



कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,
सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421
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A. File No.	:	F.No.: GEN/ADJ/COMM/411/2024-Adjn-O/o Pr Commr-Cus-Mundra
B. Order-in-Original No.	:	MUN-CUSTM-OOO-COM-24-25-26
C. Passed by	:	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	:	18.09.2025 18.09.2025
E. SCN No. & Date	:	SCN F.No. GEN/ADJ/COMM/411/2024-Adjn-Pr Commr-Cus-Mundra, dated 19.09.2024.
F. Noticee(s) / Party / Importer	:	1. M/s Mac Impex, R-21/22 APMC Market II, Turbhe Vashi, Navi Mumbai, Thane, Maharashtra (IEC-0302048944). 2. Shri. Mohit C. Murgai, Partner M/s Mac Impex resident of Om Villa, Plot No. 72, Sector-28, Vashi, Navi Mumbai.. 3. Shri Amit C. Murgai, Partner M/s Mac Impex resident of Om Villa, Plot No. 72, Sector-28, Vashi, Navi Mumbai.. 4. Shri Chander Murgai, Partner M/s Mac Impex resident of Om Villa, Plot No. 72, Sector-28, Vashi, Navi Mumbai..
G. DIN	:	DIN- 20250971MO000000BF53

1. यह अपील 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 अपील आदेश से असहुष है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र भीग-3 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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

‘केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मनुषी मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004’

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

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

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ - / 1000 रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ वैचाहिरित रिप्युनल के सहायक रजिस्ट्रार के पक्ष में लेण्डपीठ प्लियर जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ट्राफट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मद्दसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प बहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील जापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समझ माँग शुल्क का 7.5% भुगतान करना होता।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE-

Whereas, a specific intelligence was received in the office of the Directorate of Revenue Intelligence (Hqrs.), 7th Floor, Drum Shaped Building, I.P. Bhawan, I.P.Estate, New Delhi (hereinafter referred to as 'DRI') which indicated under-valuation in the export of rice. The intelligence further indicated that after imposition of duty on export of rice with effect from 09.09.2022, several exporters including M/s Mac Impex having its registered office at R-21/22, APMC Market II, Phase II, Turbhe Vashi, Navi Mumbai (hereinafter referred to as 'the said noticee' for sake of brevity), were engaged in short payment of export duty by resorting to undervaluation by claiming abatement of duty from the assessable value. Thus, export duty was not being paid on the transaction value of the export goods (i.e. FOB Value) as provided u/s 14 of the Customs Act, 1962, instead the same was being paid on a reduced value by wrongly declaring the same as FOB Value thus causing short-payment of the appropriate duty of Customs.

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

2.2 Scrutiny of the export data pertaining to the said noticee revealed that exporter were evading duty on export of rice by adopting four different methods i.e. (i) by claiming wrongful deduction of export duty from the transaction value; (ii) by claiming wrongful deduction of several expenses; (iii) by covertly taking reimbursement of export duty from the overseas buyer without even claiming the same as deduction; (iv) by declaring excess freight amounts.

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

2.4 In some cases, in addition to the wrongful claim of deduction of aforesaid 'export duty amount' from the '**transaction value/negotiated price/consideration for sale**', the said noticee had claimed 'deduction' of several ineligible expenses also. These expenses were claimed to have been made by them in the country of destination after completion of the export. These expenses were also not eligible for deduction, the same were includable in the transaction value of the export goods for payment of duty. Thus, a part of consideration was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.5 In some cases, the said noticee had recovered 'the export duty amount' separately from the overseas buyer without even declaring the same in their export invoice and without claiming the same as 'deduction'. The amounts so recovered from the overseas buyer were also part of their consideration for sale. Thus, a part of consideration was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.6 In several other cases of export of rice on CIF/CF incoterm basis, investigation revealed that the said noticee had declared excess freight amounts than the actual freight amounts paid by them to the shipping lines/freight forwarders. In such shipments, FOB price is deduced from the CIF/CF prices by deducting the actual freight amounts paid by the said noticee. By claiming excess freight amounts in the shipping bills, the said noticee had wrongly deducted a part of the consideration/transaction value which is equal to the excess freight amounts claimed by them. Thus, a part of consideration was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

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

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

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

Initiation of investigation:

3. Pursuant to the aforesaid intelligence and evident undervaluation of the export goods, investigation was initiated against **M/s Mac Impex** having its registered office at R-21/22, APMC Market II, Phase II, Turbhe Vashi, Navi Mumbai, Thane, Maharashtra (bearing **Importer Exporter Code No. 0302048944**), by issuance of summons under the provisions of section 108 of the Customs Act, 1962. It was a

partnership firm owned by close family members of Sh. Mohit Murgai wherein apart from Sh. Mohit Murgai, Sh. Amol Murgai (his brother) and Sh. Chander Murgai (his father) were the Partners.

4. In pursuance to the summons dated 16.08.2023 issued to M/s Mac Impex, R-21/22, APMC Market II, Phase II, Turbhe Vashi, Navi Mumbai, Thane, Maharashtra, Sh. Sourabh Mehta, Chief Financial Officer (CFO) of the said export firm appeared in DRI office on 25.08.2023 and vide his letter dated 23.08.2023 (**RUD-1**) submitted copies of the export documents such as shipping bills, invoice, packing list, bill of lading and eBRCs along with bank statement of Mac Impex for the period from April, 2022 to July, 2023.

5.1 Statement of Sh. Sourabh Mehta, CFO of M/s Mac Impex was recorded u/s 108 of the Customs Act, 1962 on 25.08.2023 (**RUD-2**) wherein he interalia stated that M/s Mac Impex is a partnership firm; that its partners are Sh. Chander Murgai, Sh. Mohit Murgai and Sh. Amol Murgai; that Sh. Chander Murgai is the father of Sh. Mohit Murgai and Sh. Amol Murgai; that most of the work of the said firm was handled by Sh. Mohit Murgai and Sh. Amol Murgai who reside at Om Villa, Plot No. 72, Sector 28, Vashi, Navi Mumbai, Thane, Maharashtra; that he looked after the accounts, taxation and financial compliances, including exports related matters of the said firm.

5.2 On being asked about how they got the Purchase Orders for the supply of the rice to Egypt he stated that Mac Impex had been awarded a contract by the Government of Egypt for the supply of the rice; that Mac Impex engaged an agent in Egypt to assist in the process of acquiring the tender, the name of the agent in Egypt was **Al Farana Co. Rice Mill Silos to Preserve Yields (S.A.E.), Gamassa, Dakahlia, Egypt**; that all the communication with the agent (Al Farana Co.) were conducted by Sh. Mohit Murgai; that other employees were not allowed to directly contact with the said agent.

5.3 On being asked about the services provided by Al Farana Co. to Mac Impex and the considerations for the same he stated that he did not know about the same. However, he undertook to provide the documents filed by them for award of contract to Mac Impex and for supply of the rice to the Government of Egypt, copy of the contract/tender application and allotment documents with the agencies of the Government of Egypt, Copy of agreement between Mac Impex and Al Farana Co., Egypt, details of the services provided by Al Farana Co. to Mac Impex, & expenses borne by Al Farana Co. on behalf of Mac Impex.

5.4 On being asked he submitted a copy of General Authority for Supply Commodities (GASC), Install Order no. 1 dated 21.02.2023 (**RUD-3**) which was available with him; that the said install order was issued by Mr. A Mustafa Ismail, Supervisor of Central Administration for Import; that he also submitted a copy of Letter of Credit (LC) dated 20.04.2023 issued by HDFC Bank for 14.97 Million USD, in respect of supply of rice to the GASE, Egypt under his dated signatures.

6.1 The Letter of Credit (LC) dated 20.04.2023 (**RUD-3**) submitted by Sh. Sourabh Mehta indicated that the applicant M/s General Authority for Supply Commodities (GASC), Egypt had got the said LC issued from a bank in Jeddah in the name of beneficiary – M/s Mac Impex, Mumbai for an amount of USD 14,973,750/- for supply of 25000 MT of white rice for price of USD 544.50 per MT CIF. Swift output sender for the said LC was HSBC Bank, Middle East Limited, Dubai and receiver was HDFC Bank, Mumbai.

6.2 The Install Order No. (1) dated 21.02.2023 issued by Mr. A/Mustafa Ismail, the supervisor of GASC, Central Administration for Import Affairs, Egypt submitted by Sh. Sourabh Mehta, CFO indicated that the said order was addressed to M/s Al Farana Co. Rice Mill Egypt; that the same was issued with reference to some offer submitted by **M/s Al Farana Co. Rice Mill and their external supplier M/s Mac Impex**. Vide aforesaid Install order, it was informed to M/s Al Farana Co. Rice Mill and M/s Mac Impex that GASC had agreed to purchase 25000 MT of Indian rice for import during the period from 17.04.2023 to 04.05.2023 **at the price of USD 545 CIF at sight per MT**. In the aforesaid order, it was also mentioned that in addition to the aforesaid price for the cargo, the expenses of customs clearance and transportation to the warehouses inside **Egypt** including value added tax **at an amount of 375 Pounds per MT** were also to be paid by GASC to M/s Al Farana Co. Rice Mill/Mac Impex. It was also mentioned in the order that the payments in dollars were to be made with a documentary credit at sight, on condition of the final release of the shipment, and the payments in Egyptian Pounds, were to be released on condition of presenting the exchange documents. Vide aforesaid order, GASC had also requested M/s Al Farana Co. Rice Mill to provide them the final letter of guarantee from the external supplier M/s Mac Impex. Photo of the aforesaid Install Order No. (1) dated 21.02.2023 is pasted below for ease of reference:

**General Authority for Supply Commodities
Central Administration for Import Affairs**

INSTALL ORDER NO. (1)

GENTLEMEN / AL FARANA CO. RICE MILL

After Greetings;

With reference to the offer submitted by your company, **Gentlemen / AL FARANA CO. RICE MILL And external supplier Gentlemen / Mac Impex**

In the decision session of Practice No. (1) for the year 2022/2023 held on 21/2/2023 to purchase quantities of imported rice.

We have the honor to inform you that the committee has agreed to install the following quantities for your supplier / Mak Impex according to the following:-

QUANTITY +/- 10%	PRICE CIF AT SIGHT / USD	ITEM	ARRIVED PROGRAM
25000 MT	545 5	Indian rice imported	FROM 17/4/2023 TO 4/5/2023

- Only twenty-five thousand tons +/- 10% Indian rice imported at a price of only five hundred and forty-five US dollars per ton, in addition to the expenses of customs clearance and transportation to the warehouses of the Holding Company for Food Industries inside the Arab Republic of Egypt at an amount of (375 pounds) only three hundred and seventy-five Egyptian pounds per ton including value-added tax - payment in dollars with a documentary credit at sight, on condition of the final release of the shipment, and in Egyptian pounds, on condition of presenting the exchange documents, the rest of the conditions and specifications according to the conditions of the authority.

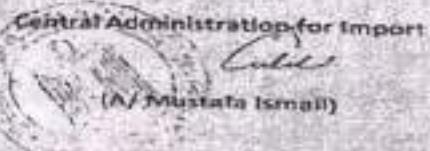
Please quickly provide us with a final letter of guarantee from the external supplier, Messrs. / Mac Impex. Bank Details : HDFC BANK LTD. VASHI BRANCH, NAVI MUMBAI A/C NO 50200028763033, SWIFT CODE - HDFCINBAXXX, IFSC CODE- HDFC0000540

within ten bank working days (according to the booklet of conditions) at 5% of the total value (the quantity provided + 10%) and valid for sixty days from the date of the end of the supply so that we can take the necessary measures.

And Yours sincerely,

Edited on 21/2/2023

supervisor of



(A/ Mustafa Ismail)

7. In furtherance of investigation, summons dated 31.08.2023 & 13.09.2023 were issued to Sh. Sourabh Mehta, CFO of M/s Mac Impex seeking copies of the documents related to supply of rice to GASC, Egypt as undertaken by him in his statement recorded u/s 108 of the Customs Act, 1962 such as copy of **tender applications** filed by M/s Mac Impex for export of rice along with copy of all such **tenders** issued and **allotted/awarded** to them. Details of agents engaged by their export firm and copies of agreements executed with them along with the details of payments made to such agents by Mac Impex (consignment wise) were also sought from them.

8. The authorized signatory of M/s Mac Impex vide his letter dated 11.09.2023 (**RUD-4**) submitted copy of **Brochure of Practice Condition No. (1) for the year 2022/2023 session 14/02/2023 for the supply of white natural rice to GASC, Egypt**. However, all the relevant documents related to the tender for supply of rice were not submitted by them. Further vide email dated 13.09.2023 (**RUD-5**), Sh. Sourabh Mehta, CFO of M/s Mac Impex also submitted copies of some warehouse receipts related to delivery of rice by their Egyptian Agent M/s Alfarana Co. Rice Mill in the warehouse of GASC.

9.1 Further statement of Sh. Sourabh Mehta, Chief Financial Officer, M/s Mac Impex was recorded u/s 108 of the Customs Act, 1962 **on 13.09.2023 (RUD-6)**, wherein he *inter alia* stated that **he could not submit the copy of their tender application and other documents filed by M/s Mac Impex**; that he had also not submitted the **copy of the contract executed by them with the agencies of the Govt. of Egypt for supply of rice to them**;

9.2 **On being asked to explain reasons for non-submission of those documents**, he stated that M/s Mac Impex had not filed those document with the Government of Egypt instead their Egyptian agent- M/s Alfarana Co. Rice Mills, had filed those documents with the Govt. of Egypt; that Mr. Mohit Murgai had told him that he would get those documents from M/s Alfarana and would submit the same subsequently.

9.3 During the course of recording his statement, Sh. Sourabh Mehta was asked to go through the tender allotment document Install Order No. (1) submitted by him during the course of recording of his statement on 25.08.2023, and on being pointed out that the introductory lines of the said documents read as "**With reference to the offer submitted by your company, Gentlemen/ AL FARANA Co. RICE MILL and external supplier Gentlemen/Mac Impex**" which clearly indicated that some offer had been submitted by M/s Mac Impex jointly with its agent M/s Al Farana Co. Rice Mill, wherein M/s Mac Impex had offered to supply a large quantity of 25000 MT of Rice from India through its agent M/s Al Farana to the General Authority for Supply Commodities of Egypt; **that M/s Mac Impex was supposed to have the copy of the said offer. On being asked about non-submission of the said documents by Mac Impex intentionally to avoid investigation, he stated that he had seen the copy of the said tender allotment document; that it was in his knowledge that Mac Impex had filed an offer for supply of rice to the General Authority for Supply Commodities but he did not have copy of the said offer letter.**

9.4 Then he was asked to go through the **Brochure of Practice Condition No. (1) for the year 2022/2023 session 14/02/2023 for the supply of white natural rice, submitted by him vide his letter dated 11.09.2023**. His attention was invited to the following facts emerging from perusal of the said brochure -

- i. As per the said document, offers were invited by GASC for supply of rice to them. From perusal of the said document, it appeared that Mac Impex had also submitted offer for supply of rice in response to the said Brochure.
- ii. In para 3 of the said brochure, under the heading "The Price", it was clearly mentioned that price of the export goods was per ton in CIF dollars on the basis of cash payments at sight and the price for clearance, unloading and transportation expenses in the country of import were to be paid separately in Egyptian pounds per ton, including value added tax.
- iii. The tender allotment documents were also in respect of the offer (like technical and financial bid envelope) submitted by M/s Mac Impex either directly or through its agent;
- iv. that in the aforesaid tender document, the price of the rice to be supplied had been mentioned as 545 USD / MT CIF;
- v. that there was provision of separate payment of 375 Egyptian Pounds per ton for other expenses of customs clearance in the country of import, transportation to the warehouse of the Holding company for Food Industries inside the Arab Republic of Egypt including the value added tax.
- vi. The stage of payment was also clearly mentioned in the said document. As per the said document, the payment in dollar with a documentary credit at sight, was on the condition of the final release of the shipment, and the payment in Egyptian pounds, was on condition of presenting the exchange documents.

On being asked to comment on the above stated facts emerging from the tender documents, Sh. Sourabh Mehta stated that he has gone through the said Brochure of Practice Condition for the supply of white natural rice; that from perusal of the said document, it was evident that offer had been submitted by Mac Impex; that he had not handled such matters of their export firm M/s Mac Impex; that his job was only to handle the financial transactions of Mac Impex; that those documents might be available with the partners/promoters of the company; that he undertook to submit the same within two days' time.

9.5 With regard, to the payment terms 'CIF' mentioned in the said Install Order issued by GASC, he stated that CIF included, all FOB expenses plus insurance and sea freight charges till the country of destination; that the other charges related to clearance and transportation in the country of import/ destination were not included in the CIF value. As per the tender allotment documents, the CIF price of the rice exported by Mac Impex had been mentioned as USD 545 per MT, and there is also a separate provision of 375 Egyptian Pounds per ton for meeting the expenses related to delivery of the export goods in the country of destination; that on being asked as to how they have received the amount of 375 Egyptian Pounds per MT as mentioned in the aforesaid Install Order, he stated that as per his knowledge, the payment of 375 Egyptian Pounds per MT had not been received in the bank accounts of Mac Impex; that the promoters/partners of M/s Mac Impex might be aware of that aspect of business.

9.6 During the course of recording his statement, Sh. Sourabh Mehta was shown the copies of Shipping Bill no. 4232661 dated 16.09.2022, 4280423 dated 19.09.2022 and 4318982 dated 21-09-2022 filed by M/s Mac Impex (RUD-7) and he was asked to explain the method of calculation of FOB value in the said shipping bills. In this regard, he stated that the said shipping bills were submitted by him vide his letters dated 25.08.2023 & 11.09.2023. He explained that the relevant details of those three shipping bills were as under:

Shipping Bill No./date	4232661 dated 16.09.2022	4280423 dated 19.09.2022	4318982 dated 21.09.2022
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Invoice No.	744/2022-23	754/2022-23	751/2022-23
Invoice Date	15-09-2022	17-09-2022	16-09-2022
Proforma Invoice No./ Sale Contract No.	MAC/300822-2	MAC/010922-2	MAC/010922-1
Quantity exported (in MTs)	132.6	132.6	132.6
Rate CIF FC	372	379	379
Total CIF FC	49327.2	50255.4	50255.4
Total Invoice Value FC	49327.2	50255.4	50255.4
Total FOB Value FC (foreign currency)	36465	36465	36465
Freight Charges FC	5515	6440	2715
Insurance FC	54.2	57.4	50.26

He explained that the FOB value in the above mentioned three shipping bills had been calculated from the given CIF Value in the following manner -

FOB value (FC) = Total value (in foreign currency) - Deduction - Freight - Insurance

The calculation of FOB and Cess in respect of the above mentioned three shipping bills were as below.

SB no and date	FOB value (USD)	= Total value - Deduction - Freight - Insurance	Cess = 20% of FOB value
4232661 dated 16.09.2022	36465	= 49327.2 - 7293 - 5515 - 54.2	USD 7293 i.e. Rs. 573959 (1 USD = 78.7 INR)
4280423 dated 19.09.2022	36465	= 50255.4 - 0 - 13733 - 57.4	USD 7293 i.e. Rs. 573959 (1 USD = 78.7 INR)
4318982 dated 21- 09-2022	36465	= 50255.4 - 7293 - 6440 - 57.4	USD 7293 i.e. Rs. 573959 (1 USD = 78.7 INR)

9.7 On being asked to elaborate the calculation of amount of Deduction claimed by M/s Mac Impex in Shipping Bill no 4232661 dated 16.09.2022 and Shipping Bill no. 4318982 dated 21-09-2022 he stated that the deduction claimed by M/s Mac Impex in those shipping bills was equal to the amount of export duty recovered by them from the foreign buyer in respect of those consignments; that to calculate the FOB value in respect of the said shipments they have deducted the said duty paid amount and freight & insurance charges from the total CIF value/total consideration received in respect of the said shipment; then the cess amount has been calculated at 20% of the said declared FOB value.

On being asked to elaborate the method of calculation of amount of Deduction claimed by M/s Mac Impex in Shipping Bill no. 4280423 dated 19.09.2022 he stated that in this shipping bill the amount of the deduction claimed was declared as zero, therefore, to calculate the FOB value in respect of the said shipment, the amount of Freight and Insurance had been deducted from the CIF value. However, in respect of the said consignment, the amount of ocean freight had been wrongly declared in the shipping bill; that the declared ocean freight amount was more than the declared amount of ocean freight charges in respect of other two shipping bills;

that the actual amount of freight paid by them in respect of the said shipment was lesser and the same had been mentioned in the corresponding invoice in respect of the said shipment.

9.8 On being asked whether they had received from the foreign buyer, the amount of the cess (export duty amount) paid by them i.r.o. Shipping Bill no 4280423 dated 19.09.2022, he stated that Mac Impex has collected the amount of the export duty paid by them in respect of the said shipment (i.e. USD 7293) from the foreign buyer, however, the deduction amount had been mentioned as zero in the Shipping Bill as the same had been wrongly included in the freight amount ; that the freight amount in respect of the said shipment had been wrongly declared higher than the actual freight amounts paid in respect of the said shipment.

9.9 On being asked to elaborate the difference in freight amounts mentioned in Commercial invoice no. 754/2022-23 dated 17-09-2022 and corresponding Shipping Bill no. 4280423 dated 19-09-2022, he stated that the freight amount mentioned in the shipping bill had been enhanced by an amount equal to the cess paid by them so that the same could be claimed as deduction in order to lower the FOB value.

9.10 On being asked why there was difference in FOB value mentioned in Commercial invoice 754/2022-23 dated 17-09-2022 and corresponding Shipping Bill no 4280423 dated 19-09-2022 he stated that the amount of Freight in Commercial invoice 754/2022-23 dated 17-09-2022 is USD 6440 and the amount of freight mentioned in the corresponding Shipping Bill no 4280423 dated 19-09-2022 is USD 13733, the amount of cess calculated on the FOB value in that shipping bill i.e. USD 7293 has been added to the freight i.e. $13733 = 6440 + 7293$; that it was done to reduce the FOB value to USD 36465 instead of actual FOB value of USD 43758.

