S Hingorja and given the legal position as stated above, the penalties as proposed u/s 112(a) and 112(b) of the Customs Act, 1962 in the subject SCN dated 11.07.2023 are set aside/dropped.**

**20.3** I further find that M/s Star Exim Warehouse/Shri Sadam S Hingorja are **liable for penalties as prescribed u/s 114AA and 117 of the Customs Act, 1962** for the acts of omission and commission as detailed in the foregoing paragraphs which has ultimately resulted in the goods being liable to confiscation and for the reasons as stated at Para 15.1 of the subject Show Cause Notice dated 11.07.2023.

**21. IMPOSITION OF PENALTY ON M/S FAZA SANITARY WARE LLC AJMAN UAE:-**

**21.1** I find that the investigation conducted by DRI and subsequent SCN dated 11.07.2023 has revealed that M/s. Faza Sanitary Ware Trading LLC Ajman UAE had failed to explain the reasoning behind the warehousing storage of the Indonesian origin Areca Nuts or its powder after procurements from Dubai/UAE which were forwarded to India based warehousing unit, M/s Star Exim, and then the same goods without any process, was further traded to the Dubai/UAE based customers, at sleek margins or even at losses. Further, I find that it has been pointed out in the investigation conducted by DRI that the reason for blending the consignments of Arecanut Split with Arecanut Powder bags, before forwarding to the said SEZ unit and then receiving back without any checks regarding the quantification or valuation thereof is beyond understanding.

**21.2** It has been also mentioned that being a foreign based unit, they have entertained the indemnity in addition to the provisions of SEZ Act, especially as none of the other clients based in India, chose to respond to the Summons issued. For the fabrication and supply of the documents and mixed goods consignments and carrying out the shrouded transactions they have projected themselves as equally interested partner with the unit, in the wrongdoings. For want of non-cooperation of the custodian & the Indian

clients/KASEZ based unit the inter-unit relationships and actual Transactions, communications among the alleged clients could not be surfaced neither the financial transactions and actual usage of the goods said to be under storage at Star Exim by the persons involved, but overall it appeared that they were common motive and the equal stake holders in the mis-appropriation manipulations of the bonded goods they had transacted/handled through M/s Star Exim. Further, I find that it is also mentioned that there has been an utter disregard for re-export of the said to be imported cargo, examined at the unit continuously for the period of around six months, which strengthen the fact of the fictitious transactions and the goods under storage being worthless goods and the misuse of SEZ scheme for covering the actual manipulations as well as the financial transactions as well as misuse of the bonded goods under the guise of warehousing. Also, I find that during his statement the proprietor of Unit, had kept on claiming to have followed the instructions from his clients in handling their goods- who were the actual owners of goods for having imported/exported the goods on their descriptions/quantities- however in their agreements, the para 3 of General Terms and conditions at points (a) & (g) thereof it is found that the following service contract was in existence between the unit and “their clients”,

*“(a) All activities shall be carried out by service provider as per the provisions of SEZ Act 2005 read with SEZ Rules 2006 and Customs Act 1962, in the capacity of approved unit holding LOA issued by DC, FTWZ and in accordance with other laws time being in force.*

*“(g) As agent, service provider will sign all documents jointly as required by law, however responsibility of true declarations and statutory compliances, rests with client, and client indemnifies Service Provider from any action arising from incorrect declarations made by client.”*

The above paras of the service contract too, the above clauses expose the inherent motive of the unit and its associated “clients”, in carrying out the proposed transactions under the SEZ warehousing LoA, issued to M/s Star Exim, per the effect of which, none of them are to be held responsible for the proposed mis-declarations and the management and actual running of the unit are actually vested in the hands of foreign/Indian clients, re-exporting such goods to Gulf after –warehousing| in India, without any value addition or obligations regarding the safe storage or quality wise imports or exports or valuations resorted. Thus they have engaged themselves in unbridled manipulations by adding powder alongwith arecanut splits, which were intentionally not accounted for or stored distinctively by M/s Star Exim Warehousing, KASEZ.

**21.3** I find that as M/s. Faza Sanitaryware Trading LLC Ajman UAE appear to have knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.) which were false or incorrect in material particulars of the description, classification, actual Quantity, Value etc., with an intent to abet the clearance of exact quantity of Arecanut Split or betelnuts for export and which could have been cleared into DTA without issuance of any Bills and without payment of Duty/taxes, therefore M/s. Faza Sanitary Ware Trading LLC, Ajman (UAE) shall also be separately **liable to penalty under Section 114AA of the Indian Customs Act, 1962.**

**21.4** I also find that for their various acts of non-cooperation, non-production of details and documents and mis-leading in the investigation by M/s. Faza Sanitaryware Trading LLC Ajman UAE as discussed supra have made themselves separately **liable to penalty under Section 117 of Indian Customs Act, 1962.**

## **22. IMPOSITION OF PENALTY ON M/S TRADE INDIA ENTERPRISES:-**

**22.1** I find that the investigation conducted by DRI has pointed out that M/s Trade India Enterprises, C-45, C/o Narruddin, Sector-10, Noida-201301 have not cooperated in the investigation and have not submitted any documentary evidences sought from them nor have they presented themselves in response to summons dated 25.07.2022 and 03.03.2023 issued to them. It has also been mentioned that they have knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular description, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at the Star Exim Warehouse and manipulate the transactions for manipulating the proposed clearances of the excess quantity in DTA without issuance of Bill and without payment of duty/taxes.

**22.2** As M/s Trade India Enterprises have failed to respond to the summons issued to them by DRI nor have they filed any defense reply and also not appeared before the adjudicating authority when called for personal hearing, I uphold the imposition of penalty on them under **Section 114AA** of the Customs Act, 1962 and also under **Section 117** of the Act *ibid*. Thus, I find that M/s Trade India Enterprises are **liable to imposition of penalty u/s 114AA and Section 114 of the Customs Act, 1962.**

## **23. IMPOSITION OF PENALTY ON M/S SURYASTAR TRADING PRIVATE LIMITED:-**

**23.1** I find that a team of officers had visited the premises of M/s. SuryaStar Trading Private Limited, Shop No. G-162, Ground Floor, Express Zone Mall, Next to Patel Vanika W.H. Highway, Goregan East, Mumbai, Suburban, Maharashtra-400063 and found that the said premises was closed. On enquiry, it was gathered that the said premises was closed from the last two months and the visiting officers could not obtain the contact details of the person of the said premises. A Visit Note dated 30.08.2022 (**RUD-10**) was prepared in this regard.

**23.2** I further find that the investigation conducted by DRI has pointed out that M/s SuryaStar Trading Private Limited have not cooperated in the investigation and have not submitted any documentary evidences sought from them nor have they presented themselves in response to summons dated 25.07.2022 and 03.03.2023 issued to them. It has also been mentioned that they have knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular description, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at the Star Exim Warehouse and manipulate the transactions for manipulating the proposed clearances of the excess quantity in DTA without issuance of Bill and without payment of duty/taxes.

**22.2** As M/s SuryaStar Trading Private Limited were not found to be operating from their declared business premises, have failed to respond to the summons issued to them by DRI and have neither filed any defense reply nor have they appeared before the adjudicating authority when called for personal hearing, I uphold the imposition of penalty on them under **Section 114AA** of the Customs Act, 1962 and also under **Section 117** of the Act *ibid*. Thus, I find that M/s SuryaStar Trading Private Limited are **liable to imposition of penalty u/s 114AA and Section 114 of the Customs Act, 1962.**

### **23. IMPOSITION OF PENALTY ON M/S GOPAL MULTITRADE:-**

**23.1** I find that a team of officers had also visited the premises of M/s Gopal Multitrade, SH-28/GF, Sai Krupa Mall, L. T. Road, Opp. Railway Station, Dahishar-West, Thane, Maharashtra-400 068, the visiting officers found the said premises as locked and the name of company displayed on the front of shop was different than M/s Gopal Multitrade. The visiting officers could not trace either any information or company in the name of M/s. Gopal Multitrade nor any information in the name of its associated person Shri Gopal Mehra. A visit note dated 30.08.2022 (**RUD-11**) was prepared in this regard.

**23.2** I further find that the investigation conducted by DRI has pointed out that M/s Gopal Multitrade have not cooperated in the investigation and have not submitted any documentary evidences sought from them nor have they presented themselves in response to summons dated 25.07.2022 and 03.03.2023 issued to them. It has also been mentioned that they have knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular description, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at the Star Exim Warehouse and manipulate the transactions for manipulating the proposed clearances of the excess quantity in DTA without issuance of Bill and without payment of duty/taxes.