9.11 On being asked about the reasons for different amount of FOB value according to the Invoice No. 744/2022-23, 754/2022-23 and 751/2022-23 (i.e. USD 42758, USD 43758 and USD 47490.14 respectively) and the corresponding Shipping Bill No. 4232661, 4280423 and 4318982 (i.e. USD 36465, USD 36465 and USD 36465), he stated that the difference in amount of FOB value in the invoice was due to the deductions claimed and the amount of freight which had been increased to accommodate the deduction; that the deduction claimed was equal to the amount of cess that had been recovered by them from the foreign buyer and the same had been excluded from the FOB value to evade the applicable customs duty; that he would calculate the actual amount of the FOB value in respect of all such shipments where wrong deductions and freight amounts have been claimed and he would submit the same; that he understood that there had been short payment of export duty on export shipments of white rice and he undertook to calculate and deposit the same along with applicable interest amounts. He further stated that they have treated the FOB value as cum-duty price of the export goods and he had understood that it was wrong to declared the FOB value as Cum-duty-price in terms with CBIC Circular No. 18/2008-customs dated 10.11.2008.

9.12 He further stated that he had seen a printout of section 14 of the Customs Act, 1962 along with copy of CBIC Circular No. 18/2008-cus dated 10.11.2008; that as per the said section 14, the value of the export goods for payment of export duty would be the transaction value of the export goods i.e. the price paid or payable for delivery of the export goods at the time and place of exportation when price is the sole consideration; that the CBIC circular also provided that the value for charging export duty would be the FOB value of the export goods and the practice of calculation of the FOB value as cum-duty price had been discontinued with effect from 01.01.2009 ; that

they had wrongly adopted the said practice; that due to the wrong practice adopted by them, there had been loss of Customs duty to the government; that they would amend that mistake; that they would calculate the actual export duty payable by them by including the deduction amounts as well as excess freight amounts declared by them in the export documents in respect of all the export shipments of rice exported by them; that they would deposit the said differential duty amounts at the earliest along with applicable interest amounts.

9.13 On being asked to **submit his office mobile phone for examination** Sh. Sourabh Mehta **voluntarily submitted his** mobile phone; that after examination of his whatsapp chats in the said phone, chats pertaining to a whatsapp group in the name of "CFO UPDATES" was exported by the DRI Officer by sending the said chat from his email id macimpex.177@gmail.com configured in the said phone to his other email id sourabhm2000@gmail.com and printout of the said exported whatsapp chat along with printout of the documents sent and received in the said whatsapp group by him, Mr. Amol Murgai and Mr. Mohit Murgai totally consisting of 96 pages (serially numbered from 1 to 96) **(RUD-6)** were taken from his email id by logging into the said email in the DRI office computer in his presence with his permission; that he put his dated signatures on each page of the said exported whatsapp chat along with printouts of the documents in token of its correctness and truthfulness; that print outs of whatsapp chat screenshots in respect of the said whatsapp group chat in the name of "CFO UPDATES" were also taken in his presence which were then serially number from page no. 1 to 23; that the said whatsapp group contains chats of himself (i.e. of Sourabh Mehta, mob. no. 9372783830) with two partners of M/s Mac Impex namely Mr. Amol Murgai (Mob. No. 9930185185 which was saved in his phone as 'Om Amol Murgai Director') and Mr. Mohit Murgai (Mob. No. 9920645645, which was saved in his phone as 'Om Mohit Murgai'); that he put his dated signatures on each page of the said screenshot as a token of its authenticity and correctness; that he certified that the said phone, from which the print out of whatsapp had been taken, was being used by him regularly and he had lawful control over the use of that phone during the last more than one year and the contents of the same had been generated by him for his personal and official use; that the same may be treated as his certificate under section 138C of the Customs Act, 1962 certifying that the said print outs had been taken from whatsapp chat of his phone, which was being used by him, for personal as well as official work purpose.

9.14 On being asked to explain the afore-said whatsapp chat and documents therein he explained that after his visit to DRI office on 25.08.2023 wherein his statement dated 25.08.2023 was recorded, he had informed all the facts to his superiors and partners of M/s Mac Impex (Sh. Mohit Murgai and Sh. Amol Murgai); that he had also informed that DRI officer had sought copies of all the contracts/tender documents related to export of rice by their company; that he had also forwarded copy of the summons issued to him in the said whatsapp group; that they had not executed any agreement with their Egyptian Agent M/s Al Farana Rice in Egypt at the time of allotment of the said tender to Mac Impex by the Govt. of Egypt; that when DRI officers sought copies of all the agreements and tender documents from him vide summons issued u/s 108 of the Customs Act, 1962, the partners of M/s Mac Impex, Mr. Mohit Murgai and Mr. Amol Murgai told him to draft a back dated (ante-dated) agreement for submission in DRI office; that accordingly, he had drafted the said agreement in antedate i.e. the agreement with their agent M/s Al Farana was drafted and got signed on 07/08.09.2023 (as mentioned on page no. 21-23 of the screenshots of whatsapp Chat and page no. 26 & 27 of Whatsapp Chat Backup), however, the date of the said contract

was mentioned in the said agreement by their agent as 02.03.2023, so that the same may be submitted in the DRI office; that the said agreement was submitted by him in DRI office on 12.09.2023 vide his letter dated 11.09.2023; that he had been shown the said contract submitted by him vide his letter dated 11.09.2013 and he had put his dated signatures on the said agreement/contract also; that apart from the said contract/agreement with their agent M/s Al Farana, they had also drafted a letter for signature on the letter head of the General Authority for Supply Commodities (GASC) on 06.09.2023 for submission in DRI office; that the said draft letter was sent to their agent in Egypt by Mr. Mohit Murgai and the signed letter was submitted by him to DRI office vide his letter dated 11.09.2023.

9.15 On being asked as to why he has submitted the said antedated contract with their agent M/s Al Farana to DRI office, he stated that they have transferred various payments to the said agent in Egypt and such payments were claimed by them as deductions for meeting the expenses related to clearance and transportation, demurrage, port clearance charges etc. in Egypt in respect of the export shipments of rice supplied by them to the Government of Egypt; that in order to avoid further scrutiny of the said payments sent by them to the said agent by DRI officers from the angle of charging of export duty on the said deduction amounts they had drafted the said agreement and submitted the same to DRI office on 11.09.2023; that it was done at the instruction of Mr. Mohit Murgai and Mr. Amol Murgai both partners of M/s Mac Impex; that he admitted that it was their mistake; that they should not have done such acts to mislead the DRI investigations.

10.1 From the investigation conducted with Sh. Sourabh Mehta, CFO of M/s Mac Impex, it was revealed that they have claimed deduction of the export duty paid amounts in the shipping bills. In several shipping bills, the deduction amounts claimed by them were nil but the export duty amounts were added by them in the freight amounts declared in the shipping bills. Thus, in such shipping bills, they have declared excess ocean freight amounts which were higher than the actual freight amounts paid by them. Apart from the above in several shipping bills, the deduction amounts claimed by them were higher than the export duty paid amounts which indicated that they have not paid the duty on the actual FOB value instead they have claimed substantial amounts as deduction which were left from the assessment of duty.

10.2 When the matter was investigated and documents were sought from them under the provisions of section 108 of the Customs Act, 1962, they tried their best not to submit the documents but when the same were called upon again and again by the DRI officers for investigation purpose, the partners of M/s Mac Impex have submitted a forged agreement which was drafted by them ante-dated. They have submitted the forged agreement to avoid scrutiny of their transactions related to export sale of rice to the agencies of the Govt. of Egypt wherein the contracted/tender price was USD 545 per MT CIF whereas in the export documents the CIF value of the said shipments sold to their agent M/s Al Farana for clearance and delivery of the said consignments at the port of destination was also declared to be USD 544.5/ MT CIF. However, the FOB value of the shipment was declared much lower (lower than the aforesaid CIF Value of USD 544.5 per MT minus the freight and insurance amounts).

10.3 As per the documents filed by them before the Customs Authorities M/s Mac Impex had declared the FOB price of the rice sold to M/s Al Farana at around USD 335 per MT FOB which was around USD 181 per MT lower than the actual FOB price of USD 544.5 per MT CIF after deducting the ocean freight and insurance amounts of USD 27 and 0.55 respectively in respect of shipping bill no 9938496 dated 11.05.2023. The

export duty paid in respect of the said shipment was USD 67 (@ 20% of the declared FOB price of USD 335 per MT). The said noticee had claimed the said duty paid amount of USD 67 per MT as deduction. After deducting the said duty paid amount from the total deduction of USD 181 per MT, the remaining deduction amount was USD 114 per MT.

10.4 In order to justify the said differential amount of USD 114 per MT, they submitted a forged agreement to indicate that the said amounts were paid by them to their agent M/s Alfarana to meet the expenses related to clearance, transportation and warehousing of the exported cargo in Egypt for final delivery of the same to nominated godowns of the Government agencies of Egypt. The aforesaid differential amount of USD 114 per MT was in respect of a particular shipping bill and the said amount varied from shipping bill to shipping bill. While drafting the ante-dated agreement, they have calculated the said amount on average basis which they found to be around USD 115 per MT in respect of all their shipments of rice exported to the agencies of the Govt. of Egypt. Accordingly, they have drafted the aforesaid ante-dated agreement for an amount of USD 115 per MT.

10.5 The whatsapp conversation of Sh. Sourabh Mehta with the partners of M/s Mac Impex namely Sh. Mohit Murgai and Sh. Amol Murgai also revealed that both the partners were very well aware of these facts of submission of forged ante dated agreement and they were in fact actively involved in the said forgery of drafting the antedated agreement. They have calculated the undervalued amounts which were found to be around USD 115 per MT. Thus they have drafted the forged agreement with Al Farana for an amount of USD 115 per MT. In fact, they were also aware about the fact of undervaluation i.e. submission of lower FOB value in the export documents than the actual FOB amounts which should have been calculated by deducting the ocean freight and insurance amounts from tendered/contracted CIF value of USD 545 per MT. The tender allotment documents (Install Order) issued by GASC to M/s Al Farana and M/s Mac Impex clearly had provision for an amount of 375 Egyptian Pounds for meeting the expenses of clearance, transportation and VAT in the country of import however, the said noticee had not declared these facts to the Customs Authorities. It appeared that those amounts in Egyptian Pounds have been received by their Egyptian Agent M/s Al Farana directly from GASC for meeting the expenses for delivery of rice in the godowns of GASC and to evade duty M/s Mac Impex had paid excess amounts of USD 115 per MT to the said agent and thus they have parked the said excess amounts of USD 115 per MT in Egypt. It also appeared that they have taken in said excess amounts in their overseas bank accounts and have claimed deduction of such amounts of USD 115 per MT in addition to the deduction of export duty paid amounts from the contracted and declared CIF amount of USD 545 per MT.

10.6 In view of the above to further investigate the matter and to examine the role of partners of M/s Mac Impex namely Sh. Mohit Murgai and Sh. Amol Murgai who have actively participated in forging of the ante-dated agreement with M/s Al Farana and to secure the documents relevant to investigation, summons dated **15.09.2023** u/s 108 of the Customs Act, 1962 were issued to Sh. Mohit Murgai, Sh. Amol Murgai both partners of M/s Mac Impex as well as to Sh. Sourabh Mehta seeking copies of the tender notice (complete copy along with all instructions/booklets of tender) issued by all the overseas buyers including govt. procurement agencies, complete copy of the application filed/offer letter submitted by them, along with all documents submitted by them directly or through any agent including M/s Al Farana in relation to export of rice by them. However, none of them appeared in DRI office to submit those documents and they have sought postponement of proceedings for 3 more weeks.

11. Further summons dated 09.10.2023 were issued to Sh. Mohit Murgai, Sh. Amol Murgai and Sh. Sourabh Mehta to tender statements on 18.10.2023 and for seeking the aforesaid documents relevant to the investigation. In response, vide letter dated 18.10.2023 (RUD-8), authorized signatory of M/s Mac Impex submitted copies of export contracts, duty paid challans (62 pages), Tender documents (29 pages) and bank statements of HDFC Bank and Axis Bank but no explanation or supporting document in relation to the payment of USD 115 per MT to their Egyptian agent M/s Al Farana Co. Rice Mill was submitted by them.

12.1 In compliance to the summons dated 09.10.2023 issued to Sh. Mohit Murgai, Partner of M/s Mac Impex, he appeared in DRI office on 18.10.2023 to tender his statement u/s 108 of the Customs Act, 1962 and in his statement dated 18.10.2023 (RUD-9), Sh. Mohit C. Murgai inter alia stated that he had been looking after all the business of M/s Mac Impex since 2000; that his brother looked after the finance related matter of the said firm; that they were engaged in the business of exports of agro commodities including all varieties of rice; that they had been exporting rice from 2012-13 onwards.

12.2 He was asked to see and read the printout of section 14 of the Customs Act, 1962 along with copy of CBIC Circular No. 18/2008-cus dated 10.11.2008 which clearly provide that assessable value for payment of export duty would be the price paid or payable for delivery of the export goods at the time and place of export i.e. all costs up to loading of the export goods in the vessel have to be included for calculation of the assessable value for payment of export duty. He was asked to go through the said statutory provisions and give his comments as to whether they have paid export duty on all costs of the export goods up to loading of the goods in the vessel. In this regard, he stated that he had read these two documents but he was unable to understand the contents of the same; that he needed professional help as he did not understand the interpretation of the same for calculation of the assessable value for payment of export duty; that on being asked to put his dated signatures on the said documents in token of having seen the same, he refused to sign those documents containing statutory provisions.

12.3 On being asked if he knew that Section 14 of the Customs Act, 1962, is the main statutory provision governing the valuation of export and import of goods for levy and assessment of duty thereupon he stated that he did not know about customs act, 1962; that he did not know whether export and import of goods and levy and assessment of duty thereupon was governed by the provisions of the Customs Act, 1962.

12.4 On being asked if he knew that to streamline the procedure of payment of duty on export of goods, the Central Board of Indirect Taxes and Customs had issued Circular No. 18/2008-Cus. dated 10.11.2008 which clearly provided that value of the export goods for calculation of export duty is the transaction of the export goods and the FOB Value cannot be treated as cum-duty price of the export goods after 01.01.2009, in this regard, he stated that he did not know that the Central Board of Indirect Taxes and Customs had issued Circular No. 18/2008-Cus. dated 10.11.2008 to streamline the method of calculation of the assessable value for payment of export duty.

12.5 On being asked to sign the print outs of those statutory provisions of Customs Act, 1962 in token of having seen and read those documents he refused to sign on those documents citing the reason that he had not understood the same.

12.6 He was asked to go through the print out of the whatsapp chat during the period from 26.08.2023 to 12.09.2023 of the whatsapp group "CFO UPDATES" (page no. 1 to 96) wherein he himself, his brother Amol Murgai and Mr. Saurav Mehta, CFO of his company M/s Mac Impex were members and wherein during the chat on 26.08.2023, Mr. Saurav Mehta, CFO of his company had forwarded the copy of CBIC Circular No. 18/2008-Cus. dated 10.11.2008 in the said whatsapp group. In this regard, Sh. Mohit C. Murgai refused to sign those documents i.e. printouts of his own conversation as token of having seen and read the same.

12.7 He was asked if he had not understood the said circular as the said circular had been received by him from his CFO or he was trying to avoid answering the question about understanding of the said CBIC Circular. To this he stated that he was part of various whatsapp groups wherein he received various notifications from other exporters and associations member (such as Spices Board, Rice Board, Tea Coffee Board etc.); that Mr. Saurav Mehta, CFO of his company had forwarded that circular in the afore-said whatsapp group "CFO UPDATES" but he did not understand the said circular.

12.8 He was asked to go through the statement dated 25.08.2023 and 13/14.09.2023 of Sh. Sourabh Mehta, Chief Financial Officer, M/s Mac Impex, recorded u/s 108 of the Customs Act, 1962. Accordingly, he saw and read the statement dated 25.08.2023 and statement dated 13/14.09.2023 of Sh. Sourabh Mehta, CFO of his company M/s Mac Impex however he refused to put his dated signatures on the said statement in token of having seen and read the same. On being asked to comment on the contents of the same he stated that he could not comment on the contents of the said statements as of then.

12.9 He was asked to see the Shipping Bill no. 4232661 dated 16.09.2022, Shipping Bill no 4280423 dated 19.09.2022 and Shopping Bill no. 4318982 dated 21-09-2022 filed by M/s Mac Impex (RUD-7), the details of those shipping bills were as under.

Invoice No.	744/2022-23	754/2022-23	751/2022-23
Invoice Date	15-09-2022	17-09-2022	16-09-2022
Proforma Invoice No./ Sale Contract No.	MAC/300822-2	MAC/010922-2	MAC/010922-1
Quantity	132.6	132.6	132.6
Rate CIF FC	372	379	379
Total FOB Value FC	42758	43758	47490.14
Freight Charges FC	5515	6440	2715
Insurance FC	54.2	57.4	50.26
Total Invoice Value FC	49327.2	50255.4	50255.4
Total CIF FC	49327.2	50255.4	50255.4
 SB Number	4232661	4280423	4318982
SB Date	16-09-2022	19-09-2022	21-09-2022
Goods Description	WHITE RAW RICE PACKED IN NEW 30 KG BOPPBAGS	WHITE RAW RICE PACKED IN NEW 30 KG BOPPBAGS	WHITE RAW RICE PACKED IN NEW 30 KG BOPPBAGS BRAND: MALL ROAD
Term of Invoice	CIF	CIF	CIF
Invoice Currency	USD	USD	USD
Invoice Value FC	42034.2	50255.4	42962.4
Freight FC	5515	13733	6440
Insurance FC	54.2	57.4	57.4

FOB FC	36465	36465	36465
FOB Value In INR	2869795.5	2869795.5	2869795.5
Quantity	132.6	132.6	132.6
Unit Price FC	372	379	379
Total value in FC	49327.2	50255.4	50255.4
Deduction FC	7293	0	7293
Cess Amount INR	573959	573959	573959
Country of Destination	SRI LANKA	SRI LANKA	SRI LANKA
Port of Loading	INNSA1	INNSA1	INNSA1
Buyer Name and Address	SENORA PVT LTD, 121,05TH CROSS STREET, COLOMBO 11, SRI LANKA	SAHANA ENTERPRISES NO.175 A, 5TH CROSS STREET, COLOMBO 11, SRI LANKA	SENORA PVT LTD, 121,05TH CROSS STREET, COLOMBO 11, SRI LANKA

In this regard, he stated that he had seen copies of those shipping bills and enclosed documents such as invoices, packing list, B/L copy etc. however on being asked to sign those documents in token of having seen the same he refused to sign those documents.

12.10 On being asked to elaborate the calculation of amount of deduction claimed by M/s Mac Impex in Shipping Bill no 4232661 dated 16.09.2022 and Shipping Bill no. 4318982 dated 21-09-2022 and Shipping Bill No. 4280423 dated 19.09.2022 as all those three shipments were exported from the same port and destined to the same port at about the same time during September, 2022 but the amount of freight charged in respect of those shipments were USD 5515, 6440 & 13733; In this regard he could not answer the same and he only stated that he would submit the copy of those three shipping bill with his dated signatures.

12.11 On being asked why there was so much difference in the freight amounts charged by the shipping line he stated that in respect of shipping bill no 4232661 dated 16-09-2022 and 4318982 dated 21-09-2022 they had claimed deduction of USD 7293, whereas in respect of shipping bill no 4280423 dated 19-09-2022 they had by mistake not claimed the deduction; that they as well as their CHA had made a mistake in declaring the nil deduction amount in Shipping Bill no 4280423 dated 19-09-2022; that the amount of Freight FC in Shipping Bill no 4280423 dated 19-09-2022 was specified as USD 13733 which was by mistake; that the amount of deduction to be claimed by them in respect of the said shipping bill had been added to the Freight amount by mistake.

12.12 On being asked whether the amount of deduction had been wrongly added to the freight amount as the freight amount was not required to be considered for payment of export duty, thus effectively in all such shipments of like nature wherein freight amounts have been claimed in excess of the actual freight amounts paid by them, their motive/purpose was to deduct the amount equal to the amount of export duty from the assessable value for calculating export duty, he stated that as per him, all duty had been paid for all shipping bills on FOB Value and all contracts were sold on FOB Value with duty on reimbursement basis; that he would check all the export documents of his company and submit the details of all such shipping bills wherein the amounts equal to the export duty paid by them have been mistakenly added by Customs Broker (CHA) in the actual freight amount and thus excess freight amounts were reflected in the 'freight' column in the shipping bill instead of the column 'deduct'.

12.13 On being asked whether their Customs Broker (CHA) had sent the check list to their company for verification before finalizing the same he stated that he did not know as the same was done by CHA and his office clerks.

12.14 On being asked to elaborate the reason for claiming deduction in respect of shipping bill no 4232661 dated 16-09-2022 and 4318982 dated 21-09-2022, he stated that the amount of the deduction claimed in shipping bill no 4232661 dated 16-09-2022 and 4318982 dated 21-09-2022 were against the reimbursement of the duty paid by them on exports.

12.15 On being asked about the reason for 'claiming deductions equal to the export duty by M/s Mac Impex in all the shipping bills filed by them since Sept, 2022' he stated that those deductions were on account of reimbursement of duty from the buyer of the exported goods.

12.16 On being asked to elaborate the method of calculation of FOB value in both those shipping bills, he stated that as per their understanding, the duty was paid on reimbursement basis on the FOB Value.

12.17 He was asked to see the shipping bill no. 4232661 dated 16-09-2022, 4318982 dated 21-09-2022 and 4280423 dated 19.09.2022, wherein the FOB value was calculated by them in the following manner -

$$\text{FOB value} = \text{Total value(FC)} - \text{Deduction} - \text{Freight} - \text{Insurance}$$

In this regard, he stated that they have sold the cargo on FOB basis and duty on reimbursement basis as it was not certain that the duty rates would stay constant at 20% or more or zero at the time of execution of the contract.

12.18 On being asked about his understanding of the term 'FOB', he stated that as per his understanding FOB meant free on board.

12.19 On being asked about what he meant by the term 'free on board' and which costs are included for sale of goods on 'free on board' incoterm basis, he stated that the cost of goods and all local expenses to facilitate the exports are included in 'free on board'.

12.20 On being asked what are the local expenses referred above to facilitate the exports, whether they include cost of the procurement of the export goods, testing of the same, transportation of the goods to the port, clearance of the goods through customs and loading the goods on the vessel after clearance from customs authorities, he stated that "Yes, all those expenses were included in the local expenses".

12.21 On being asked if he considers the export duty as expense for facilitating the export of the rice as the duty @ 20% is payable on export of rice from September 2022 onwards, he stated that he did not consider the export duty as expense for facilitating the export of the rice, and they took it on reimbursement basis from the client as the percentage could vary as per the government policy changes from time to time.

12.22 On being asked about the stage at which the export goods are loaded on board the vessel for exportation whether after customs clearance of the goods or prior to the customs clearance and payment of duty he stated that as per his understanding, the export goods could be loaded on board the vessel after clearance of the same by the Customs Authorities and after payment of the applicable export duty.

12.23 On being asked whether the expenses for loading of the export goods in the vessel after clearance from the Customs authorities were added by them in the

FOB value for the export goods for payment of duty, he stated that the loading charges for loading of the export cargo in vessel after clearance from custom were added by them for calculating the FOB Value and duty was paid on such FOB value on reimbursement basis from the buyer of the goods as the duty was uncertain and subject to change as per the government policy.

12.24 On being asked about the **reasons for not including the expenses for custom clearance (which were incurred prior to the aforesaid loading expenses) in the FOB value for the purpose of calculation of the export duty as the loading expenses were incurred only after the payment of export duties, when the expenses incurred subsequent to the expenses for customs clearance were added by them for calculation of the FOB Value for payment of the Customs Export duty, he stated that the expenses incurred for payment of duty were on reimbursement basis from the buyer that is why the same were not included in the FOB Value for payment of Customs Export duty.**

12.25 On being asked about non-appearance of Sh. Amol Murgai, other partner of M/s Mac Impex, who was also issued summon for appearance on 18.10.2023 he stated that Mr. Amol Murgai was not very active in the trade side of the business; that it was better that one person gets entire communication from the staff and give the right documents and communications.

13.1 In furtherance of investigation, following Summons u/s 108 of the Customs Act, 1962 were issued to Sh. Mohit C Murgai and Sh. Amol C Murgai, both Partners of M/s. Mac Impex however, they did not appear to give evidence in compliance to these summons instead sought postponement of proceedings on account of one excuse or the other.

Name of the person	Date of Summon	Date of Appearance	Appeared or Not Appeared	Remarks
Sh. Mohit C. Murgai	14.11.2023	12.12.2023	Not appeared	Vide email dated 11.12.23, he sought extension.
	16.01.2024	24.01.2024	Not appeared	Vide email dated 22.01.24, he sought extension.
Sh. Amol C. Murgai	30.01.2024	12.02.2024	Not appeared	Vide email dated 11.02.24, he sought extension.
Sh. Mohit C. Murgai, Sh. Amol C. Murgai and Sh. Chander Murgai	04.03.2024	14.03.2024	Not appeared	Vide email dated 14.03.24, Sh. Mohit Murgai stated that he would furnish the requested documents through courier
	16.04.2024	22.04.2024	Not appeared	Vide email dated 20.04.24, Sh. Mohit Murgai requested to appear on 03.05.2024

13.2 Summons u/s 108 of the Customs Act, 1962 were also issued to Sh. Sourabh Mehta, Chief Financial Officer, M/s. Mac Impex however he remained evasive and did not appear in compliance of any of these summonses issued to him as detailed below:

Name of the person	Date of Summon	Date of Appearance	Appeared or Not Appeared	Remarks
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Sh. Sourabh Mehta	08.11.2023	13.11.2023	Not appeared	No reply received
	14.11.2023	20.11.2023	Not appeared	No reply received
	16.01.2024	19.01.2023	Not appeared	No reply received

13.3 As none of them appeared to give evidence and submit documents relevant to the ongoing investigation, a complaint under section 174 & 175 of IPC, 1860 for non-compliance of summons issued under the provisions of section 108 of the Customs Act, 1962 was filed before the competent court against Sh. Mohit Murgai, Sh. Amol Murgai and Sh. Sourabh Mehta. **(RUD-10)**

14.1 Further summon dated 24.04.2024 were issued to Sh. Mohit Murgai and others. In compliance, Sh. Mohit Murgai appeared in DRI office on 03.05.2024 to tender his statement. Accordingly, statement of Sh. Mohit C. Murgai was recorded on **03.05.2024 (RUD-11)** wherein he inter alia stated that M/s Mac Impex was a partnership firm wherein there were three partners including he himself, Sh. Amol Murgai (his brother), and Sh. Chander Murgai (his father); that all the three partners had equal i.e. 33.33% shares in terms of investment as well as profit.

14.2 On being asked about **the responsibilities of each of the partners of M/s Mac Impex in the export business of rice, he stated that he looked after the entire business of the said export firm including domestic procurement of the rice for exportation, sale of rice to the overseas buyers and custom clearance related work of the rice exported in the said firm**; that his father and brother did not look after any work related to export business of rice; that his father Sh. Chander Murgai was an aged person who remain engaged in the social work and his brother looked after the domestic business of the said firm.

14.3 On being asked about **all the documents sought vide summons dated 16.04.2024 and other summons issued to him u/s 108 of the Customs Act, 1962 for seeking documents related to export of rice, he stated that the documents submitted through letters dated 23.08.2023, 11.09.2023 & 18.10.2023 were the export documents of his firm Mac Impex which were submitted on behalf of him and his company in DRI office by the employees of his company.**

14.4 On being asked **whether he has recovered the deduction amount of around Rs. 45.39 crores from the overseas buyers in respect of shipping bills filed by his company M/s Mac Impex during 12.09.2022 to 04.09.2023, having total declared FOB value of Rs. 120,99,40,817/-, on which duty of Rs. 24,09,14,958/- has been paid and the deduction of Rs. 45,39,89,724/- has been claimed, he stated that he has recovered duty amounts from the overseas buyers; that these deduction amounts mainly contained duty paid by them which have been reimbursed by the overseas buyer; that apart from the duty, some other deductions such as expenses made in Egypt on their behalf by their agent Al Farana and General Authority for Supply Commodities (GASC), Egypt have also been claimed by them in the shipping bills.**

14.5 During the course of recording his statement, **his attention was invited to the wide range of the freight amounts per MT of exported rice declared by them in their own export documents e.g. the freight amounts declared by them for transport of rice from Nhava Sheva to Colombo ranges from USD 21 to USD 104 per MT, the declared freight from Nhava Sheva/ Kandia port to ports of Madagascar ranges from USD 48 to 191 per MT of export cargo and freight from**

Nhava Sheva/ Mundra to Port Louis, Mauritius ranges from USD 66 to 158, in this regard on being asked to provide the details of actual freight amounts paid by them in respect of each of their export shipments of rice, he stated that it was noticed that there was a clerical error in those shipping bills as in most cases, the duty had been mistakenly added in the freight amount due to which freight amount had been mentioned at higher side than the actual; that he would check those Shipping Bills and export documents and freight invoices to verify the amounts of freight declared in the shipping bills and revert on the same.

14.6 On being asked to explain the **export of white rice vide Shipping Bill Number 3694934 dated 04-09-2023 after the ban w.e.f. 22.07.2023**, he stated that the Shipping Bill no. 2524570 dated 18.07.2023 was filed and Let Export Order was issued before the notification of ban on export of white rice was issued; that the customs at Mundra port did not allow the shipment; that due to this the Shipping bill got purged; that DGFT vide notification no. 29 dated 29.08.2023 clarified the situation and on the basis of the said DGFT notification, Customs allowed them to file a new shipping bill after the DGFT notification no. 29 dated 29.08.2023 and the duty already paid by them in respect of the purged Shipping bill was adjusted against the new Shipping bill no. 3694934 dated 04-09-2023 and export was thus allowed on payment of duty.

14.7 On being asked about the non-appearance of **Shri Sourabh Mehta, CFO, for the forensic examination of his mobile phone** he stated that CFO of their company, Sh. Saurav Mehta, had resigned and presently he was not working with them; that he would seek legal advice on the same and accordingly revert at the earliest.

14.8 He was shown the print out of the whatsapp chat of whatsapp group "CFO UPDATES" (page no. 1 to 96) (RUD-6) made during the period from 26.08.2023 to 12.09.2023 between him, his brother, Shri Amol Murgai and Mr. Sourabh Mehta, CFO of his company M/s Mac Impex which indicate that -

- Printouts of Whatsapp chat of Sh. Saurav Mehta's mobile phone were taken during the course of recording of his statement on 13/14.09.2023. In this regard, please see the print out of the Whatsapp chat of Whatsapp group "CFO UPDATES" (page no. 1 to 96) wherein the conversation made during the period from 26.08.2023 to 12.09.2023 between Sh. Mohit Murgai (yourself), Shri Amol Murgai and Mr. Sourabh Mehta, CFO of his company M/s Mac Impex were contained which indicate that -
- On 26.08.2023, the next day of tendering his statement, Shri Sourabh Mehta had prepared a summary of Egypt Shipping Bills for FOB, freight & Insurance in USD and analysed that 53% of the goods have been shipped from Mundra where the expense is coming to USD 115. He had also written in the said whatsapp group that he is drafting a contract with USD 100 (+/-20%) to cover the price fluctuation. On his above message, Shri Amol Murgai had directed Shri Sourabh Mehta to await letter/ docs and informed him that draft is needed from Mohammad. Thereafter, on 28.08.2023, Shri Sourabh Mehta had shared two separate draft letters for GASC. The revised draft letter was approved by Shri Amol Murgai who wrote in the group that the said draft looks fine to him.
- On 28.08.2023, Shri Sourabh Mehta sought Brochure for Practice Condition No. 1 for the year 2022-2023 session 14.02.2023 and also shared the working for Egypt contract wherein Egypt expenses were mentioned as 181.95 USD whereas below the working, expenses of Egypt were mentioned as USD 15 PMT.
- Sh. Amol Murgai has shared a translated copy of 10-page Arabic letter.
- Thereafter, on 28.08.2023, Shri Mohit Murgai had also approved the revised draft letter for GASC (which was shared by Sourabh Mehta in the whatsapp group)

and on the same day Shri Mohit Murgai had raised a query to Shri Sourabh Mehta "What do you need from Egypt and from whom. Please specify in detail". Sh. Mohit Murgai had also asked Shri Amol Murgai and Shri Sourabh Mehta for a meeting to conclude. Upon this, Shri Sourabh Mehta has mentioned that he needed, on the letter head of GASC (sealed and signed) the above said letter and the Tender copy (Tender application) and contract between Al-Farana and Mac Impex to take care of logistics and other matter in Egypt. Shri Sourabh Mehta has also specifically mentioned that he was drafting the said contract.

- On the same day i.e. 28.08.2023, Shri Sourabh Mehta has shared a word document titled 'GASC letter head 1' and typed a message below the said document "Please get the above letter on GASC letter head". Upon this, Amol Murgai has asked about difference and approved the same as there was no difference in the draft (Revised draft letter for GASC) earlier approved by him and the recent one (GASC letter head 1) shared by Shri Sourabh Mehta.
- On 31.08.2023, Sourabh Mehta has shared copy of summons dated 11.09.2023 issued by the DRI officer, in the said group and informed the group members that summons has been received to appear in DRI HQ on 11.09.2023 at 11:00 AM in Delhi.
- On 06.09.2023, Shri Amol C. Murgai has shared a word document in the group and Shri Sourabh Mehta, on the basis of the document, has prepared a draft contract and shared pdf file namely Contract No. 050423-1 - AL Farana and wrote a message below the pdf file as 'Al Farana contract for signatures'. Thereafter, on 07.09.2023, Shri Amol Murgai asked Shri Sourabh Mehta that he is awaiting the 115 Letter. In response Shri Sourabh Mehta has shared a pdf document namely 02.03.23.pdf and named it as USD 115 Contract.
- Thereafter on 08.09.2023, Shri Mohit Murgai and Sh. Amol Murgai and Sh. Sourabh Mehta have clarified to each other about the aforesaid two letters that 115 Contract was to be printed on the letter head of Al Farana and GASC letter was to be printed on the letter head of GASC Egypt.

Accordingly, Shri Sourabh Mehta appeared in DRI HQ on 13.09.2023 and vide his letter dated 11.09.2023, submitted both the above-mentioned documents along with other export documents sought from M/s Mac Impex. The contract with Al Farana for USD 115, submitted by Shri Sourabh Mehta, CFO of M/s Mac Impex was dated 02.03.2023 and the GASC letter was dated 06.09.2023.

In view of the above, it is very clear that M/s Mac Impex and AL-Farana had never executed any Contract for USD 115 and upon requisition by DRI officers, Shri Sourabh Mehta, Shri Mohit Murgai and Shri Amol Murgai appeared to have drafted and prepared the said ante-dated agreement for submission in the DRI Office to justify their excess deductions of USD 115 to evade payment of export duty on the said deducted amount. The GASC letter was also drafted by them to justify the said deduction and to portray before the DRI officers that they have not received any amount over and above the CIF amount of USD 545.5, as mentioned in the tender document whereas the tender document specifically mentions that an amount of Egyptian pound 375, were paid to Al-Farana/ Mac Impex for local expenses in Egypt.

The above conversation and submission of ante-dated documents indicated that has submitted forged documents to mislead the DRI officers.

As per whatsapp chat, it appeared that Sh. Amol Murgai was also well aware and actively involved in the export business of Mac Impex and on 26.08.2023, Amol Mugai had shared several documents related to method of calculation of FOB value. He has also actively participated in the conversations in the said whatsapp group which

indicate that Sh. Amon C. Murgai is also looking after the export business of rice whereas had stated that he does not look after export business of rice and only look after the domestic business of the said firm.

On being asked to give his comments on the above facts and **to provide details of the total amounts sent by their company to their overseas agent M/s Al Farana, Egypt, he stated that he had seen page no. 1 to 96 of the Whatsapp chat printouts of the whatsapp chat of Sh. Saurav Mehta retrieved from his mobile phone during the course of recording his statement on 13/14.09.2023; that the above stated is not true as per the contract submitted by him earlier with M/s Al Farana wherein they had sold the cargo for 335 FOB +duty on reimbursement basis to M/s Alfarana who had taken the tender and delivered the cargo at multiple locations of GASC, Egypt; that the tender prices was 544.50 CIF plus 375 Egyptian pounds for local charges and transportation which was awarded to Alfarana as local agent; that Mr. Mohammed was the contact person of M/s Alfarana who was coordinating with them and Mr. Walid is the owner of M/s Alfarana, Egypt; that it was their first business transaction with Mr. Walid and GASC; that M/s Alfarana paid 75000 USD to GASC to bid the contract; that he was awarded the contract; that he was negotiating for the tender with them at 335 USD FOB + duty +insurance and ocean freight as per actuals; that the said contract was signed for 25000 MTs; that he will give the entire chronology of events related to awarding of the said tender and supply of rice by them to GASC through Al Frana and bring all the documents and explain all the incidents of this transaction.**

15. From the above facts, it appeared that M/s Mac Impex had executed two contracts with their agent M/s Al Farana, Egypt. As per the first contract, M/s Mac Impex is the seller and M/s Al Farana is the buyer of the export goods in Egypt. The said agreement was for supply of rice at the price of USD 335 FOB + duty on reimbursement basis. As per the second ante-dated agreement submitted by M/s Mac Impex during the course of investigation, indicated that M/s Mac Impex had to pay M/s Al Farana an amount of USD 115 per MT for making expenses in Egypt such as clearance of the export goods, transportation and delivery of the same to the godown of the GASC. The above arrangement appeared to have been made by them post allotment of the tender to M/s Al Farana and M/s Mac Impex for supply of rice to GASC, Egypt. In the whole process of supply under tender, M/s Mac Impex have failed to explain about the amount of 375 Egyptian Pounds which were mentioned in the tender document for making good the expenses of clearance of the export good in the country of import and their transportation & delivery in the godowns of GASC. M/s Mac Impex had suppressed those amounts and have wrongly deducted the amount of USD 115 per MT from the CIF amount of USD 545 per MT in lieu of expenses to be made in Egypt. When the tender allotted to M/s Mac Impex clearly mentioned the price of USD 545 per MT, when M/s Mac Impex have themselves in the invoice submitted to the customs authorities have declared the unit price of the exported rice as USD 545 per MT, then they have wrongly declared the FOB price of the export goods as USD 335 per MT by wrongly claiming ineligible deductions. It also appeared that Sh. Mohit Murgai, Sh. Amol Murgai both partners of M/s Mac Impex and Sh. Sourabh Mehta, CFO of M/s Mac Impex were fully aware of the above discussed export fraud for evading the applicable duty of customs. The third partner of M/s Mac Impex namely Sh. Chander Murgai who is also the father of both the partners (Sh. Mohit Murgai and Sh. Amol Murgai) also appeared to be aware of all these facts. He had also not replied neither appeared in compliance of the summons issued to him. It appeared that the third partner of M/s Mac Impex namely Sh. Chander Murgai also did not have anything to

say in this regard thus he also had his tacit approval to the afore-said modus adopted by them in their export business.

16. Further details of actual freight amounts paid by M/s Mac Impex in respect of their export shipments of rice were also sought from them along with details of the total amounts received by them from the overseas buyer of the export goods in any manner either as bank realization certificate or as reimbursement of duty or by raising any debit or credit note by the said noticee to the overseas buyer. In response, vide email dated 31.07.2024 (RUD-17), Sh. Mohit C Murgai, submitted details of actual Freight Amount paid, actual Insurance Premium paid, payment received from the foreign buyers through BRC, reimbursement of taxes or in any other manner such as debit notes/credit notes etc in respect of all of their shipments.

17. The export documents and details submitted by the said noticee during investigation were analysed and it was revealed that -

17.1 M/s Mac Impex had exported 158 shipment of rice having description as 'Long Grain White Rice/ Indian White Rice/ Natural White Rice/ Parboiled Rice' etc. by classifying the same under CTH 10063010 & 10063090 which were liable to export duty @ 20% ad valorem vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022 and 49 /2023-Customs dated the 25th August, 2023. In their export documents, they have declared the following three values (i) Total Value, (ii) Invoice Value and (iii) FOB Value for payment of export duty. The Total Value declared by them was inclusive of export duty and indicated the total consideration received by them from the overseas buyer. Invoice Value was declared after deducting the export duty paid amounts and other deductions from the Total Value. FOB Value was declared after deduction the ocean freight amounts and insurance amounts from the Invoice Value. Thus, total amount of deductions of Rs. 45.33 crores were wrongly claimed by the said noticee in respect of 158 export shipments as shown below:

Deduction amounts wrongly claimed by the said noticee from the actual FOB Value of exports:

S. no	Name of the Port of export	No. of Shipping Bills filed	Declared FOB Value (INR)	Declared Total Value (INR)	Declared Invoice Value (INR)	Deduction Amounts Claimed (INR)
1	INIXY1	14	15,50,58,750	22,94,86,950	18,24,51,389	4,70,35,562
2	INKPK6	2	2,03,62,931	2,22,45,955	2,22,45,955	-
3	INKRI1	4	4,98,40,948	8,10,10,138	5,58,73,937	2,51,36,202
4	INMAA1	11	14,08,69,363	23,21,64,446	15,45,14,789	7,76,49,657
5	INMUN1	37	56,67,29,820	82,43,76,967	60,79,49,293	21,64,27,674
6	INNSA1	67	33,54,36,375	48,88,22,261	46,76,32,757	2,16,72,183
7	INVTZ1	23	28,06,71,794	37,59,17,160	31,05,33,479	6,53,83,681
Grand Total		158	1,54,89,69,9	2,25,40,23,8	1,80,12,01,59	45,33,04,95
			80	78	8	9

17.2 Deduction amounts claimed are equal to the export duty:

Scrutiny of the export documents and details submitted by the said noticee during investigation revealed that the said noticee had at the time of filing of shipping bills claimed the deduction of an amount of USD 116644 in respect of the following 12 shipping bills filed by them. The export duty amounts paid by them in respect of these 12 shipping bills also were at USD 116644 (equivalent to Rs. 93,60,611). Therefore, the amounts claimed as 'deduction/deduct' were equal to the export duty amounts paid by them at the time of filing of the shipping bills. Investigation has revealed that these amounts claimed as 'deduction/deduct' were also recovered by the said noticee from the overseas buyer in their bank accounts. The said noticee had also confirmed these facts in their statements recorded u/s 108 of the Customs Act, 1962.