**23.3** As Gopal Multitrade were not found to be operating from their declared business premises, have failed to respond to the summons issued to them by DRI and have neither filed any defense reply nor have they appeared before the adjudicating authority when called for personal hearing, I uphold the imposition of penalty on them under **Section 114AA** of the Customs Act, 1962 and also under **Section 117** of the Act *ibid.* Thus, I find that M/s SuryaStar Trading Private Limited are **liable to imposition of penalty u/s 114AA and Section 114 of the Customs Act, 1962.**

### **24. IMPOSITION OF PENALTY ON M/S GSM GLOBAL INC:-**

**24.1** I find that investigation conducted by DRI has revealed that M/s GSM Global Inc. had effected inter-unit transfer of 1800 bags of Arecanuts to M/s Star Exim on their client's M/s Faza Sanitary Ware Trading LLC out of which 1400 bags were re-exported by. I further find that for the remaining stock of 400 bags of Betel Nuts said to be warehoused at M/s Star Exim, the Proprietor of the warehousing unit namely Shri Sadam S Hingorja had failed to identify during quantification as to where or which was the stock of arecanuts originally supplied by M/s GSM Global Inc (1800 bags) procured under alleged inter-unit transfer during the course of examination of the goods, Panchnama proceedings or even during statements.

**24.2** I find that it has been further mentioned in the SCN dated 11.07.2023 (**Para 15.6.1**) that despite issuance of summons dated 05.08.2022, 10.08.2022 and 03.03.2023, the proprietor of M/s GSM Global Inc had failed to join the investigation and in the absence of the same the identity and financial transactions they had carried out with M/s Faza Sanitary Ware Trading LLC/any other clients could have been ascertained for identifying the exact nature of "warehousing" or NFE realization committed by the SEZ Unit.

**24.3** I find that M/s GSM Global Inc have submitted their defense reply vide letter dated 09.10.2023 which is in the nature of interim reply and has been discussed at length at Para 16 above. I find that they have acknowledges that they were in receipt of

summons dated 03.03.2023 issued by the Senior Intelligence Officer and they had submitted reply to the said summons as well in the form of submission of copy of invoice dated 28/05/2022 and copy of intra SEZ transfer no.7004344 dated 28.05.2022. From the said reply letter dated 10.03.2023, it is forthcoming that by way of submitting the said documents they had presumed themselves that *“the above referred information is sufficient for your investigation and we most humbly prayed before your goodself to treat this letter as compliance to your summon dated 03/03/2023”*.

**24.4** However, they themselves have mentioned in their defense reply dated 09.10.2023 that the following three aspects were mentioned therein:-

1. To tender statement.
2. To explain documents and evidences.
3. As above.

**24.5** Thus, it appears that they had conveniently chosen to submit the limited documents as stated in **Para 24.3** above and they themselves had concluded that their compliance is complete and by way of the above refrained from appearing for their statement and did not join the investigation. Subsequently, they have also not appeared in personal hearing opportunities accorded to them by the adjudicating authority along with M/s Star Exim Warehouse which appears to be an evasive attitude on their part. Thus, there appears to be non-compliance on part of M/s GSM Global Inc in as much as they have failed to appear before the investigating officer in response to summons issued u/s 108 of the Customs Act, 1962 despite acknowledging receipt of the same wherein it was clearly mentioned to tender statement. Thus, I find that by resorting to the above, they are **liable for penalty u/s 117 of the Customs Act, 1962**.