Table A1

Sr. No	SB NUMBER	SB DATE	Declared FOB Value (in Rs.)	In voice Currency	Total Value (in foreign currency)	Invoic e Value (in foreig n curren cy)	Dedu ction Amou nts claim ed in the Shipp ing Bills	Expor t Duty Paid (in Rs.)	Ex ch an ge Ra te	Expo rt Duty Paid (in forei gn curren cy)	Nat ure of Con sign men t
1	8582 286	18-03-23	5972 106	US D	1192 50	10467 5	1457 5	1194 421	81. 95	1457 5	CF
2	8370 264	10-03-23	5957 531	US D	1192 50	10467 5	1457 5	1191 506	81. 75	1457 5	CF
3	8370 265	10-03-23	5957 531	US D	1192 50	10467 5	1457 5	1191 506	81. 75	1457 5	CF
4	8370 314	10-03-23	5957 531	US D	1192 50	10467 5	1457 5	1191 506	81. 75	1457 5	CF
5	4318 982	21-09-22	2869 796	US D	5025 5.4	42962. 4	7293	5739 59	78. 7	7293	CIF
6	4318 985	21-09-22	2869 796	US D	4932 7.2	42034. 2	7293	5739 59	78. 7	7293	CIF
7	4319 023	21-09-22	2869 796	US D	5025 5.4	42962. 4	7293	5739 59	78. 7	7293	CIF
8	4319 108	21-09-22	2869 796	US D	5025 5.4	42962. 4	7293	5739 59	78. 7	7293	CIF
9	4319 109	21-09-22	2869 796	US D	4932 7.2	42034. 2	7293	5739 59	78. 7	7293	CIF
10	4322 675	21-09-22	2869 796	US D	5025 5.4	42962. 4	7293	5739 59	78. 7	7293	CIF
11	4232 661	16-09-22	2869 796	US D	4932 7.2	42034. 2	7293	5739 59	78. 7	7293	CIF
12	4233 136	16-09-22	2869 796	US D	4932 7.2	42034. 2	7293	5739 59	78. 7	7293	CIF

				8753	75868	1166	9360		1166	
				30	6	44	611		44	

For ease of reference, photo of **SB number 4318982 dated 21-09-2022 (RUD-7)** is pasted below which clearly indicate that the deduction of Rs. 573959 has been claimed in the Shipping Bill which is equal to the cess amount (i.e. Export Duty). The said amount has been deducted by the said noticee from the actual transaction value (i.e. FOB Value) and export duty has not been paid on the said differential value of Rs. 573959 which is though part of the consideration received by the said noticee from the overseas buyer for sale of the consignment.

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA	Port Code	SB No	SB Date
	INNSA1	4318982	21-SEP-22
	IEC/Br	507048944	0
	GSTIN/TYPE	27AAHFM5556E126 GSN	
	CB CODE	ABACCS2166HC1001	
	TYPE	INV	ITEM
	IN6	1	0
	PKG	4420	G.WT KGS
			132953.6

PART - I - SHIPPING BILL SUMMARY											
A STATUS B DECLARANT DETAILS C MANIFEST C/A DETAILS	1.MODE	2.ACCESS	3.EXMN	4.JOBID	5.MCIS	6.DBK	7.ROOTP	8.DEEG/DIA	9.DFRC	10.RE-EXP	11.LUT
	SEA	Y	Y	N	Y	N	N	N	N	N	Y
12.PORT OF LOADING INNSA1 (Jawaharlal Nehru (Nh))						13.COUNTRY OF FINAL DESTINATION SRI LANKA					
14.STATE OF ORIGIN MAHARASHTRA						15.PORT OF FINAL DESTINATION LKCMB (Colombo)					
16.PORT OF DISCHARGE LKCMB (Colombo)						17.COUNTRY OF DISCHARGE SRI LANKA					
18.EXPORTER'S NAME & ADDRESS MAC IMPEX K 21/22 APMC MARKET II PHASE II, TURBHE VASHI NAVI MUMBAI						19.CONSIGNEE NAME & ADDRESS TO ORDER					
20. AD CODE: 0610001						21. GSTIN / TYPE 27AAHFM5556E126 GSN					
22. INNSA1 ER NO & DT						23. FOREX BANK A/C NO. 5000000000033					
24. CIN NAME SSS LINES PVT LTD						25. IFSC NO.					
26. AEO						26. 1. DBK CLAIM 0 2. IGST AMT 573959					
27. FOB VALUE 2660795.5 28. FREIGHT 506826 29. INSURANCE 4517 30. DISCOU 104355						27. 3. CESS AMT 573959					
31. DEDUCTIONS 573959 32. T.PIC 0 33. DUTY 573959						28. 4. IGST VALUE 0 29. ROOTP AMT 0 30. ROGCTL AMT 0					
34. T.HAWB NO. 2. NAVB DT 3. HAWB NO. 4. HAWB DT 5. CIN NO. 23. CEG0000/275845200 27-SEP-22 INNSA1						31. 1. SNO 2. INV NO. 751/2022-23 3. INV AMT 42962.4 4. CURRENCY USD					
35. 4. CIN NO. 23. CEG0000/275845200 27-SEP-22 INNSA1						36. 1. CONTAINER 2. STA 3. DATE 4. S No 5. INR NO 2. CHALLAN NO 85241 3. PAYMT DT 20-SEP-22 4. AMOUNT 573959					

D. C/VAL DTLS	1. INVOICE VALUE 42962.4 USD	2. FOB VALUE 38485 USD	3. FREIGHT 6440 USD	4. INSURANCE 5714 USD	5. DISCOUNT 0	6. COMMISSION 0	7. DEDUCT 1326 USD	8. PIC 7203 USD	9. EXCHANGE RATE 1. USD INR 76.7
	6. item No 1	7. HS CD 10033000	8. DESCRIPTION WHITE RAW RICE PACKED IN NEW 30 KG BOPP BAGS BRAND: MALL ROAD	9. QUANTITY 132.6	10. UGC MTS	11. RATE 379	12. VALUE(FIC) 50255.4		

S.No.	Name of the Exporter	IEC Code	Shipping Bill Number	Shipping Bill Date	Invoice Number	Invoice Date	Nature of Consignment	Actual freight charges paid	Actual insurance amount	Payment received from overseas buyer (in Foreign Currency) Through BOC	Through Reimbursement of taxes
153	MAC IMPEX	302048944	4318982	21-09-2022	751/2022-23	19-09-2022	OF	₹ 234,050.68	₹ 4317.00	₹ 42,951.60	₹ 57,395.90

Deduction claimed in SB equal to the cess amount. The said amount has been received through reimbursement of taxes

COMMERCIAL INVOICE

Shipper,
 MAC IMPEX
 3-21/22-APMC MARKET-6, PHASE-II
 GANESH TURBINE - VASHI,
 NAVI MUMBAI-400705, MAHARASHTRA, INDIA
 E-mail : info@omimgroup.com
 Ph. No : +91 22 41414541

CONSIGNEE:
 TO ORDER

Invoice No. & Date:
 751/2322-23 DT: 16.09.2022

NOTIFY PARTY:
 SENOCHA PVT LTD,
 121,05TH CROSS STREET,
 COLOMBO 11, SRI LANKA

PROFORMA INVOICE NO: MAC/010922-1

City/Port of Loading: NHAVA SHEVA, INDIA
 City/Port of Discharge: COLOMBO, SRI LANKA

SALE CONTRACT NO - MAC/010922-1

Country of Origin of Goods INDIA	Country of Final Destination SRI LANKA
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Terms of Delivery and Payments:

- CIF, COLOMBO, SRI LANKA.
- 25% TT IN ADVANCE 75% D/P AT SIGHT

No. & Kind of packing	Description of Goods	Quantity	Rate USD (CIF)	Per	Amount USD
TOTAL 8400 BAGS BRAND: MALL ROAD	WHITE RAW RICE PACKED IN NEW 30 KG BOPP BAGS	132,600 MTONS (95 PCL)	\$ 279.00	MT	\$ 50255.40

TOTAL NET WEIGHT: 132600.000 KGS
 TOTAL GROSS WEIGHT: 132953.600 KGS

Bank Details:

Beneficiary Bank Name: HDFC Bank Ltd.
 Beneficiary Bank Address: Vashi Branch, Navi Mumbai.
 Beneficiary Bank Account No.: 30330028763003
 Beneficiary Bank Swift code : HDFCINBBXXX
 Beneficiary's Correspondent Bank JP MORGAN CHASE BANK,
 New York, USA
 Account No: 0011406717
 Swift Code : CHASUS33
 ALL REMITTER BANK CHARGES & CORRESPONDING BANK CHARGES
 HAS TO BE FULLY PAID BY REMITTER (BUYER), ONLY SELLER BANK
 CHARGES TO BE PAID BY THE SELLER,
 PAYMENT MAY NOT AWAITS ARRIVAL OF GOODS

Total (CIF)	132,600 M,TONS	\$ 50255.40
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Amount Chargeable (In words) US DOLLAR FIFTY THOUSAND TWO HUNDRED FIFTY-FIVE AND FORTY CENTS ONLY.

E& O.E.
 Company's VAT TIN : 27050542884V
 Company's CST No. : 27050542884C
 Company's GST No. : 27AAHFM5556E1ZB

Signature

For MAC IMPEX

AUTHORISED SIGNATORY

Authorised Signatory

Declaration
 We declare that this invoice shows the actual price of the goods
 Describe and that all particulars are true and correct.

SUBJECT TO NAVI MUMBAI JURISDICTION
 This is a Computer Generated Invoice

17.3 Deduction amounts claimed in the Shipping Bills are more than the cess amount (i.e. Export Duty):

In addition to the above, in respect of the below mentioned 69 shipping bills, the said noticee had at the time of filing of shipping bills claimed the deduction of total amounts of USD 54,61,895. The export duty paid by them in respect of these 69 S/Bs was USD 23,18,099/- . Thus, in addition to the claim of deduction of duty amount of USD 23,18,099/-, the said noticee had claimed deduction of an additional amount of USD 3143796/- (USD 3143796=USD 54,61,895- USD 23,18,099) in these 69 S/Bs.

The said noticee had stated that these excess deduction amounts were paid by them to their overseas buyer/agents for meeting out the expenses made by them in the country of destination for clearance and delivery of the export goods in the warehouses

of the buyer. Investigation has revealed that all these deduction amounts were also recovered by the said noticee from the overseas buyer in their bank accounts, hence, these amounts were part of consideration received by the said noticee for sale of their goods.

In this regard, as discussed in above paras, in order to justify these payments to their buyer/agents, the said noticee had submitted copy of an agreement with one of their overseas agents/buyer, namely M/s Al Farana Co. Rice Mill, Egypt. However, investigation has revealed that the said agreement submitted by the said noticee was forged. The said agreement was prepared antedated only for the purpose of submission in DRI office to hoodwink the investigation being conducted against the said export firm.

Investigation has revealed that the agreed price of the goods exported to the government agencies of Egypt was 545 USD per MT CIF, however, the said noticee had suppressed the aforesaid tender document from the Customs Authorities at the port of export and declared a lower FOB Value of USD 335 per MT in respect of the said goods which appear to be highly undervalued and the said noticee had claimed the deduction of the differential amounts which included the deduction of duty as well as excess deduction for purported expenses in the country of destination.

The said noticee had received the entire CIF amounts of USD 545 per MT in their bank accounts and thereupon they have wrongly claimed deduction and have declared lower FOB Value for the purpose of payment of lesser export duty. Thus, all these deduction amounts claimed by the said noticee also appeared to be liable to be included in the actual transaction value (i.e. FOB Value) of these shipments.

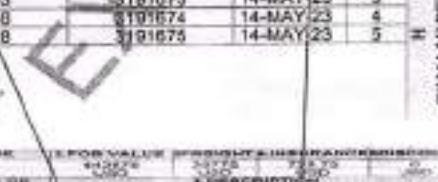
Table A-2

No.	No. NUMBER	BB DATE	Declared FOB Value (In Rs.)	Invoice Currency	Total Value (In Foreign currency)	Invoice Value (In Foreign currency)	Deduction Amounts claimed in the Shipping Bills	Export Duty Paid (In Foreign currency)	Excess Deduction claimed (more than export duty)	Exchange Rate	Nature of Consignment	BBG Amount (In Foreign currency)	Amount received through Remittance of same in Foreign currency
Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12	Col. 13	Col. 14
1	2169229	09-01-2023	43,33,106	USD	33,370	37,049	20,020	10,003	16,277	81.25	CIF	37,049	38,000
2	2113499	20-06-2023	1,80,34,615	USD	3,30,731	3,40,189	1,30,542	44,387	70,154	81.25	CIF	3,40,189	41,387
3	1799243	15-06-2023	75,45,213	USD	1,44,293	1,01,906	-2,387	18,950	23,837	81.25	CIF	1,01,906	13,550
4	1869918	12-06-2023	1,49,05,889	USD	2,58,365	1,92,189	50,424	39,819	60,924	81.25	CIF	1,92,189	38,810
5	1869434	13-06-2023	68,27,606	USD	1,29,901	89,889	40,259	18,979	34,319	81.25	CIF	89,889	15,979
6	1613330	08-06-2023	1,81,32,283	USD	3,30,731	3,40,189	1,30,542	44,387	70,154	81.25	CIF	3,40,189	41,387
7	1356701	05-06-2023	1,31,35,359	USD	2,68,885	2,03,812	88,774	27,100	47,674	81.25	CIF	2,03,812	37,100
8	1426317	31-05-2023	1,69,39,082	USD	3,30,731	3,40,189	1,30,542	44,387	56,154	81.25	CIF	3,40,189	41,387
9	1426316	31-05-2023	1,89,39,082	USD	3,30,731	3,40,189	1,30,542	44,387	78,154	81.25	CIF	3,40,189	41,387
10	1433012	31-05-2023	1,64,70,383	USD	2,48,595	1,92,189	50,424	38,510	60,923	81.25	CIF	1,92,189	38,810
11	1433018	31-05-2023	1,64,70,383	USD	2,38,000	1,99,942	50,341	38,510	54,033	81.25	CIF	1,99,942	35,610
12	1433028	31-05-2023	1,64,70,383	USD	2,64,000	1,92,189	50,341	38,510	60,923	81.25	CIF	1,92,189	35,610
13	1437612	31-05-2023	1,44,70,383	USD	2,38,500	1,99,942	50,341	38,510	54,033	81.25	CIF	1,99,942	35,610
14	1289420	20-05-2023	1,51,37,323	USD	3,30,500	3,40,189	89,774	37,300	47,674	81.25	CIF	3,40,189	37,100
15	1307063	20-05-2023	1,80,89,023	USD	3,40,731	3,40,189	1,30,542	44,387	78,154	81.25	CIF	3,40,189	41,387

16	100067	26/05/2022	2,17,10,804	USD	4,32,974	3,88,227	1,44,591	53,265	81,385	81,55	CIF	1,88,237	53,265
17	1407744	26/05/2022	1,40,99,000	USD	3,66,701	2,49,189	1,20,142	44,287	76,154	81,55	CIF	1,40,189	44,287
18	1111736	26/05/2022	1,21,23,325	USD	2,88,985	2,63,613	84,774	57,385	47,674	81,55	CIF	1,03,613	37,385
19	1364245	26/05/2022	1,14,74,209	USD	2,48,585	1,92,152	95,434	55,816	60,933	81,55	CIF	1,92,152	35,816
20	1245540	24/05/2022	1,21,23,325	USD	2,88,985	2,63,612	84,774	57,100	47,814	81,55	CIF	1,03,612	37,385
21	1110941	14/05/2022	1,80,99,000	USD	3,66,701	2,49,189	1,20,142	44,287	76,154	81,55	CIF	1,40,189	44,287
22	1140617	14/05/2022	1,80,99,000	USD	3,66,701	2,49,189	1,20,142	44,287	76,154	81,55	CIF	1,40,189	44,287
23	10051842	14/05/2022	1,43,96,916	USD	2,88,985	1,99,042	95,434	55,810	54,333	80,85	CIF	1,99,042	35,810
24	11216448	13/05/2022	3,16,39,375	USD	4,32,878	2,86,327	1,44,190	53,385	81,385	81,55	CIF	1,86,327	53,385
25	1007456	13/05/2022	3,19,87,294	USD	7,21,463	4,80,379	2,41,084	88,776	1,52,309	81,55	CIF	4,80,379	88,776
26	1006527	13/05/2022	1,40,97,675	USD	2,88,985	2,63,613	84,774	57,300	47,674	81,55	CIF	1,03,612	37,385
27	11116018	13/05/2022	1,40,97,675	USD	2,88,985	2,63,612	84,774	57,300	47,674	81,55	CIF	1,03,612	37,385
28	9972125	17/05/2022	1,43,94,916	USD	2,88,985	1,99,042	95,434	55,810	60,523	80,85	CIF	1,99,042	35,810
29	0464889	12/05/2022	1,49,97,675	USD	2,88,985	3,03,812	84,774	57,100	47,814	80,85	CIF	2,03,812	37,385
30	10010796	11/05/2022	3,78,87,274	USD	7,21,463	4,80,379	2,41,084	88,776	1,52,309	81,55	CIF	4,80,379	88,776
31	10474470	13/05/2022	1,43,94,916	USD	2,88,985	1,99,042	95,434	55,810	60,523	80,85	CIF	1,99,042	35,810
32	10050942	18/05/2022	1,99,97,375	USD	2,88,985	2,63,612	84,774	57,300	47,674	80,85	CIF	1,03,612	37,385
33	10060111	19/05/2022	1,40,97,675	USD	2,88,985	2,63,612	84,774	57,300	47,674	80,85	CIF	1,03,612	37,385
34	10001660	09/05/2022	3,56,87,294	USD	7,21,463	4,80,379	2,41,084	88,776	1,52,309	81,55	CIF	4,80,379	88,776
35	11122385	09/05/2022	1,44,52,570	USD	2,88,985	1,93,182	95,434	55,810	60,524	81,40	CIF	1,93,182	35,810
36	11120011	04/05/2022	1,44,52,570	USD	2,88,985	1,93,182	95,434	55,810	60,524	81,40	CIF	1,93,182	35,810
37	9767127	04/05/2022	3,61,31,425	USD	7,21,463	4,80,379	2,41,084	88,776	1,52,309	81,40	CIF	4,80,379	88,776
38	10077043	22/05/2022	1,44,52,570	USD	2,88,985	1,93,182	95,434	55,810	60,524	81,40	CIF	1,93,182	35,810
39	10226695	18/04/2022	2,87,98,600	USD	5,77,770	3,84,303	1,02,697	71,029	1,21,897	81,10	CIF	3,84,303	71,029
40	10145191	09/05/2022	7,10,89,691	USD	1,20,890	96,105	35,745	17,765	15,983	81,10	CIF	96,105	17,765
41	10138195	08/05/2022	7,10,89,691	USD	1,20,890	96,105	35,745	17,765	15,983	81,10	CIF	96,105	17,765
42	10138191	09/05/2022	7,10,89,691	USD	1,20,890	96,105	35,745	17,765	15,983	81,10	CIF	96,105	17,765
43	10138190	07/04/2022	7,10,89,691	USD	1,20,890	96,105	35,745	17,765	15,983	81,10	CIF	96,105	17,765
44	10126304	07/04/2022	7,10,89,691	USD	1,20,890	96,105	35,745	17,765	15,983	81,10	CIF	96,105	17,765
45	10126305	17/05/2022	34,26,188	USD	1,27,300	84,220	42,740	33,220	29,080	81,55	CIF	84,220	13,260
46	10178396	21/03/2022	54,24,188	USD	1,27,300	84,220	42,740	33,220	29,080	81,55	CIF	84,220	13,260
47	11427118	26/01/2022	54,00,072	USD	1,08,120	84,621	23,409	13,408	10,081	80,55	CIF	84,621	12,408
48	11427144	26/01/2022	54,00,072	USD	1,08,120	84,978	23,145	13,408	9,317	80,55	CIF	84,978	13,408
49	11427107	26/01/2022	54,00,072	USD	1,08,120	84,078	23,145	13,408	9,737	80,55	CIF	84,078	13,408
50	11772114	26/01/2022	1,10,75,628	USD	2,03,500	1,61,907	41,583	27,508	14,043	80,55	CIF	1,61,907	27,508
51	11772116	26/01/2022	1,10,75,625	USD	2,03,500	1,61,907	41,583	27,508	14,043	81,55	CIF	1,61,907	27,508
52	11772117	26/01/2022	1,10,75,625	USD	2,03,500	1,61,907	41,583	27,508	14,043	80,55	CIF	1,61,907	27,508
53	11772143	26/01/2022	1,10,75,625	USD	2,03,500	1,61,907	41,583	27,508	14,043	80,55	CIF	1,61,907	27,508

55	T272173	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	41,503	21,800	14,093	80.55	CIF	1,61,997	27,500
56	T272174	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	41,503	21,800	14,093	80.55	CIF	1,61,997	27,500
57	T272186	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	41,503	21,800	14,093	80.55	CIF	1,61,997	27,500
58	T272187	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	41,503	21,800	14,093	80.55	CIF	1,61,997	27,500
59	T272191	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	41,503	21,800	14,093	80.55	CIF	1,61,997	27,500
60	T272204	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	41,503	21,800	14,093	80.55	CIF	1,61,997	27,500
61	T274048	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	42,030	21,800	14,500	80.55	CIF	1,61,997	27,500
62	T274049	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	42,030	21,800	14,500	80.55	CIF	1,61,997	27,500
63	T274053	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	42,030	21,800	14,500	80.55	CIF	1,61,997	27,500
64	T274278	25-01-2023	1,10,75,625	USD	2,03,500	1,61,997	42,030	21,800	14,500	80.55	CIF	1,61,997	27,500
65	T264372	25-01-2023	94,93,928	USD	1,06,120	85,942	22,140	13,408	8,772	80.55	CIF	85,942	13,408
66	6840617	10-01-2023	94,93,928	USD	1,06,120	85,942	22,140	13,408	8,772	80.55	CIF	85,942	13,408
67	6843493	10-01-2023	94,93,928	USD	1,06,120	85,942	22,140	13,408	8,772	80.55	CIF	85,942	13,408
68	6834891	10-01-2023	94,93,928	USD	1,06,120	85,942	22,140	13,408	8,772	80.55	CIF	85,942	13,408
69	5045382	15-10-2022	94,93,928	USD	1,16,885	1,09,200	7,518	13,260	7,872	80.55	CIF	1,09,200	13,260
					1,83,81,999	1,29,29,774	54,81,816	23,18,098	31,43,796			1,29,29,774	23,18,098

For ease of reference, photo of **Shipping Bill Number 9938496 dated 11-05-2023 (RUD-12)** is pasted below which indicate that the deduction amounts claimed are higher than the export duty paid (cess) amounts.

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA MUNDRA SEZ PORT, MUNDRA, GUJARAT																																						
<table border="1"> <tr> <td>Port Code</td> <td>BB No</td> <td>BB Date</td> </tr> <tr> <td>INMUN1</td> <td>9938496</td> <td>11-MAY-23</td> </tr> <tr> <td>SECUR</td> <td>0302048944</td> <td>0</td> </tr> <tr> <td>GSTIN/TYPE</td> <td>27AAHFM556E126 GSN</td> <td></td> </tr> <tr> <td>CB CODE</td> <td>AIIPB4243LCH006</td> <td></td> </tr> <tr> <td>TYPE</td> <td>INV</td> <td>ITEM</td> <td>CONT</td> </tr> <tr> <td>ROS</td> <td>1</td> <td>1</td> <td>50</td> </tr> <tr> <td>PKG</td> <td>25500</td> <td>G.WT</td> <td>KGS</td> </tr> </table>													Port Code	BB No	BB Date	INMUN1	9938496	11-MAY-23	SECUR	0302048944	0	GSTIN/TYPE	27AAHFM556E126 GSN		CB CODE	AIIPB4243LCH006		TYPE	INV	ITEM	CONT	ROS	1	1	50	PKG	25500	G.WT
Port Code	BB No	BB Date																																				
INMUN1	9938496	11-MAY-23																																				
SECUR	0302048944	0																																				
GSTIN/TYPE	27AAHFM556E126 GSN																																					
CB CODE	AIIPB4243LCH006																																					
TYPE	INV	ITEM	CONT																																			
ROS	1	1	50																																			
PKG	25500	G.WT	KGS																																			
PART - I - SHIPPING BILL SUMMARY																																						
A STATUS S-A N Y	1.MODE	2.ASSESS	3.EXMN	4.JOBMING	5.MEIS	6.DBK	7.RODTP	8.DEEC/OFIA	9.DFRC	10.RE-EXP	11.LUT																											
	S-A	N	Y	N	Y	N	N	N	N	N	Y																											
B DECLARATION DETAILS MAC IMPEX R.21/22 APMC MARKET II PHASE II, TURBHE VASHI NAVI MUMBAI	12.PORT OF LOADING	INMUN1 (Mundra)																																				
	14.STATE OF ORIGIN	NAHARASHTRA																																				
C VALUE SUMMA 1.FOB VALUE 35887293.75	13.COUNTRY OF FINAL DESTINATION	EGYPT																																				
	15.DEDUCTIONS	2.FREIGHT	3.INSURANCE	4.DISCOUN	5.COM	6.DBK	7.RODTP	8.DEEC/OFIA	9.DFRC	10.RE-EXP	11.LUT																											
D EXPRT 1.19491621	7.PIC	8.DUTY	9.CESS	10.DBK CLAIM	11.IGST AMT	12.ROSCL AMT	13.IGST VALUE	14.RODTP AMT	15.ROSCL AMT	16.IGST AMT	17.ROSCL AMT																											
	0	0	0	0	0	0	0	0	0	7177459	0																											
E MANIFEST DETAILS 1.LMAWB NO. 2.LMAWB DT 3.LHAWB NO. 4.CIN NO. 5.CIN DT 6.CIN SITE ID	17.IGST AMT	18.ROSCL AMT	19.IGST VALUE	20.RODTP AMT	21.ROSCL AMT	22.IGST AMT	23.ROSCL AMT	24.IGST VALUE	25.RODTP AMT	26.ROSCL AMT	27.IGST AMT																											
	23PC150515767384500	15-MAY-23	INMUN1	1027/23-24	100378.75	100378.75	100378.75	100378.75	100378.75	100378.75	100378.75	100378.75																										
F INVOICE SUMMARY 1.15887293.75	1.SNO	2.IINV NO.	3.IINV AMT.	4.CURRENC	5.IINR NO.	6.CHALLAN NO.	7.PAYMT DT	8.AMOUNT																														
	1	1027/23-24	400378.75	USD	1	125033	12-MAY-23	7177459																														
G EQUIPMENT DETAILS 1.TLLU2437480 2.TEMU182970 3.TEMU182993 4.UACU4126940 5.UACU4146428	9.CIN NO.	10.CIN DT	11.CIN SITE ID	12.CIN NO.	13.CIN DT	14.CIN SITE ID	15.CIN NO.	16.CIN DT	17.CIN SITE ID	18.CIN NO.	19.CIN DT	20.CIN SITE ID																										
	3191671	14-MAY-23	1	3191672	14-MAY-23	2	3191673	14-MAY-23	3	3191674	14-MAY-23	4	3191675	14-MAY-23	5																							
																																						
																																						

S.S.no.	Name of the Exporter	IEC Code	Shipping Bill Number	Shipping Bill Date	Invoice Number	Invoice Date	Nature of Consignment	Actual freight charges paid	Actual Insurance amount	Payment received from overseas buyers (in Foreign Currency Through BPL)	Through Reimbursement of taxes
4	MAC IMPEX	102048844	9999998	11-05-2023	1027/23-24	10-05-2023	CIF	₹ 39,72,564.00	₹ 58,919.00	\$ 430,378.75	₹ 71,77,430.00

Deduction claimed in SB equal is more than the cess amount.
Amount equal to the cess (export duty amount) has been received through reimbursement of taxes whereas the remaining amount has also been received in the Bank

COMMERCIAL INVOICE

Shipper: MAC IMPEX R22 GRAIN MARKET, APMC MARKET, VASHI, NAVI MUMBAI INDIA FOREIGN EXPORTER REGISTRATION TYPE ID -27AAHFM5556E126 FOREIGN EXPORTER ID - 0302048944		Invoice No. & Date: 1027/23-24 DT: 10.05.2023	
NOTIFY PARTY 1: FOR THE ACCOUNT OF THE HOLDING COMPANY FOR FOOD INDUSTRIES		CONSIGNEE: THE GENERAL AUTHORITY FOR SUPPLY COMMODITIES (GASC) 99 KASR EL AINY ST, CAIRO, EGYPT EGYPTIAN IMPORTER TAX ID: 100055648	
NOTIFY PARTY 2: AL-FARANA CO: RICE MILL SLOS TO PRESERVE YIELDS (S.A.E) GAMASSA - DAKHLIA - EGYPT TAX ID: 286-160-013		City/Port of Loading MUNDRA, INDIA	City/Port of Discharge DAMIETTA PORT, ARAB REPUBLIC OF EGYPT
SALE CONTRACT NO - MAC/240223-1		Terms of Delivery and Payments	
Country of Origin of Goods INDIA	Country of Final Destination EGYPT	+ CIF, DAMIETTA PORT, ARAB REPUBLIC OF EGYPT + LC AT SIGHT.	
No. & Kind of packing	Description of Goods	Quantity	Rate USD (CIF)
TOTAL BAGS 26500 BAGS	NATURAL WHITE RICE GRADE 2 BROKEN 10% TYPE OF RICE INDIAN SHORT GRAIN FROM THE LATEST CROP 2022 (PACKED IN A NEW WOVEN POLYPROPYLENE BAG 50 KG NET WEIGHT)	1325.00 M.TONS (50 FCL)	MT
TOTAL NET WEIGHT : 1325000.000 KGS TOTAL GROSS WEIGHT : 1328710.000 KGS		\$ 721462.50	
VESSEL NAME - CMA CGM IVANHOE, V-3119 DOCUMENTARY CREDIT NUMBER: OLC-S-2623-00076 DATE OF ISSUE: 230417 ACID NO. 1000556482023050097			
Bank Details: Beneficiary Bank Name: HDFC Bank Ltd. Beneficiary Bank Address: Vashi Branch, Navi Mumbai. Beneficiary Bank Account No.: 50200028763033 Beneficiary Bank Swift code : HDFCINBBXXX Beneficiary's Correspondent Bank: JP MORGAN CHASE BANK, New York, USA Account No.: 0011406717 Swift Code: CHASUS33 ALL REMITTER BANK CHARGES & CORRESPONDING BANK CHARGES HAS TO BE FULLY PAID BY REMITTER (BUYER). ONLY SELLER BANK CHARGES TO BE PAID BY THE SELLER. PAYMENT MAY NOT AWAIT ARRIVAL OF GOODS			
Total (CIF)		1325.000 M.TONS	\$ 721462.50

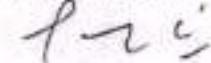
Amount Chargeable (in words) US DOLLARS SEVEN HUNDRED TWENTY ONE THOUSAND FOUR HUNDRED SIXTY TWO AND CENTS FIFTY ONLY.

E&O.E.

Company's VAT TIN : 27050542684V
Company's CST No. : 27050542684C
Company's GST No. : 27AAHFM5556E126

Signature

FOR MAC IMPEX



AUTHORISED SIGNATORY

AUTHORISED SIGNATORY

Declaration

We declare that this invoice shows the actual price of the goods
Describe and that all particulars are true and correct.

SUBJECT TO NAVI MUMBAI JURISDICTION
This is a Computer Generated Invoice

DIRECTORATE GENERAL OF FOREIGN TRADE

STATEMENT OF BANK REALISATION

1	Firm's Name	MAC IMPEX
2	Address	R 21/22 APMC MARKET IIPHASE II TURBHE VASHINAVI MUMBAI THANE MAHARASHTRA
3	IEC	0302048944
4	Shipping Bill No	9938496
5	Shipping Bill Date	2023-05-11
6	Shipping Bill Port	INMUN1
7	Bank's Name	HFDC BANK
8	Bank's File no and Uploaded Date	HFDC0000240100720234882023-07-10 18:33:37
9	Bill ID no	240BC90231630015
10	Bank Realisation Certificate No	HFDC0000240236774938 Dated 2023-07-10
11	Date of realisation of money by bank	2023-07-07
12	Realised value in Foreign Currency	480378.750
13	Currency of realisation	USD
14	Date &time of printing	2023-09-09 09:56:57 AM

17.4 In respect of the aforesaid shipping bill, the price of goods as per invoice dated 10.05.2023 has been mentioned as USD 721462.50 (at the unit price of USD 544.50 per MT CIF). The same amount has also been declared in the shipping bill as **Invoice Amount** (in foreign currency) of USD 721462.50 and rate is also mentioned as USD 544.50 per MT CIF. However, in the shipping bill, the said noticee had declared the **invoice value** as USD 480378.75 which is 241083.75 USD lower than the actual invoice value. Thus, the said noticee had claimed deduction of USD 241083.75 in respect of the actual invoice value which is inclusive of the deduction of export duty amount of USD 88775. After deducting the freight amount of USD 35775, insurance amount of USD 728.75, from the declared invoice value of USD 480378.75, the said noticee had declared the FOB Value at USD 443875 in the shipping bill.

Thus, exporter had claimed deduction of USD 88775 for export duty amount and deduction of USD 152,308.75 towards purported ineligible expenses from the actual FOB Value. The total deduction wrongly claimed in respect of the afore-said shipping bill is USD 241083.75 which is not available to the said noticee.

The ideal position in respect of the afore-said shipping bill should have been that after deducting the actual freight amount of USD 35775 and insurance amount of USD 728.75, the resultant actual FOB Value in respect of the said consignment works out to be at USD 684958.75. The said noticee should have declared the actual FOB Value of USD 684958.75 for payment of export duty. The same is shown in Tabular form as under –

Declaration Made by the said noticee in the shipping bill : -

Total Value (USD)	Deduction Claimed (USD)	Invoice Value (USD)	Freight Amount (USD)	Insurance Amount (USD)	FOB Amount (USD)	Export Duty Paid (USD)
721462.50 @ 544.50 USD per MT for total quantity of 1325 MTs	241083.75 @ 88775 + 152308.75	480378.75 @ USD 362.55 per MT for total quantity of 1325 MTs	35775 @ 27 USD for total quantity of 1325 MTs	728.75 @ 0.55 USD per MT for total quantity of 1325 MTs	443875 @ USD 335 per MT	88775. The said amount has been calculated @ 20% of the declared FOB Value of USD

	export duty paid by them on the declared FOB Value of USD 443875. 152308.75 is equal to the purported expenses made in the country of destination [g USD 115 per MT in respect of total quantity of 1325 MTs]	USD MTs	1325		USD MTs	1325		443875 (20% of 443875=88775)
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As shown in above table the deduction of USD 241083.75 were excluded by the said noticee from the actual transaction value of the export goods for payment of duty. These deduction amounts are liable to be included in the declared transaction value (FOB Value) of USD 443875 and the said noticee is liable to pay duty on the actual transaction value of USD 684958.75 (241083.75 + 443875).

17.5 In addition to above, in respect of the following 77 shipments of rice exported by M/s Mac Impex, the said noticee had not claimed any deduction in the shipping bills filed by them, however, **the said noticee had stated that in respect of these shipments also, they have separately recovered the duty amounts (paid by them) at the times of export, from the overseas buyers of the export goods:**

Table B

S. No.	SB NUMBER	SB Date	Declared FOB Value [INR]	Invoice Currency	TOTAL VALUE [FCI]	INVOICE VALUE [FCI]	Export Duty in [FCI]	Nature of Consignment	Exchange Rate	BRD	Amount received through reimbursement of taxes
1	18740320	22-06-2024	87,55,600	USD	129320	129320	21,200	CIF	82.6	129320	21,200.00
2	18740322	22-06-2024	87,55,600	USD	129320	129320	21,200	CIF	82.6	129320	21,200.00
3	18740327	22-06-2024	87,55,600	USD	129320	129320	21,200	CIF	82.6	129320	21,200.00
4	15823169	13-06-2024	80,55,044	USD	119780	119780	20,988	CIF	82.6	119780	20,988.00
5	11255417	25-05-2024	87,55,900	USD	120840	120840	21,200	CIF	82.65	120840	21,200.00
6	1010487	20-05-2024	1,01,84,545	USD	134620	134620	24,645	CP	82.65	134620	24,645.00
7	9873414	15-05-2024	1,01,78,385	USD	134620	134620	24,645	CP	82.6	134620	24,645.00
8	9421081	20-04-2024	1,09,57,755	USD	146280	146280	26,500	CIF	82.7	146280	26,500.00
9	9388650	25-04-2024	17,53,240	USD	25228	25228	4,240	CIF	82.7	25228	4,240.00
10	9391979	25-04-2024	1,09,57,750	USD	146280	146280	26,500	CIF	82.7	146280	26,500.00
11	93914440	25-04-2024	1,09,57,750	USD	146280	146280	26,500	CIF	82.7	146280	26,500.00
12	93914440	25-04-2024	1,09,57,750	USD	146280	146280	26,500	CIF	82.7	146280	26,500.00
13	94061687	25-04-2024	1,09,57,750	USD	146280	146280	26,500	CIF	82.7	146280	26,500.00
14	9341230	23-04-2024	93,14,088	USD	132765	132765	22,525	CIF	82.7	132765	22,525.01
15	8536520	22-03-2024	1,12,34,410	USD	152640	152640	27,401	CIF	82	152640	27,401.00
16	8538243	22-03-2024	1,12,34,410	USD	152640	152640	27,401	CIF	82	152640	27,401.00
17	85300679	22-03-2024	1,12,34,410	USD	152640	152640	27,401	CIF	82	152640	27,401.00
18	85409942	22-03-2024	1,12,34,410	USD	152640	152640	27,401	CIF	82	152640	27,401.00
19	8541616	22-03-2024	1,12,34,410	USD	152640	152640	27,401	CIF	82	152640	27,401.00
20	8542047	22-03-2024	1,01,10,968	USD	137376	137376	24,661	CIF	82	137376	24,660.90
21	8520316	21-03-2024	55,90,560	USD	81640	81640	13,416	CIF	82	81640	13,416.00
22	8011431	05-03-2024	1,10,27,952	USD	149760	149760	26,832	CP	82.2	149760	26,832.00
23	6583892	08-01-2024	1,67,02,575	USD	207954	207954	40,491	CIF	82.5	207954	40,491.09
24	6570783	08-01-2024	1,40,33,250	USD	174720	174720	34,030	CIF	82.5	174720	34,030.00
25	6570785	08-01-2024	1,67,02,575	USD	207954	207954	40,491	CIF	82.5	207954	40,491.09

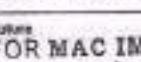
26	6570788	06-01-2024	99,23,513	USD	123552	123552	24,057	CIF	82.5	123552	14,057.01
27	6570794	06-01-2024	1,80,42,180	USD	224640	224640	43,740	CIF	82.5	224640	43,740.00
28	6570795	06-01-2024	99,23,513	USD	123552	123552	24,057	CIF	82.5	123552	24,057.01
29	6570795	06-01-2024	1,63,36,338	USD	190944	190944	37,179	CIF	82.5	190944	37,179.01
30	6570805	06-01-2024	1,40,33,290	USD	174720	174720	34,020	CIF	82.5	174720	34,020.00
31	6571949	06-01-2024	99,23,513	USD	123552	123552	24,057	CIF	82.5	123552	24,057.01
32	5753833	02-12-2023	86,71,456	USD	113360	113360	21,000	CIF	82.35	113360	21,000.00
33	4464609	07-10-2023	8,26,820	USD	8080	8080	1,521	CIF	82.4	8080	1,521.41
34	6413343	24-12-2022	43,87,098	USD	86496	86496	10,726	CIF	81.8	86496	10,726.41
35	6412716	24-12-2022	43,87,098	USD	86496	86496	10,726	CIF	81.8	86496	10,726.41
36	6259475	19-12-2022	54,19,290	USD	103350	103350	13,250	CIF	81.8	103350	13,250.00
37	6280693	19-12-2022	1,81,506	USD	2250	2250	444	CIF	81.8	2250	444
38	6109100	15-12-2022	83,88,312	USD	108120	108120	13,408	CIF	80.3	108120	13,408.00
39	6109179	15-12-2022	83,88,312	USD	108120	108120	13,408	CIF	80.3	108120	13,408.00
40	6137115	14-12-2022	54,19,218	USD	109140	109140	13,612	CIF	80.3	109140	13,612.00
41	6142453	14-12-2022	53,19,875	USD	107855	107855	13,250	CIF	80.3	107855	13,250.00
42	6144029	14-12-2022	53,19,875	USD	108120	108120	13,408	CIF	80.3	108120	13,408.00
43	6066609	10-12-2022	53,19,875	USD	103880	103880	13,250	CIF	80.3	103880	13,250.00
44	6051527	09-12-2022	53,19,875	USD	103350	103350	13,250	CIF	80.3	103350	13,250.00
45	5942644	05-12-2022	53,19,875	USD	107855	107855	13,250	CIF	80.3	107855	13,250.00
46	5948070	05-12-2022	53,19,875	USD	117925	117925	13,250	CIF	80.3	117925	13,249.20
47	5946083	05-12-2022	53,19,875	USD	103880	103880	13,250	CIF	80.3	103880	13,250.00
48	5847783	01-12-2022	53,59,625	USD	117925	117925	13,250	CIF	80.3	117925	13,250.00
49	5810926	30-11-2022	53,59,625	USD	107855	107855	13,250	CIF	80.3	107757	13,250.00
50	5778633	28-11-2022	53,59,625	USD	107855	107855	13,250	CIF	80.3	107802	13,250.00
51	5735560	26-11-2022	53,59,625	USD	108650	108650	13,250	CIF	80.3	108650	13,250.00
52	5601767	21-11-2022	51,94,055	USD	106600	106600	12,841	CIF	80.9	106600	12,841.00
53	5609511	21-11-2022	51,88,986	USD	104260	104260	12,828	CIF	80.9	104158	12,828.13
54	5577430	19-11-2022	53,59,625	USD	108650	108650	13,250	CIF	80.9	108650	13,250.00
55	5476348	15-11-2022	54,39,128	USD	104675	104675	13,250	CIF	82.1	104600	13,250.00
56	5475744	15-11-2022	54,39,128	USD	104675	104675	13,250	CIF	82.1	104647	13,250.00
57	5456887	14-11-2022	54,39,128	USD	106650	106650	13,250	CIF	82.1	106650	13,250.00
58	5292161	07-11-2022	53,36,500	USD	106080	106080	13,000	CIF	82.1	106080	13,000.00
59	5301683	07-11-2022	55,87,728	USD	109140	109140	13,812	CIF	82.1	109140	13,812.00
60	5051109	25-10-2022	53,43,600	USD	121680	121680	13,000	CIF	82.2	121680	13,000.00
61	4391192	23-09-2022	49,70,029	USD	69721	69721	12,630	CIF	78.7	69691	12,630.30
62	4336098	21-09-2022	49,72,097	USD	69748	69748	12,630	CIF	78.7	69718	12,630.57
63	4298671	20-09-2022	28,69,796	USD	49327	49327	7,293	CIF	78.7	49327	7,293.00
64	4298762	20-09-2022	28,69,796	USD	49327	49327	7,293	CIF	78.7	49323	7,293.00
65	4280423	19-09-2022	28,69,796	USD	50255	50255	7,293	CIF	78.7	50255	7,293.00
66	4280509	19-09-2022	28,69,796	USD	50255	50255	7,293	CIF	78.7	50349	7,293.00
67	4254438	17-09-2022	49,72,097	USD	69748	69748	12,798	CIF	78.7	69745	12,798.57
68	4213689	16-09-2022	49,67,756	USD	69692	69692	12,625	CIF	78.7	69695	12,624.54
69	4221153	16-09-2022	52,46,709	USD	72400	72400	13,133	CIF	78.7	72400	13,133.44
70	4155012	13-09-2022	51,81,010	USD	71604	71604	13,166	CIF	78.7	72572	13,166.45
71	4155053	13-09-2022	51,81,010	USD	71604	71604	13,166	CIF	78.7	71603	13,166.45
72	4155155	13-09-2022	51,81,010	USD	71604	71604	13,166	CIF	78.7	71579	13,166.45
73	4110856	12-09-2022	30,35,997	USD	69748	69748	12,798	CIF	78.7	69719	12,795.57
74	4113754	12-09-2022	50,35,057	USD	69748	69748	12,798	CIF	78.7	69719	12,795.57
75	4114160	12-09-2022	50,35,057	USD	69748	69748	12,798	CIF	78.7	69667	12,785.05
76	4114496	12-09-2022	50,30,021	USD	69695	69695	12,788	CIF	78.7	69673	12,786.11
77	4136079	12-09-2022	50,31,338	USD	69700	69700	12,786	CIF	78.7	69673	12,786.11
			56,16,39,37		84,79,67	84,79,67	13,77,20			84,79,54	13,77,203
			7		3	3	2			6	

In respect of these shipments the said noticee had not declared before the customs authorities at the port of export at the time of making exports, that they would recover or have recovered the higher amounts from the overseas buyers which are over and above the declared invoice value of these export shipments. The amounts received by the said noticee as reimbursement of taxes in respect of these 77 S/B's amounted to USD 13,77,203/-

As may be seen from the copy of the **Shipping Bill Number 4113754 dated 12-09-2022 (RUD-13)** pasted below, the said noticee had not claimed any deduction amount in the shipping bill however, as per the details submitted by the said noticee, they have separately recovered an amount equal to the export duty amount of Rs. 10,07,011/- from the overseas buyer in the bank accounts. Therefore, the said noticee had suppressed the said amount. They have neither declared the full amount to be received by them from the overseas buyer in the export invoice nor in the shipping bill. Thus they have mis-declared the actual FOB Value in respect of all such shipping bills.