**24.6** I further find that although M/s GSM Global Inc appear to have caused inter-unit transfer of 1800 bags of betel nuts to M/s Star Exim Warehouse out of which 1400 bags were exported, the remaining bonded 400 bags of arecanuts supplied by them could not identified by M/s Star Exim Warehouse (Proprietor M/s Sadam S Hingorja) which was followed by non-appearance by them when called upon to explain documents and evidences which were crucial for the investigation. As the summons issued by the Sr. Intelligence Officer, DRI had clearly directed them to appear for statement, their reply dated 10.03.2023 clearly indicates their unwillingness to join the investigation which places the transactions made by them with M/s Star Exim Ware House. I find that the SCN has mentioned that it appears that they have knowingly and intentionally made/signed/used or caused to be made/signed/used the import documents (Invoice, Packing List, Bill of Lading, Bill of Entry etc.), which were false or incorrect in material particular descriptions, classifications, Quantity, Value etc., with an intent to manipulate the bonded goods warehoused at theirs and at the premises of M/s Star Exim Warehouse and facilitated them in manipulating the transactions and proposed clearances of the excess quantity in DTA without issuance of Bill, filing Bill of Entry for Home Clearances and without payments of Customs Duty/taxes and therefore has held M/s **GSM Global INC, KASEZ** shall also be separately liable to penalty under **Section 114AA** of the Indian Customs Act, 1962. I find that the intent on part of M/s GSM Global Inc to appear for tendering their statement in response to the summons dated 03.03.2023 issued by the Sr. Intelligence Officer DRI by submitting a few documents and deciding that their compliance is over and further that M/s Star Exim Warehouse failed to identify the 400 bags of remaining betelnuts supplied on inter-unit transfer basis by them further fuels the allegations levelled in the SCN dated 11.07.2023 and accordingly I find that by committing the above, they appear to have rendered themselves **liable to penalty u/s 114AA of the Customs Act, 1962**.

**-:ORDER:-**

**25.1** In view of the discussion and finding as above, I proceed to pass the following Order in respect of **M/s Star Exim Warehouse (Proprietor Shri Sadam S Hingorja) :-**

- (i) I order to confiscate **01.04 MT** of Split Arecanuts having declared assessable value of **Rs. 5,94,788/- (Rupees Five Lakhs Ninety Four Thousand Seven Hundred Eighty Eight)** as detailed in Para 15 under Section 111(d), 111(f), 111(j), 111(m) & 111(o) of the Customs Act, 1962. However, as the goods are not available for physical confiscation, I impose redemption fine of **Rs.1,48,697/-(Rupees One Lakh Forty Eight Thousand Six Hundred Ninety Seven Only)** under the provisions of Section 125 of the Customs Act, 1962 for the reasons as discussed in **Para 19.1(iv)** above.
- (ii) I order to confiscate **8.564 MT** of Arecanut and Powders, having assessable value of **Rs. 36,82,045/- (Rupees Thirty Six Lakh Eighty Two Thousand Forty five only)**, bonded stock on records of the unit, as detailed in **Para 11** under Section 111(d), 111(f), 111(j), 111(m) & 111(o) of the Customs Act, 1962. However, as the goods are not available for physical confiscation, I impose redemption fine of **Rs.9,20,511/-(Rupees Nine Lakh Twenty Thousand Five Hundred Eleven Only)** under the provisions of Section 125 of the Customs Act, 1962 for the reasons as discussed in **Para 19.1(iv)** above.
- (iii) I order that the classification of Arecanut Splits & Powders mentioned at above paras, declared cumulatively under 08028020 (Arecanut Split), adopted by them not representing the applicable CTH thereof is hereby rejected and I further order that the subject goods be re-classified under appropriate CTH thereof viz. **08028020 (Arecanut split) & 08028030 (Areca nut ground)** respectively for Arecanut Split and Arecanut ground, as listed in the LoA as well as Exim policy.
- (iv) I order to demand and recover the Customs duty amounting to **Rs. 6,54,267/- (Rupees Six Lakhs Fifty Four Thousand Two Hundred and Sixty Seven only )** in respect of 01.04MT goods (13 pilfered PP/Jute bags of Arecanut Split) and **Rs. 40,50,249/- (Rupees Forty Lakhs Fifty Thousand Two Hundred Forty Nine only)** in respect of the short quantity of 8.564MT stock of Arecanut Split and Arecanut Powders, calculated as per table 6 under Para 10.1 above and table-8 & 9, which are more likely to have been cleared/removed in to DTA, as described above without proper documents/discharge of duty under Section 28(4) of Customs Act,

1962.