No deduction claimed in the Shipping bill however, an amount equal to the export duty has been recovered as reimbursement of duty from the overseas carrier.

COMMERCIAL INVOICE

Shipper: MAC IMPEX 8-11/22, APMC MARKET-II, PHASE-II DAHADUNDER TURBHE - VASHI, NAVI MUMBAI - 400705, MAHARASHTRA, INDIA E-mail : info@unisomgroup.com Ph. (O) - +91 22 41414141		Invoice No. & Date: 695/2022-23 DT: 27.08.2022	
CONSIGNEE: TO ORDER		NOTIFY PARTY: AMRO SUGARS, NO-187/2, 5TH CROSS STREET, COLOMBO 1L, SRI LANKA	
SALE CONTRACT NO - MAC/270822-1		City/Port of Loading NHAVA SHEVA, INDIA	City/Port of Discharge COLOMBO, SRI LANKA
Country of Origin of Goods INDIA		Terms of Delivery and Payment <ul style="list-style-type: none"> CF, COLOMBO, SRI LANKA. 100% ADVANCE TT BEFORE SHIPMENT 	
No. & Kind of packing	Description of Goods	Quantity	Rate USD (CF)
TOTAL 6846 BAGS MALL ROAD BRAND	WHITE RICE PACKED IN NEW 50 KG SOPP BAGS	265.200 MTONS (10 FCL)	\$ 263.00 MT
TOTAL NET WEIGHT: 265200.000 KGS TOTAL GROSS WEIGHT: 265307.280 KGS			
Bank Details: BANK DETAILS: Beneficiary Bank Name: AXIS BANK LTD Beneficiary Bank Address: Vashi Branch, Navi Mumbai Beneficiary Bank Account No: 921030000414591 Beneficiary Bank Swift code: AXISNBBL Beneficiary's Correspondent Bank: JP MORGAN CHASE BANK, New York, USA Account No.: 0011467376 Swift Code: CHASUS33 ALL REMITTER BANK CHARGES & CORRESPONDING BANK CHARGES HAS TO BE FULLY PAID BY REMITTER (BUYER), ONLY SELLER BANK CHARGES TO BE PAID BY THE SELLER. PAYOUT MAY NOT AWAITS ARRIVAL OF GOODS			
Total (CF)		265.200 MTONS	\$ 68747.60
Amount Chargeable (In words) US DOLLAR SIXTY-NINE THOUSAND SEVEN HUNDRED FORTY-SEVEN AND SIXTY CENTS ONLY. E & O.E.			
Company's VAT TIN	: 27050541684V		
Company's CST No.	: 27050542684C		
Company's GST No.	: 27AAHFM556E126		
Declaration: We declare that this invoice shows the actual price of the goods Describe and that all particulars are true and correct.			
		Signature FOR MAC IMPEX  AUTHORISED SIGNATORY AUTHORISED SIGNATORY	

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

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

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

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

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

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

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

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

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

17.7 In addition to the above, in respect of the following 65 shipments of rice, the said noticee had declared higher amounts of ocean freight in comparison to the actual freight amounts paid by them, thus causing short payment of duty on the differential ocean freight amount in respect of these 65 shipments also. The total amount of excess freight declared by the said noticee in respect of these shipments are Rs. 6,25,45,520/-

Table C

No.	SB Number	SB Date	Declared FOB Value (INR)	Invoice Currency	Total Value (PC)	Invoice Value (PC)	Nature of Consignment	Exchange Rate	BRG amount received	Declared Freight (INR)	Actual Freight Paid (INR)	Excess Freight Amounts declared in SB (INR)
1	1051992	16-05-2023	1,43,54,918	USD	288585	199042	CIF	80.85	199042	17,14,020	14,04,151	3,09,869
2	1432618	31-05-2023	1,44,79,203	USD	288585	199042	CIF	81.55	199042	17,28,860	13,86,405	3,42,455
3	1437612	31-05-2023	1,44,79,203	USD	288585	199042	CIF	81.55	199042	17,28,860	13,90,536	3,32,322
4	1689154	10-06-2023	65,27,626	USD	120653	89569	CIF	81.7	89568	7,79,418	6,32,114	1,47,304
5	8076289	31-03-2023	54,19,188	USD	127200	84270	CF	81.95	84270	14,76,739	9,23,392	5,53,347
6	8976306	31-03-2023	54,19,188	USD	127200	84270	CF	81.95	84270	14,76,739	9,23,302	5,53,347
7	9164373	31-01-2023	54,00,072	USD	108120	85940	CF	80.55	85940	15,23,395	14,49,597	72,798
8	4232661	16-09-2022	28,69,796	USD	49327	42034	CIF	78.7	42034	4,34,031	2,93,593	1,38,438
9	4233136	16-09-2022	28,69,796	USD	49327	42034	CIF	78.7	42034	4,34,031	2,93,593	1,38,438
10	4280423	19-09-2022	28,69,796	USD	50255	50255	CIF	78.7	50255	10,80,787	2,83,735	7,97,052
11	4280569	19-09-2022	28,69,796	USD	50255	50255	CIF	78.7	50249	10,80,787	2,83,735	7,97,052
12	4298671	20-09-2022	28,69,796	USD	49327	49327	CIF	78.7	49327	10,07,990	2,83,735	7,24,254

13	4298762	20-09-2022	28,69,796	USD	49327	49327	CIF	78.7	49323	10,07,990	2,83,755	7,24,234
14	4318682	21-09-2022	28,69,796	USD	50255	42962	CIF	78.7	42931	5,06,828	2,34,851	2,71,977
15	4318683	21-09-2022	28,69,796	USD	49327	42034	CIF	78.7	42033	4,34,031	2,34,851	1,99,180
16	4319023	21-09-2022	28,69,796	USD	50255	42962	CIF	78.7	42961	5,06,828	2,34,851	2,71,977
17	4319108	21-09-2022	28,69,796	USD	50255	42962	CIF	78.7	42931	5,06,828	2,34,851	2,71,977
18	4319109	21-09-2022	28,69,796	USD	49327	42034	CIF	78.7	42033	4,34,031	2,34,851	1,99,180
19	4322675	21-09-2022	28,69,796	USD	50255	42962	CIF	78.7	42895	5,06,828	2,34,851	2,71,977
20	4464609	07-10-2023	6,26,820	USD	8080	8080	CIF	82.4	8080	18,313	-	38,313
21	5045183	25-10-2022	54,49,860	USD	116588	109300	CIF	82.2	109300	35,14,600	17,45,044	17,89,556
22	5051109	25-10-2022	53,43,000	USD	121680	121680	CIF	82.2	121680	46,59,096	17,33,294	29,25,802
23	5293101	07-11-2022	58,36,500	USD	106080	106080	CIF	82.1	106080	33,72,668	28,13,513	10,59,153
24	5301693	07-11-2022	55,87,726	USD	109140	109140	CIF	82.1	109140	33,72,668	28,13,513	10,59,155
25	5456607	14-11-2022	54,39,125	USD	108650	108650	CIF	82.1	108650	34,12,009	15,34,657	19,37,382
26	5475244	15-11-2022	54,39,125	USD	104675	104675	CIF	82.1	104675	31,46,072	15,53,809	15,92,263
27	5475744	15-11-2022	54,39,125	USD	104675	104675	CIF	82.1	104647	31,46,072	14,30,547	17,15,525
28	5577420	19-11-2022	53,59,625	USD	108650	108650	CIF	80.9	108650	34,21,261	14,74,082	19,47,170
29	5604767	21-11-2022	51,94,055	USD	106600	106600	CIF	80.9	106600	34,21,261	14,35,772	19,35,484
30	5606511	21-11-2022	51,88,986	USD	104260	104260	CIF	80.9	104158	32,37,214	15,34,657	17,02,556
31	5738580	26-11-2022	53,59,625	USD	108650	108650	CIF	80.9	108650	34,21,261	14,35,772	19,35,484
32	5775633	28-11-2022	53,59,625	USD	107855	107855	CIF	80.9	107802	32,78,877	14,38,567	18,40,310
33	5820926	30-11-2022	53,59,625	USD	107855	107855	CIF	80.9	107757	32,78,877	14,38,773	18,43,108
34	5847783	01-12-2022	53,59,625	USD	117925	117925	CIF	80.9	117985	40,85,450	19,63,690	21,21,760
35	5942644	05-12-2022	53,19,875	USD	107855	107855	CIF	80.3	107855	32,54,559	14,63,866	18,10,893
36	5948070	05-12-2022	53,19,875	USD	117925	117925	CIF	80.3	117985	40,55,150	19,63,690	20,91,460
37	5948083	05-12-2022	53,19,875	USD	103880	103880	CIF	80.3	103847	30,12,856	14,74,082	15,38,774
38	6061527	09-12-2022	53,19,875	USD	103350	103350	CIF	80.3	103350	39,70,297	13,63,494	17,06,803
39	6066699	10-12-2022	53,19,875	USD	103880	103880	CIF	80.3	103880	30,12,856	13,63,494	17,09,362
40	6137118	14-12-2022	54,65,218	USD	109140	109140	CIF	80.3	109140	32,98,724	18,73,005	19,29,719
41	6142452	14-12-2022	53,19,875	USD	107855	107855	CIF	80.3	107802	32,54,559	12,65,724	19,68,838
42	6144629	14-12-2022	53,83,312	USD	106120	106120	CIF	80.3	106120	32,98,724	16,26,562	16,72,164
43	6159100	15-12-2022	53,83,312	USD	106120	106120	CIF	80.3	106120	32,98,724	16,26,562	16,72,164
44	6159170	15-12-2022	53,83,312	USD	106120	106120	CIF	80.3	106120	32,98,724	16,75,315	16,23,409
45	6268476	19-12-2022	54,19,990	USD	103350	103350	CIF	81.8	103350	30,25,782	12,65,724	17,60,058
46	6412345	24-12-2022	43,87,098	USD	86496	86496	CIF	81.8	86496	26,88,275	12,90,475	13,97,800
47	6412716	24-12-2022	43,87,098	USD	86496	86496	CIF	81.8	86496	26,88,275	12,90,475	13,97,800
48	6854891	10-01-2023	54,93,928	USD	106120	85342	CIF	81.95	85342	14,99,808	14,66,844	13,363
49	8370264	10-03-2023	59,57,531	USD	119250	104675	CIF	81.75	104675	25,99,650	8,45,676	17,53,974
50	8370265	10-03-2023	59,57,531	USD	119250	104675	CIF	81.75	104675	25,99,650	8,45,676	17,53,974
51	8370314	10-03-2023	59,57,531	USD	119250	104675	CIF	81.75	104675	25,99,650	8,45,676	17,53,974
52	8582186	18-03-2023	59,72,106	USD	119250	104675	CIF	81.95	104675	26,06,010	7,42,188	18,63,822
53	9343220	23-04-2024	93,14,088	USD	132766	132766	CIF	89.7	132739	16,43,663	11,05,700	5,37,872
54	9388450	25-04-2024	17,53,240	USD	25228	25228	CIF	82.7	25228	3,28,733	2,37,659	91,174
55	1856701	06-05-2023	1,51,55,350	USD	288585	203812	CIF	81.7	203812	14,72,234	14,32,810	19,424
56	1T98249	16-06-2023	75,45,213	USD	144293	101906	CIF	81.35	101906	7,32,964	7,19,823	13,140
57	8081481	05-03-2024	1,10,27,952	USD	149760	149760	CIF	82.2	149735	12,82,320	12,69,633	21,485
58	8520316	21-03-2024	55,00,560	USD	81640	81640	CIF	82	81640	11,83,268	9,46,729	2,42,531
59	8536529	22-03-2024	1,12,34,410	USD	152640	152640	CIF	82	152640	12,60,340	12,41,389	18,951
60	8538243	22-03-2024	1,12,34,410	USD	152640	152640	CIF	82	152640	12,60,340	12,41,389	18,951
61	8539629	22-03-2024	1,12,34,410	USD	152640	152640	CIF	82	152640	12,60,340	12,41,389	18,951
62	8540593	22-03-2024	1,12,34,410	USD	152640	152640	CIF	82	152630	12,60,340	12,41,389	18,951
63	8541626	22-03-2024	1,12,34,410	USD	152640	152640	CIF	82	152630	12,60,340	12,41,389	18,951
64	8542647	22-03-2024	1,01,10,969	USD	137376	137376	CIF	82	137366	11,34,306	11,17,753	16,554

65	9996027	13-05-2023	1,49,97,675	USD	288585	203812	CIF	80.85	203812	14,56,917	14,22,610	34,307
			40,50,23,9		74,48,2	66,72,5			66,71,7	13,58,52,	7,33,06,5	6,26,45,
			62		35	26			69	085	68	520

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

For ready reference, copy of **Shipping Bill Number 1437612 dated 31-05-2023 (RUD-14)** is pasted below. As per the shipping bill the ocean freight amount declared in respect of the said shipment is USD 21200, which is equivalent to Rs. 17,28,860 (taking exchange rate at Rs. 81.55 per USD as per shipping bill) whereas during investigation, the said noticee had submitted the actual freight amount paid by them in respect of the aforesaid shipping bill as Rs. 13,96,537. Thus excess freight amount declared in respect of the aforesaid shipment works out to be at Rs. 3,32,323. The said excess freight amount has also been recovered by the said noticee from the overseas buyer of the export goods but the said noticee had not paid duty on the said excess freight amount which is part and parcel of the consideration/actual assessable value of the export goods.

LIC DATE: 14/08/2023 LCN NO: 1 5/5

Indian Customs EDI System (ICES)

ICES, KRISHNAPATNAM PORT, NELLORE-524003
Shipping Bill for Export (With CGSS / EXPORT DUTY)

SB No : 1437613 / 31/05/2023 BBC Realisation Date : 31/05/2023
CMA : ABAPM0926DC0001 GVR LOGISTICS
Print Date : 12/05/2023 14:28
This consignment was not opened for physical examination by Customs
Port of BL : ECDAM
Country of BL : EG
Port of Ldg-Code : INKR011 State of Origin : Maharashtra

EXPORTER DETAILS		CONSIGNEE
02620489441	1	BIN No. : AAHPM5556EFTB01
MAC IMPEX		THE GENERAL AUTHORITY FOR SUPPLY
BRANCH # 8 R. 21/22 APMC MARKET 11		COMMODITIES (GASC)
PHASE II TURMIE VASHI		99 KASR EL AINY ST. CAIRO, EGYPT
NAVI MUMBAI		EGYPTIAN IMPORTER TAX ID: 100055640
460703		EGYPT

Port of Loading : ICES, KRISHNAPATNAM Total Pkgs. : 16600
 Port of Discharge: Damiette Loose pkts. : 0
 Gross Wt(KGS) : 531404.000 Net Wt(KGS) : 530800.000
 Country of Dest : EGYPT No. of Crts. : 20
 Retaining No. : 274579 Rotation Date : 31/06/2023
 Nature of Crgo : C
 Marks and Nos. : AS PER INVOICE. CARGO ID: ca56e7c3-c668-48cf-8330-068960485141, NOTIFY PART
 AL - FARANA CO. RICE MILL SILOS TO PRESERVE YIELDS (S.A.E), DAKASSA - DAKHLIA -
 EGYPT TAX ID: 206-160-0131/W UNDERTAKE TO ABIDE BY THE PROVISIONS OF
 FOREIGN BANK ACC:50200020753033
 RIL Waiver No/Date:
 FOR VALUE (INR) : E14479282.51 F DRK+STR(INR):E0.00 F
 TAT DRK(INR) E0.00 F STR(INR):E0.00 F
 ROGST Value(INR):E0.00 ROGST Amt(INR):E0.00
 AD. Code : 0510001 DBK Bank a/c No :
 I.F.S. Code : ST / Excise Regn. :
 GSTN ID : 27AAHPM5556E12G GSTN Type : GSN
 TST Tax Value(INR) : 0.00 IGST Amt Paid(INR) : 0.00
 INVOICE DETAILS Invoice 1/1
 Inv. Val : 10231854.33 INR 189041.50 USD P&B Val : 14479282.51 INR
 Inv. No. : 1044/23-24 Inv. Dt : 31/05/2023
 Nat. of Con : CICFFCOFF(Inv) : USD Exp Contract :
 Exchange rate:1.00 (USD) = 81.550 (INR)

Rate	Currency	Amount
0.00	USD	203.50
Freight:	USD	21200.00
Discount:		0.00
Commission:		0.00
Other Deductions:	USD	8543.50
Packing Charges:	USD	0.00
Nature of Payment:LC		
Third Par:		
IP Add:		
Add(Cont):		
SD:		
Tax Value : 0.00	AED	
MDTET Value : 0.00	INR IGST Amt. Paid: 0.00	INR
	INR ROGST Amt : 0.00	INR

S.No.	Name of the Exporter	IEC Code	Shipping BIF Number	Shipping BIF Date	Invoice Number	Release Date	Nature of Consignment	Actual freight charges paid	Actual Insurance amount paid	Payment received from overseas buyers (In Farsighted Currency) through BIF	Through Reference of customer
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Freight declared in SB 21200*81.550 = Rs. 17,28,860
whereas actual freight paid by exporter is Rs. 13,96,537

17.8. The aforesaid deduction amounts claimed by the said noticee, in respect of the shipments detailed in Table A1 and A2 above, reimbursement of duty paid amounts taken by them separately in respect of the shipments detailed in Table B above and the excess freight amounts declared by them in their export documents in respect of the shipments detailed in Table C above, were not included in the declared FOB Value of goods in respect of these shipments. Investigation has revealed that these deduction amounts have also been recovered by them from the overseas buyer of the export goods in their bank accounts. Therefore, the reimbursement of export duty taken by the said noticee from the overseas buyer in any manner whether or not by declaring the same in the export documents or by mis-declaration of freight amounts in the export documents appeared to be forming part of the consideration received by the said noticee for delivery of the export goods on board the vessel after clearance of the shipments through the customs authorities at the port of export. Thus these excess freight amounts and deduction amounts claimed by the said noticee at the time of filing shipping bills and the amounts recovered separately from the overseas buyer over and above the invoice price as reimbursement of export duty, as discussed in above paras, also appear liable to be included in the FOB Value for the purpose of calculation of the export duty.

18. Legal Provisions:

18.1 Statutory provisions of the Customs Act, 1962 relevant to this case are enclosed as **Annexure-A** to this SHOW CAUSE NOTICE and the same are briefly discussed below:

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

- a) The term 'export' has been defined in "Section 2(18) of the Customs Act, 1962 as "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India."
- b) **Section 14 of the Customs Act 1962, stipulates that** 'for the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of theexport goods shall be the transaction value of such goods, that is to say, **the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation**, where the buyer and seller of the goods are not related and price is the **sole consideration** for the sale subject to such other conditions as may be specified in the rules made in this behalf.'
- c) In this provision the terms "**the price actually paid or payable for the goods**" and "**when sold for export from India for delivery at the time and place of exportation**" in the context of present case are very significant. For the process of export to be complete, the goods need to be taken out of India to a place outside India. This event can take place only after goods cross Indian borders. This is more so because the price has to be taken for sale of export goods when sold for export from India 'for delivery at the time and place of exportation'. The wording "**for the delivery-at the time and place for exportation**" has to be legally construed as "for delivery at the time and place of exportation on board the foreign going vessel". Thus the time and place of delivery of the export goods will

be when the goods are on-board the foreign going vessel which takes place after the goods are given a Let Export Order (LEO) by the jurisdictional Customs officer after examining the compliances to Customs law. By implication, all elements of cost that are required to be incurred to bring the goods 'for delivery at the time and place of exportation' to the foreign going vessel will have to be added to invoice price to arrive at a correct transaction value of export goods as per section 14 notwithstanding the manner as to how the financial transaction is organized by the said noticee and the overseas buyer. It is amply clear that without incurring associated expenses the export goods cannot be simply brought to the place of exportation at the time of export. Thus, in the impugned case, the price payable for the export goods for delivery at the time and place of exportation can be arrived at only after inclusion of all associated costs including the amounts of the export duty which have also been recovered by the said noticees from the overseas buyers of the export goods.

- d) "FOB value" means the price actually paid or payable to the said noticee for goods when the goods are loaded onto the carrier at the port of exportation. Thus the cost of the goods and all costs necessary to bring the goods onto the carrier including the export duty are included in the term 'FOB Value'.
- e) This method of calculation of 'FOB Value' is prescribed in various trade facilitation agreements such as 'ASEAN India Free Trade Agreement (AIFTA)' in a very clear manner as follows. FOB value shall be calculated in the following manner, namely:
 - (a) $FOB\ Value = \text{ex-factory\ price} + \text{other\ costs}$
 - (b) Other costs in the calculation of the FOB value shall refer to the costs incurred **in placing the goods in the ship** for export, **including but not limited to**, domestic transport costs, storage and warehousing, **port handling**, brokerage fees, service charges, et cetera.
- f) This in fact lays down the foundation for arriving at the assessable value of the export goods whereby various elements of costs, such as cost of the goods, domestic transport costs, storage costs, including the export duty, notwithstanding it is being paid to the said noticee directly by the foreign buyer or otherwise, are required to be added to the transaction value. Costing exercise of addition of other cost elements in FOB Value is not limited to transit transportation cost, storage & warehousing alone. Without payment of export duty, let export order cannot be issued by the jurisdictional customs office and the goods cannot be loaded on the foreign going vessel to take them out of India. On this background it is observed that declared transaction value of the export goods on which duty has been paid by the said noticee of rice does not reflect an FOB value i.e. a price payable for delivery of goods at the time and place of exportation which is a basis for export assessment.
- g) This practice of payment of export duty by considering the FOB Value as cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard stipulated that the existing practice of computation of the export duty by taking FOB price as the cum-duty price may be continued till 31.12.2008 and all the pending cases may be finalized accordingly. It was also stipulated that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation

under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

h) In order to bring in uniformity, transparency and consistency in assessment of export of Iron Ore, CBIC vide Circular No. 12/2014 –Customs dated 17.11.2014 directed the field formations *inter alia* to monitor the receipt of Bank Realisation Certificates for the purposes of comparison with the final invoices submitted by the said noticee to satisfy the accuracy of the assessed values. It also indicates that the total consideration received by the said noticee from the buyer for sale of the export goods have to be considered for assessment of the export goods. In shipments exported on FOB incoterm basis, duty has to be calculated on the total considerations received by the said noticee from the buyer whether or not they are included in the Bank Realization Certificate. For shipments exported on CIF/CF/CI inco-term basis, FOB Value has to be deduced from the CIF/CF/CI value by deducting the actual freight amounts and/or insurance premium amounts paid by the said noticee as the case may be.

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

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

19. The investigation into undervaluation of rice shipments exported by M/s. Mac Impex vide above mentioned Shipping Bills discussed in Tables A1, A2, B & C above revealed deliberate mis-statement and suppression of facts on part of the said noticee, who was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on *ad valorem* basis on such goods. As discussed in above paras, the said noticee had mis-declared the freight amounts whereas they were very well aware of the actual freight amounts paid by them in respect of the goods exported vide Shipping Bills mentioned in Table C above. Moreover, in respect of the shipments mentioned in Table B above, the said noticee had recovered the export duty from the overseas buyer without declaring these facts in the export documents. In respect of the goods exported by them through shipping bills as discussed in Table A 1 and A 2 above, the said noticee had wrongly claimed the deduction amounts and mis-declared the transaction value. Thus, the said noticee had not declared the actual FOB Values in the shipping bills thereby intentionally evading the applicable duties of customs on such undue deduction amounts/excess freight and export duty reimbursement amounts claimed by them.

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

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

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

20.3 Whereas, in this case, the value of the export goods shall be the transaction value thereof when the price is the sole consideration. As such, for determination of the transaction value of the export goods, the sole consideration received by the said noticee from the buyer should be taken into account, then it should be seen as to which prices are compulsory for delivery of the export goods on board the vessel. In this case, the said noticee is insisting that the export duty is on reimbursement basis from the overseas buyer of the export goods. By doing so, the said noticee is separately receiving a part of the export proceeds from the overseas buyer and not including the same in the assessable value of the export goods. By imposing the condition for reimbursement of duty from the buyer, the seller has imposed a condition on the buyer of the export goods which provides that if the buyer does not pay him a fixed amount (equal to the 20% export duty), they would not sell the export goods to the overseas buyer and would not deliver the same at the time and place of exportation. Thus, all such agreements wherein the seller had imposed a condition on the buyer by which buyer has to pay a part of the payment separately in the bank accounts of the seller on account of sale of the export goods, such payments are necessarily part of the consideration received by the seller for sale of the imported goods and all such amounts which are equal to the export duty amounts and in some cases the deduction amounts are in excess to the export duty amounts are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon. By declaring the excess freight amounts in the export documents pertaining to the shipments exported on CIF/CF incoterm basis, the said noticee had wrongly claimed excess deduction from the transaction value and all such excess freight amounts are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon.

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

Freightos Limited (NASDAQ: CRGO), is a leading, vendor-neutral booking and payment platform for the international freight industry. Freightos®, the digital freight booking platform, makes international shipping faster, more cost-effective, and more reliable.

The description of the said platform as available on their website under the heading 'About Freightos' states that Freightos® (NASDAQ: CRGO) is the leading,

vendor-neutral booking and payment platform for international freight, improving world trade. WebCargo® by Freightos and 7LFreight by WebCargo form the largest global air cargo booking platform, connecting airlines and freight forwarders. Over ten thousand freight forwarder offices, including the top twenty global forwarders, place thousands of eBookings a day on the platform with over fifty airlines. These airlines represent over 2/3rds of global air cargo capacity. Alongside ebookings, freight forwarders use WebCargo and 7LFreight to automate rate management, procurement, pricing and sales of freight services, across all modes, resulting in more efficient and more transparent freight services. More information is available at freightos.com/investors.

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

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

21.2 The above contention of DRI is also supported by the Incoterms which are widely used in the international transactions. Incoterm or International Commercial Terms which are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. These incoterms define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction. They are widely used in the international commercial transactions and procurement processes. These incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. As per Wikipedia, the Incoterms 2020 is the ninth set of international contract terms published by the International Chamber of Commerce with the first set published in 1936 (RUD-11). As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as under -

FOB – Free on Board (named port of shipment)

Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility does not end at that point unless the goods are "appropriated to the contract" that is, they are "clearly set aside or otherwise identified as the contract goods". Therefore, FOB contract requires a seller to deliver goods on board a vessel that is to be designated by the buyer in a manner customary at

the particular port. In this case, the seller must also arrange for export clearance. On the other hand, the buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination.

As per the allocation of costs to buyer/seller according to Incoterms 2020, in FOB terms, all costs related to loading of the export goods at origin, **export custom declaration**, carriage to the port of export, unloading of truck in port of export, loading on vessel/airplane in the port of export have to be borne by the seller of the goods and other expenses such as carriage to the port of import, insurance, unloading in port of import, loading on truck in port of import, carriage to the place of destination, import custom clearance, import duties and taxes and unloading at destination have to be borne by the buyer of the goods. Thus all cost until the loading of the export cargo on board the foreign going vessel have to be borne by the seller of the export goods which also include export customs declaration and cost related to it. Thus, it is evident that the export duty is includable in the FOB Value and the same have to be borne by the seller and it cannot be recovered by the seller from the overseas buyer. If the same is recovered, it becomes part of the consideration for sale of the export goods and thus becomes liable to be included in the FOB Value of the export goods.

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

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

22.2 In respect of the shipments of rice covered by the Shipping Bills as shown in the Table A1, A2, B & C above, it appeared that M/s Mac Impex negotiated and finalized one price with their overseas buyer but in the contracts, invoices and shipping documents, the said price was intentionally bifurcated in two parts. The amount of duty payable by the said noticee was deducted from the actual transaction value thereby mis-declaring and undervaluing the transaction value. In the shipping bills filed by the said noticee, such undervalued and mis-declared transaction value was shown, which was lesser than the price that was actually finalized with the overseas buyer as consideration for the export goods. A part of the consideration was intentionally excluded from the transaction value of the export goods by adopting four different modus operandi as discussed in para 17 above. The difference between the actual price finalized with the overseas buyer and the price shown and declared in the export documents was recovered by the said noticee from the buyer separately by an arrangement of the buyer and the seller in this regard. The said noticee and buyer may enter into any contract, they may sell/purchase the export goods on any terms (such as FOB, CIF, CF, CI or ex-works basis) but for the purposes of calculation of the export duty, the transaction value in terms with the provisions of Section 14 of the Customs Act, 1962 has to be derived and such transaction value is the FOB Value of the export goods. For the purpose of calculation of the FOB Value of the export goods, abatement of the export duty is not available as per Section 14 of the Customs Act, 1962 read with Customs Valuation Rules and CBIC Circular No. 18/2008-Customs dated 10.11.2008.

22.3 The receipt of these deduction amounts was apparently never disclosed to the concerned Customs authorities. The said amounts were received from the overseas buyer as reimbursement of taxes under wrong RBI Purpose code P1306 which is not meant for receipt of the export duty. The reduced FOB Value declared in the export documents was presented as the true Transaction Value being paid for the export goods by the overseas buyer as the deduction amount was not reflected in the Bank Realization Certificate (BRC) in respect of these export shipment. The deduction amount was recovered separately in their bank account as reimbursement of taxes. Hence, it appeared that the value declared by M/s Mac Impex to the concerned Customs authorities as the Transaction Value of the export cargo in respect of the 158 shipments of rice covered by the Shipping Bills as shown in the Table A1, A2, B & C above, is liable to be rejected under Rule 8 of the CVR(E), 2007 and the impugned export goods are liable to be valued at their actual Transaction Value as established by the present investigation, in accordance with the provisions of Section 14 of the Customs Act, 1962, read with Rule 3 of the CVR(E), 2007.

22.4 The amounts wrongly excluded from the FOB price were indeed part of the consideration negotiated and finalized between the said noticee M/s Mac Impex and their respective overseas buyers and the said amounts which were excluded from the FOB Value were duly received by the said noticee from the overseas buyer in their bank account. Therefore, the differential value (equal to the deduction amount/excess freight amount and the amount received separately as reimbursement of duty) as shown in the **Tables A1, A2, B & C** above appear to be includable in the declared value (FOB Value) of the respective export shipments to arrive at the correct transaction value at which the said goods were sold for export from India for delivery at the time and place of exportation and export Customs duty as per the prevailing rate needs to be charged on the said value. M/s Mac Impex appeared to be liable to pay the resultant differential duty in addition to the duty already paid by them.

22.5 In view of the above, in accordance with the provisions of Section 14 of the Customs Act, 1962, the amount of differential customs duty in respect of the Shipping Bills as mentioned in the **Table A1, A2, B and C** at Para 17 above, wherein a part of export proceeds was apparently not declared to the concerned Customs authorities, and the same was not included in the declared transaction value has to be worked out on the basis of actual Transaction Value of the export goods revealed during the investigation.

23. Calculation of Differential Duty:

23.1 As discussed in above paras, the said noticee had undervalued their export shipments of rice. For this four modus operandi were adopted by the said noticee. In some of their export shipments mentioned at Table A1 in para 17.2 above, the FOB price were undervalued by an amount equal to the amount of export duty paid by them at the time of export. In such shipping bills, actual transaction value of the export goods has to be re-determined by adding the amount of export duty which were wrongly claimed as deduction in the shipping bills. These deduction amounts are liable to be included in the actual assessable value of the export goods and differential duty of Rs. 18,72,124/- is liable to be recovered from the said noticee in respect of these deduction amounts as summerized below. The detailed calculation of differential duty is shown in **Annexure- I** to this SHOW CAUSE NOTICE.

Table - D

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction Amounts Claimed (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INNSA1	12	4,68,03,064	93,60,611	93,60,613	5,61,63,677	18,72,124
Grand Total	12	4,68,03,064	93,60,611	93,60,613	5,61,63,677	18,72,124

23.2 In several export shipments, as detailed in Table A2 in para 17.3 above, FOB price were undervalued and mis-declared by wrongly claiming the deduction of not only the duty paid amounts but some additional deduction amounts on account of purported expenses made in the country of destination in relation to the export goods were also claimed in the shipping bills. The said noticee had failed to give any satisfactory explanation or supporting documents for such additional deductions. In order to justify such additional deduction amounts during investigation, the said noticee had submitted forged ante-dated agreement with their overseas buyer/agent M/s Al Farana Co, Rice Mill, Egypt. These additional deduction amounts along with the deduction of duty paid amounts are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of Rs. 8,87,88,862/- is liable to be recovered from the said noticee in respect of all these deduction amounts also. The detailed calculation of differential duty is shown in **Annexure- II** to this SHOW CAUSE NOTICE.

Table - E

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction Amounts Claimed (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INIXY1	14	15,50,58,750	3,10,11,750	4,70,35,562	20,20,94,312	94,07,112
INKRI1	4	4,98,40,948	99,68,191	2,31,36,202	7,49,77,150	50,27,239
INMAA1	11	14,08,69,363	2,81,73,876	7,76,49,657	21,85,19,020	1,55,29,928
INMUN1	23	41,35,55,113	8,27,11,024	21,64,27,674	62,99,82,787	4,32,85,533
INNSA1	7	3,81,31,860	76,25,372	1,23,11,570	5,04,43,430	24,62,314
INV TZ1	10	14,30,71,513	2,86,14,303	6,53,83,681	20,84,55,194	1,30,76,736
Grand Total	69	94,05,27,546	18,81,05,516	44,39,44,346	1,38,44,71,892	8,87,88,862

23.3 In several export shipments, as detailed in Table B in para 17.4 above, exporter had separately recovered the duty amounts from the overseas buyer of the cargo. These facts were not declared by them before the customs authorities at the port of export. Admittedly, these amounts have also been recovered by the said noticee from the overseas buyer on reimbursement basis. Had the overseas buyer not paid these amounts to the said noticee, they would not have sold the export goods to the buyer. Thus these amounts are also part of the consideration received by the said noticee for sale of their export goods. These amounts separately recovered by the said noticee from the buyer are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of Rs. 2,24,65,568/- is liable to be recovered from the said noticee in respect of these reimbursed export duty amounts. The detailed calculation of differential duty is shown in **Annexure- III** to this SHOW CAUSE NOTICE.

Table - F

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Export Duty Amount separately reimbursed by the buyer (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INKPK6	2	2,03,62,931	40,72,586	40,72,586	2,44,35,517	8,14,517
INMUN1	14	15,31,74,707	3,06,34,943	3,06,34,943	18,38,09,650	61,26,997
INNSAI	48	25,05,01,451	5,01,00,289	5,01,00,255	30,06,01,705	1,00,20,052
INVTZ1	13	13,76,00,281	2,75,20,056	2,75,20,056	16,51,20,337	55,04,011
Grand Total	77	56,16,39,37	11,23,27,87	11,23,27,84	67,39,67,210	2,24,65,568

23.4 Apart from the above, in several shipments of rice, as detailed in Table C in para 17.6 above, the said noticee had declared excess freight amounts in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines for transportation of the export goods to the country of destination. Only the ocean freight amounts paid by the said noticee are eligible for deduction from the CIF value for calculation of the FOB Value of the export goods. Therefore, the excess freight amounts declared by the said noticee are not eligible/allowed for deduction as per the provisions of Section 14 of the Customs Act, 1962. These excess freight amounts claimed by the said noticee are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of Rs. 1,25,09,104/- is liable to be recovered from the said noticee in respect of these excess freight amounts also. The detailed calculation of differential duty is shown in **Annexure- IV** to the SHOW CAUSE NOTICE.

Table - G

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Export duty Paid (INR)	Excess Freight Amounts declared in the export documents (INR)	Re-determined FOB Value (INR)	Differential duty (INR)
INKR11	4	4,98,40,948	99,68,191	11,31,951	5,09,72,899	2,26,390
INMAA1	2	1,08,58,375	21,71,676	11,06,695	1,19,65,070	2,21,339
INMUN1	1	54,00,072	10,80,014	72,798	54,72,870	14,560
INNSAI	47	21,84,13,798	4,36,82,758	5,97,71,880	27,81,85,678	1,19,54,375
INVTZ1	11	12,05,09,769	2,41,01,954	4,62,196	12,09,71,965	92,439
Grand Total	65	40,50,22,962	8,10,04,593	6,25,45,520	46,75,68,482	1,25,09,104

23.5 In view of the above-mentioned four modus operandi followed by the said noticee for evasion of export duty, their re-determined assessable value in respect of 158 export shipments have been calculated as shown in below table. Accordingly, the differential duty payable by the said noticee M/s Mac Impex on the said re-determined assessable value works out to be at **Rs. 12,56,35,659/-** as shown in below Table. The detailed calculation of the differential duty amounts has been shown in **Annexures I to IV** to the SHOW CAUSE NOTICE.

The port wise summary of differential duty payable by M/s Mac Impex is as under:

Table - H

Custom House Code/ Name	No. of Shipping Bills	Declared FOB Value (INR)	Re-determined FOB Value (INR)	Differential Duty payable (INR)
INIXY1	14	15,50,58,750	20,20,94,312	94,07,112
INKPK6	2	2,03,62,931	2,44,35,517	8,14,517
INKRI1	4	4,98,40,948	7,61,09,101	52,53,629
INMAA1	11	14,08,69,363	21,96,25,715	1,57,51,267
INMUN1	37	56,67,29,820	81,38,65,235	4,94,27,080
INNSA1	67	33,54,36,375	46,69,80,693	2,63,08,867
INVTZ1	23	28,06,71,794	37,40,37,727	1,86,73,186
Grand Total	158	1,54,89,69,980	2,17,71,48,299	12,56,35,669

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

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

24.3 In view of the discussion supra, it is evident that the partners of the said noticee firm M/s Mac Impex, were well aware about the actual value of the export goods. They have knowingly got indulged in preparation and planning of forged / manipulated export documents with the assistance of their employees, which they used to forward to the Customs broker in relation to Customs clearance of the said export goods at the time of exportation by way of wilful mis-declaration and intentional suppression of these

facts in the Shipping Bills filed by them and thus they appear to have evaded the applicable Customs duty on export of rice.

24.4 In the event of short levy of Customs duty by reason of collusion, any wilful mis-statement or suppression of facts by the said noticee or the agent or employees of the said noticee, such duty can be recovered by invoking extended period of five years as provided in **Section 28(4) of the Customs Act, 1962**. In case of 158 Shipping Bills listed in **Tables A1, A2, B and C in para 17.2 to 17.5 above**, it appeared that the said noticee has knowingly and deliberately mis-declared the transaction value (i.e FOB Value). Hence, the extended period of five years is rightly invokable in all these cases to recover the differential duty as detailed in corresponding **Annexure -I, Annexure -II, Annexure -III, and Annexure -IV** of the SHOW CAUSE NOTICE. Further, M/s. Mac Impex is also liable to pay interest on their said differential duty liability as per the provisions of Section 28 AA of the Customs Act, 1962, at applicable rate.

25. From the scrutiny of the documents gathered/submitted during investigation by the said noticee M/s Mac Impex, scrutiny of the export data and examination of the relevant documents found in the whatsapp conversation, which were also recovered during the examination of the mobile phone of Sh. Sourabh Mehta, CFO of the export firm, statements of the key persons involved in export of rice from various ports of India, it appeared that—

- i. Shri. Mohit C. Murgai and Sh. Amol C. Murgai, both partners of M/s Mac Impex were the key persons who on behalf of M/s. Mac Impex negotiated and finalized the sale price of rice, exported by M/s. Mac Impex to various overseas buyers, vide 158 Shipping Bill as detailed in Table A1, Table A2, Table B and Table C above.
- ii. The declared FOB value in respect of shipping bills listed in Tables A1, A2, B & C, did not reflect the correct transaction value of the export goods;
- iii. As discussed in above paras, the actual transaction value (i.e. FOB Value) was not declared by them in their export documents. They have undervalued and mis-declared their transaction value with intent to evade applicable duty of customs which is leviable @ 20% *ad valorem* on the actual transaction value of the export goods in following manners:
 - In respect of Shipping bills listed in Table A1 above, the FOB Value was undervalued by them by an amount equal to the amount of export duty paid on export of rice and the said amount was wrongly claimed as deduction in the shipping bills.
 - In respect of Shipping Bills listed in Table A 2, the declared FOB Value was undervalued by them by an amount equal to the amount of export duty plus additional amounts in the name of expenses incurred in the country of importation. These amounts were also wrongly claimed as deductions in the shipping bills.
 - In respect of the shipping bills listed in Table B, above the declared FOB Value was undervalued by an amount equal to the amount of duty paid by them on export of rice cargo, however, the said amounts were not claimed as deductions in the shipping bills, in fact, they have declared 'nil'

deduction amount in the shipping bills. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.

- In respect of the shipping bills listed in Table C, the declared FOB Value was further undervalued by an amount equal to the excess freight amounts declared by the said noticee in the shipping bills which were over and above the actual freight amounts paid by them. The ocean freight amounts paid by the said noticee are eligible deductions from the CIF Value. By declaring the excess freight amounts, exporter had wrongly claimed excess deductions of freight amounts which are not eligible. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.