- (v) I order to demand and recover interest at appropriate rate on the duty demanded at (iv) above, under Section 28AA of the Customs Act, 1962.
- (vi) I impose penalty of **Rs.47,04,516/- (Rupees Forty Seven Lakhs Four Thousand Five Hundred and Sixteen only)** u/s 114A of the Customs Act, 1962.
- (vii) I impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakhs)** u/s 114AA of the Customs Act, 1962.
- (viii) I impose penalty of **Rs.2,00,000/- (Rupees Two Lakhs)** u/s 117 of the Customs Act, 1962.
- 25.2** I further Order to drop the penalties proposed u/s 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962 in the SCN No. F.No.GEN/ADJ/ADC/42/2023-Adjn-O/o Commr-Cus-Kandla dated 11.07.2023 on **Shri Sadam S Hingorja, Proprietor of M/s Star Warehouse Exim** as per the discussions made at **Para 19.1(iii)** above.
- 25.3** (i) I order to impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** on **M/s Faza Sanitary Ware Trading LLC** u/s 114AA of the Customs Act, 1962
- (ii) I further order to impose penalty of **Rs.2,00,000/- (Rupees Two Lakhs only)** on **M/s Faza Sanitary Ware Trading LLC** u/s 117 of the Customs Act, 1962.
- 25.4** (i) I order to impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** on **M/s Trade India Enterprises** u/s 114AA of the Customs Act, 1962
- (ii) I further order to impose penalty of **Rs.2,00,000/- (Rupees Two Lakhs only)** on **M/s Trade India Enterprises** u/s 117 of the Customs Act, 1962.
- 25.5** (i) I order to impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** on **M/s Suryastar Trading Private Limited** u/s 114AA of the Customs Act, 1962
- (ii) I further order to impose penalty of **Rs.2,00,000/- (Rupees Two Lakhs only)** on **M/s Suryastar Trading Private Limited** u/s 117 of the Customs Act, 1962

- 25.6 (i) I order to impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** on **M/s Gopal Multitrade** u/s 114AA of the Customs Act, 1962
- (ii) I further order to impose penalty of **Rs.2,00,000/- (Rupees Two Lakhs only)** on **M/s Gopal Multitrade** u/s 117 of the Customs Act, 1962
- 25.7 (i) I order to impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** on **M/s GSM Global INC** u/s 114AA of the Customs Act, 1962
- (ii) I further order to impose penalty of **Rs.2,00,000/- (Rupees Two Lakhs only)** on **M/s GSM Global INC** u/s 117 of the Customs Act, 1962

26. This order is issued without prejudice to any action that can be taken against SEZ unit or any other person under this Act, SEZ Act or any other act for the time being in force.

*Vishwajeet Singh*  
04.07.2025  
(Vishwajeet Singh)

Additional Commissioner  
Customs House, Kandla

F. No. GEN/ADJ/ADC/42/2023-Adjn-O/o Commr-Cus-Kandla

DIN: 20250771ML00000EACF

**By Speed Post/ Email/ Kandla Website/Notice board**

To,

1. **M/s Star Exim Warehouse,**  
Shed No. 149 to 152, Phase-I, Sector-I, Kandla SEZ, Gandhidham, Kutch-370230  
(Email id: [stareximwarehouse@gmail.com](mailto:stareximwarehouse@gmail.com))
2. **Shri Sadam Hingorja,**  
Prop. of M/s Star Exim Warehouse R/o- Near Taibah Masjid, New Sundarpuri,  
Gandhidham (Email id: [sadamhingorja58@gmail.com](mailto:sadamhingorja58@gmail.com))
3. **M/s Faza Sanitary Ware Trading LLC**  
Ajman UAE having Identification No. 45610 (Email id:  
[fazasanitarywaretrading@gmail.com](mailto:fazasanitarywaretrading@gmail.com))
4. **M/s Trade India Enterprises,**  
C-45, C/o Narruddin, Sector-10, Noida-201301
5. **M/s. SuryaStar Trading Private Limited,**  
Shop No. G-162, Ground Floor, Express Zone Mall, Next to Patel Vanika W.H.  
Highway, Goregan East, Mumbai, Suburban, Maharashtra-400063 (Email id:  
[suryatrading2022@gmail.com](mailto:suryatrading2022@gmail.com))
6. **M/s Gopal Multitrade,** SH-28/GF, Sai Krupa Mall,  
L. T. Road, Opp. Railway Station, Dahishar- West, Thane, Maharashtra-400 068  
(Email id: [gopalmara4@gmail.com](mailto:gopalmara4@gmail.com))
7. **M/s GSM Global INC,**  
Unit No. 106 & 206, Ground Floor & First Floor, Dwarika SDF, Kandla SEZ,  
Gandhidham, Kutch-370230 (Email id: [gsmglobal2021@gmail.com](mailto:gsmglobal2021@gmail.com))

**Copy submitted to:**

1. The Additional Director, DRI, Gandhidham for information and necessary action.
2. Guard File.