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

- iv. The FOB value of export goods in all these cases was mis-declared by M/s. Mac Impex to the Customs authorities in the shipping bills filed by them which is supported by their sales contracts/proforma invoices/ export invoices, resulting in suppression and mis-declaration of actual transaction value at the time of assessment of the export goods. As such, the value of export goods in respect of all these Shipping Bills was mis-represented to be lower than the actual transaction value, thereby causing evasion of export duty leviable on rice shipments exported by them;
- v. The value of export goods pertaining to each of these Shipping Bills are liable to be rejected and reassessed as per their actual transaction value as ascertained during investigation, by taking into account the amount which was excluded from the declared value at the time of assessment, as brought out in above paras;
- vi. The balance amount not included in the declared FOB Value and wilfully suppressed by not declaring to Customs with an intention to misrepresent the transaction value of the export goods, is liable to be assessed to duty at the applicable rate as detailed in '**Annexures-I to IV**' of the SHOW CAUSE NOTICE and the same is recoverable along with interest at applicable rate;
- vii. The act of undervaluation and mis-declaration of actual transaction value in respect of Shipping Bills listed in Tables A1, A2, B & C by M/s. Mac Impex has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962 and consequently M/s. Mac Impex have rendered themselves liable to a Penalty under the provisions of Section 114A and Section 114AA of the Customs Act, 1962;
- viii. Shri. Mohit C. Murgai, Sh. Amol C. Murgai, Partners of M/s. Mac Impex, appeared to be the person who knowingly or intentionally either made, signed and used or caused to be made, signed and used, the contracts, invoices and Shipping Bills for export of rice by M/s. Mac Impex, which were incorrect as regards to the value of export goods for payment of export duty. The goods covered under Shipping Bills listed in Tables A1, A2, B & C above, contained the declarations made by M/s. Mac Impex which were false and incorrect in material

particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were signed in the overall supervision of Sh. Mohit C. Murgai and Sh. Amol C. Murgai who were handling the day to day business of the export firm. This fact has been admitted by Shri. Mohit C. Murgai in his statements recorded u/s 108 of the Customs Act, 1962. Shri. Amol C. Murgai, other partner of M/s. Mac Impex, did not join investigation even after issuance of various summons u/s 108 of the Customs Act, 1962 to him which indicate that he has nothing to comment thus tacitly accepting these facts of undervaluation. The whatsapp chats of Sh. Amol C. Murgai, retrieved from the mobile phone of Sh. Sourabh Mehta, CFO of M/s Mac Impex also indicate that Sh. Amol C. Murgai was actively involved in the export of rice and drafting of the forged contracts in relation to the export of rice by them. In view of this, it appeared that Shri. Mohit C. Murgai and Sh. Amol C. Murgai, are the key person who have orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. Shri. Chander Murgai, partner of M/s Mac Impex had also not responded and complied with any summons issued to him during investigation which indicate that he had nothing to comment in this regard consequently indicating his tacit approval for the acts and omissions leading to the evasion of duty on export of rice by their export firms. Shri. Mohit C. Murgai, Sh. Amol C. Murgai and Sh. Chander Murgai, are, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by M/s. Mac Impex. The act of Shri. Mohit C. Murgai, Sh. Amol C. Murgai and Sh. Chander Murgai regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by M/s. Mac Impex has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, Shri. Mohit C. Murgai, Sh. Amol C. Murgai and Sh. Chander Murgai, have rendered themselves liable to penal action under the provisions of Section 114 (ii) and 114AA of the Customs Act, 1962;

26. CBIC vide Notification No. 28/2022-Customs (N.T.) dated 31.03.2022 had stipulated that in cases of multiple jurisdictions as referred in Section 110AA of the Customs Act, the report in writing, after causing the inquiry, investigation or audit as the case may be, shall be transferred to officers described in column (3) of the said Notification along with the relevant documents. For cases involving short levy, non-levy, short payment or non-payment of duty, as provided in Section 110AA (a) (ii), the functions of the proper officer for exercise of powers under Section 28 of the Customs Act, 1962 have been assigned to the jurisdictional Pr. Commissioner/ Commissioner of Customs in whose jurisdiction highest amount of duty is involved. Since, in the present case, exports have been made from 7 different ports, as mentioned in Table 1 above, however the highest amount of differential export duty is in respect of Mundra Port (INMUN1). Hence, Mundra Port, being the port involving highest revenue, the SHOW CAUSE NOTICE is being made answerable to the Principal Commissioner/ Commissioner of Customs, Mundra Port, Gujarat for the purpose of issuance as well as adjudication of Show Cause Notice under Section 110AA read with Notification No. 28/2022-Customs (N.T) dated 31.03.2022.

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27.1 M/s Mac Impex (IEC-0302048944), through its partners namely Sh. Mohit C. Murgai, Sh. Amol C. Murgai and Sh. Chander Murgai, were called upon to show cause within 30 (thirty) days as to why—

- i. The declared assessable value of **Rs. 154,89,69,980/-** in respect of 158 shipments of rice exported vide Shipping Bills detailed in '**Annexure-I, II, III & IV**', should not be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3 (1) ibid and Section 14 (1) of the Customs Act, 1962;
- ii. The actual assessable value in respect of Shipping Bills detailed in '**Annexure-I, II, III & IV**', should not be re-determined at **Rs. 217,71,48,299/-** under the provisions of Section 14 (1) of the Customs Act, 1962, by taking into account - **(a)** the amounts claimed as deduction in the shipping bills, which were equivalent to amount of export duty paid by them; **(b)** additional deductions claimed in respect of expenses made/to be made in the country of destination after exportation; **(c)** excess ocean freight amounts claimed and **(d)** undeclared export duty reimbursement amounts - which were recovered by them from the overseas buyer of the goods, as discussed in Para 17 & Para 23 of this notice;
- iii. The differential (export) duty amounting to **Rs. 12,56,35,659/-** payable, as calculated and shown in '**Annexure-I, II, III & IV**' to this notice, in respect of these 158 Shipping Bills filed by them at 6 different ports, should not be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28(4) of the Customs Act, 1962;
- iv. Applicable interest on the afore-said total differential duty amount of **Rs.12,56,35,659/-** should not be demanded and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;
- v. The shipments of rice exported vide Shipping Bills detailed in '**Annexure-I, II, III & IV**' to the Notice having re-determined assessable value of **Rs.2,17,71,48,299/-**, should not be held liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962;
- vi. Penalty under the provisions of section 114 A and Section 114 AA should not be imposed upon them.

27.2 Now therefore, Sh. Mohit C. Murgai and Sh. Amol C. Murgai and Sh. Chander Murgai, resident of Om Villa, Plot No 72, Sector-28, Vashi, Navi Mumbai, all partners of **M/s Mac Impex** (having **Importer Exporter Code No. 0302048944**), are hereby called upon to show cause within 30(thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., the **Principal Commissioner of Customs, Mundra Port**, having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421, as to why penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 should not be imposed upon them for their acts and omissions in evasion of Customs Duty amounting to **Rs. 12,56,35,659/-** on export of rice through their partnership firms.

PERSONAL HEARING-

28. PH held on 21.08.2025 and 21.09.2025

The Personal Hearing dated 21.08.2025 and 02.09.2025 were attended by Shri Ashish Yadav, Advocate and Shri Tanuj Jain, Authorised Representative on 21.08.2025, at 11.30 AM and 02.09.2025 at 4:30 pm via Virtual Mode on behalf of M/s Mac Impex and other Noticees no. 02 to 04. They reiterated the facts as per their submission and requested for judicious decision in this matter.

WRITTEN SUBMISSION-

29. M/s. Mac Impex vide their submission dated 07.03.2025, inter-alia, submitted that-

(i) they, through M/s. Al Farana Rice Mills Silos to preserve yields (S.A.E.), had secured a contract/Tender of export of rice from the Egyptian Government vide Contract for the supply of 25000 MT +/-10% of white rice as per the brochure of practice conditions no.- (1) for the year 2022/2023 session 14.02.2023 on CIF basis to the tune of US Dollars \$544.50 per MT (all inclusive) including the price of Goods, Indian Export Clearance, logistics, inclusive of all taxes till the warehouses as designated by the holding company for food industries, primarily at Egypt, which was subcontracted to M/s. Mac Impex alongwith shipping. A copy of the aforesaid contract of export with the Arab Republic of Egypt and M/s. Al Farana Rice Mills Silos to preserve yields (S.A.E.) is annexed herewith the reply as Ann-R/2.

(ii) they had also entered into another contract with the Republic of Egypt based Al Farana Rice Mills Silos to preserve yields wherein they had agreed to provide certain services within the territorial limits of the Egypt, which included all port clearing, forwarding demurrage, warehousing, labour charges delivery at POD all inclusive to the designated warehouse as per the instructions of the holding company for food industries. Accordingly, a contract between Mac Impex and Al Farana Rice Mills Silos to preserve yields (S.A.E) was also executed to implement/perform the original contract awarded by Republic of Egypt in favour of the Al Farana Rice Mills Silos to preserve yields (S.A.E.) which confirms FOB \$ 335 PMT with the respondent firm on duty reimbursement basis on 24.02.2023. However, including the above mentioned consignment, all the exported consignment under question was exported through 6 different ports of India. However, manner of calculation of custom duty remains the same on all the consignment exported and approved by customs authority under scrutiny.

(iii) for the purpose of calculation and payment of custom duty, following methods were adopted:-

- 20% ad-valorem custom duty calculated and paid on FOB after deducting the freight, insurance and other deductibles;
- Total Value of Contract was \$544.50 which includes FOB of \$335 and remaining value was deducted from the total value of the contract on account of duty reimbursement, freight and insurance and other expenses including expenses to be incurred by the AL Farana Rice Mills Silos to preserve yields (S.A.E.) in the territory of Republic of Egypt (Reliance is placed on Agreement dated 24.02.2023).
- FOB taken as FOB= Total Value of the Contract - Deductions - Freight - Insurance (in consonance with the clause 5 of Circular No. 18/2008-Cus.
- Total 20% ad valorem custom fee was calculated and paid on the above FOB on the basis of re reimbursement basis. Reliance is placed on Circular No. 18/2008-Cus.

(iv) **Unauthorized Investigation/Re-assessment:** It is submitted that as per Section 28(4) of the Customs Act, 1962, "the Proper officer of Customs" can only investigate for the purpose of the re-assessment of the completed export/import transaction and as per Notifications and recent judgement of the Hon'ble Supreme Court, Proper officer of the Custom includes certain class of Officers of DRI, which does not include SIO of DRI having the rank of Superintendent. Reliance is placed on Notification No. 44/2011-Cus

(N.T.) issued on 06.07.2011 which inter-alia notified that following officers of DRI shall be proper officer for the purpose of Section 17 and 28 of the Act.

(v) At the relevant point of time DRI was not the proper officer, in view of the judgement of the Hon'ble Supreme Court in CA No. 1827- M/s. Canon India Pvt. Limited V. Commissioner of Custom and the judgement of various High Courts of different states of India, the DRI was held not as a proper officer for the purpose of Section 28(4) of the Custom Act.

(vi) After passing of the review judgement in the Canon case and revalidation act vide Finance Act, 2022, Jurisdiction of DRI was upheld. However, it is still not clear that what would be impact of the SCN cases which were initiated by the DRI but SCN issued by the jurisdictional Principal Commissioner while at the same time in view of the aforesaid judgement, the DRI had the jurisdiction to issue show cause notice on its own through its Proper Officer appointed vide various Notifications from time to time. However, in present case assigned/authorized officer did not conduct the investigation and thus can not issue the Show cause notice and this Hon'ble Authority lacks Jurisdiction in view of the aforesaid review judgement.

(vii) In view of the recent judgement of the Hon'ble Supreme Court and Circular No. 18/2015-Cus dated 09.06.2015, the Hon'ble Authority has no jurisdiction to issue the Show cause notice, where the investigation has been conducted by DRI.

(viii) It is submitted that due to and during the investigation the fundamental rights of the respondents have been violated as the established due procedural laws were not followed and an investigation was conducted unauthorisedly and privileged materials were extracted under influence and pressure of power.

(ix) The matter is barred by limitation.

(x) Shri Mohit C Murgai and, Shri Amol C Murgai are the managing partners of the firm, while Shri Chander Murgai is the senior citizen of India and dormant/sleeping partner of the M/s. Mac Impex and as such personal liability may not kindly be fastened upon him.

(xi) The respondents have no intention to evade or save custom duty as the custom duty was paid on all export transactions on the basis and manner of calculation prevalent at that time and the same was passed/cleared/approved by the port officer of the Custom, who has examined and cleared the consignment for board.

(xii) There may only be difference in duty paid on account of freight charges as it keeps fluctuating and the respondents had locked the freight charges on the basis of charges prevailing at the time of filing of entry and this is a practical commercial difficulty which should be taken in account, while passing any order.

(xiii) Duty can not be levied on duty. As per the DRI custom duty is liable to be paid after including custom duty in the price of goods which suggests that the respondents has to pay duty on duty which is not fair and legal.

(xiv) It is submitted that the DRI was not the proper officer as per the established position of law and thus investigation carried on by the official of DRI was lower in rank and not authorized has vitiated the proceedings and thus present show cause notice can not be issued by sending it just in the name of present authority.

(xv) It is submitted that penalty and extended period of limitation as claimed under the impugned show cause notice not applicable as the issue in question is moreover relates to manner of calculation and not intentionally evasion of duty.

(xvi) The duty was paid bona fide as per the calculation in accordance with the established principles of law by the respondents and thus there is no duty pending to be paid.

(xvii) Lenient view may kindly be taken as the exported item was duty free prior to the notification to that effect and at present also duty free except during the period of export of few consignments by the respondents.

(xviii) Review of declared value is quasi judicial function for the purpose of Section 28 to be discharged by proper officer of Custom only and can not be compared with the reassessment for the purpose of Section 17 of the Act who has done the assessment at initial stage and is an administrative function.

(xix) Since there is no suppression of facts and collusion, the extended limitation can not be invoked.

(xx) The valuation of custom duty was done as per the Section 14 of the Custom Act in accordance with the established principles of calculation of duty and the same was accepted by the officer of port as the same was noticeable on the face of it and thus there are no reasons to reject the same after such a long duration of time.

(xxi) Rule 8 of CVR, 2007 are not applicable for the purpose of re-assessment/review under Section 28 of the Custom Act but can be used against re-assessment under S. 17 at the first instance before clearance of the export by the Jurisdictional custom officer which is not in the case before hand.

(xxii) The custom duty can not be re-determined at A.V. -Rs. 217,71,48,299/- after taking into account the following factors:-

a. The amount of duty claimed as deductions:-

Vide agreement dated 24.02.2023 pertaining to export of rice to Egypt, FOB was declared at the rate of \$335 and Insurance and freight were to be paid by the buyer.

b. Additional deductions claimed in respect of expenses made/to be made in the Country of destination after exportation-

No additional deductions were done except those of allowed deductions as explained earlier.

c. Excess Ocean Freight amounts claimed-

The ocean freight keeps fluctuating on a daily/weekly basis without prior intimation and may vary at the time of filing entries from that of boarding time thus the respondents bona fide claimed the freight in accordance with the freight at the relevant point of time and the same can not be challenged by comparing with the freight prevalent at later stage to negate such claim as wrong.

d. Undeclared export duty reimbursement amounts- which were recovered from the overseas buyers of the goods, as discussed in Para 17 & Para 23 of the notice.

(xxiii) Due to peculiar condition of the present case extended period of limitation is not applicable since there was no duty on the export of rice in past and at present also the rice export are duty free.

(xxiv) Section 113(i) is applicable on goods attempted to be exported and not goods already exported.

(xxv) Penalty is a penal provision and applicable only when there are intentional attempt to evade the custom duty and not for calculation deviations wherein after determination and adjudication by this authority only deficit or

differential duty should be asked. Even if so present case may fall under S.114(ii) and not under 114(iii), however aforesaid both the provisions are made to penalize attempt to evade duty and not for already paid duty case with the clearance of the officer of custom at first instance. Further, penalty under S. 114AA is not attracted in the present case as there is no willful misrepresentation, collusion and suppression of material.

Further, M/s. Mac Impex vide their additional submission dated 01.09.2025 submitted that-

- That, the Senior intelligence Officer of Delhi based DRI suddenly investigated on its own without any authorization and sanctity of law and approval of proper officer of the Custom and scrutinized various shipping bills pertaining to the year of 2023 and gave finding that there is deficit of custom duty to the tune of **Rs. 12, 56, 35,659/-** after reassessing the self-declared value of the export transaction of declared value of **Rs. 154,89,69,980/-** and sought to re-determined the same to the tune of **Rs. 217, 71, 48, 299/-** believing that the respondents had evaded the custom duty by the following modus of operandi:
 - Non Payment of Duty on Reimbursed Duty:** By not paying duty on reimbursed duty received from the overseas buyer which includes all the 158 shipping bills,
 - Deduction of Duty from the Value of Goods (Duty upon Duty):** By deducting duty from the value of goods and thereby calculating duty,
 - Freight Difference:** By filing excess freight shipping bills, includes 65 shipping bills out of total 158 bills in question,
 - Wrongful Deductions:** By claiming wrongful deductions. includes 45 shipping bills out of total 158 bills.

They have submitted the Justification on behalf of Respondents as unde:

- Non Payment of Duty on Reimbursement of Duty by the overseas buyer:** It is submitted that, duty on reimbursed duty is unreasonable as it is paid after clearance of the goods and payment of applicable duty to keep the seller / exporter indemnified after the completion of the export.
- Deduction of Duty from the value of the Goods:** It is submitted that, the whole association of exporter is aggrieved with this issue and therefore has challenged the practice of levying duty upon duty before the concerned Hon'ble Courts in past and at present, it is pending before the Hon'ble Supreme Court in case titled as **Sesa Goa Ltd. (2020) (371) / ELT A304 (SC)** and thus Hon'ble commission should resist to apply the same.
- Freight Difference:** It is submitted that, it is the practical difficulty of exporter which compel them to book ship prior to the date of export and the gap between the same lead to the increase or decrease of the freight over the period of time which is beyond the control of the said noticees and thus may lead to deficit or surplus of duty. Here, the DRI has used the pick and choose policy by selecting only 65 shipping bills where fluctuation of freight was on deficit side and deliberately ignored the shipping bills where fluctuation of freight was surplus. Further, even in those 65 bills duty was added in freight column by bonafide mistake and may kindly be considered as clerical error and accordingly after adjustment of the aforesaid discrepancies there shall be no deficit in freight duty. List of 65 bills in question on deficit side picked by DRI are given below with explanation as follows:

Sr. no.	SB No	SB DATE	Port	Duty Paid	Duty As per Custom Calculation	Duty Paid As per our Calculation	Difference in between our calculation & Custom	Remarks
1	1051992	13-05-2023	INKRII	\$35,510.00	\$36,276.53	\$35,510.00	\$766.53	
2	1433818	13-05-2023	INKRII	\$35,510.00	\$36,349.87	\$35,510.00	\$839.87	
3	1437612	13-05-2023	INKRII	\$35,510.00	\$36,325.01	\$35,510.00	\$815.01	
4	1556701	13-05-2023	INVTZ1	\$37,100.00	\$37,196.51	\$37,100.00	\$96.51	
5	1659154	13-05-2023	INKRII	\$16,979.50	\$16,340.10	\$15,979.50	\$360.60	

6	1798249	13-05-2023	INVTZ1	\$18,550.00	\$18,582.30	\$18,550.00	\$32.30	
7	4232661	13-05-2023	INNSA1	\$7,293.00	\$7,644.82	\$7,293.00	\$351.82	
8	4233136	13-05-2023	INNSA1	\$7,293.00	\$7,644.82	\$7,293.00	\$351.82	
9	4280423	13-05-2023	INNSA1	\$7,293.00	\$9,318.49	\$7,293.00	\$2,025.49	duty wrongly put in freight column, typo error
10	4280569	13-05-2023	INNSA1	\$7,293.00	\$9,318.49	\$7,293.00	\$2,025.49	duty wrongly put in freight column, typo error
11	4298671	13-05-2023	INNSA1	\$7,293.00	\$9,133.50	\$7,293.00	\$1,840.50	duty wrongly put in freight column, typo error
12	4298762	13-05-2023	INNSA1	\$7,293.00	\$9,133.50	\$7,293.00	\$1,840.50	duty wrongly put in freight column, typo error
13	4318982	13-05-2023	INNSA1	\$7,293.00	\$7,984.17	\$7,293.00	\$691.17	
14	4318985	13-05-2023	INNSA1	\$7,293.00	\$7,799.18	\$7,293.00	\$506.18	
15	4319023	13-05-2023	INNSA1	\$7,293.00	\$7,984.17	\$7,293.00	\$691.17	
16	4319108	13-05-2023	INNSA1	\$7,293.00	\$7,984.17	\$7,293.00	\$691.17	
17	4319109	13-05-2023	INNSA1	\$7,293.00	\$7,799.18	\$7,293.00	\$506.18	
18	4322675	13-05-2023	INNSA1	\$7,293.00	\$7,984.17	\$7,293.00	\$691.17	
19	4464609	13-05-2023	INNSA1	\$1,521.41	\$1,614.41	\$1,521.41	\$93.00	
20	5045182	13-05-2023	INNSA1	\$13,260.00	\$17,614.15	\$13,260.00	\$4,354.15	
21	5051109	13-05-2023	INNSA1	\$13,000.00	\$20,118.73	\$13,000.00	\$7,118.73	duty wrongly put in freight column, typo error
22	5292101	13-05-2023	INNSA1	\$13,000.00	\$15,580.16	\$13,000.00	\$2,580.16	duty wrongly put in freight column, typo error
23	5301693	13-05-2023	INNSA1	\$13,612.00	\$16,192.16	\$13,612.00	\$2,580.16	brc closing pending
24	5456807	13-05-2023	INNSA1	\$13,250.00	\$17,969.49	\$13,250.00	\$4,719.49	duty wrongly put in freight column, typo error
25	5475348	13-05-2023	INNSA1	\$13,250.00	\$17,128.84	\$13,250.00	\$3,878.84	duty wrongly put in freight column, typo error
26	5475744	13-05-2023	INNSA1	\$13,250.00	\$17,429.11	\$13,250.00	\$4,179.11	duty wrongly put in

									freight column, typo error
27	5577420	13-05-2023	INNSAI	\$13,250.00	\$18,063.79	\$13,250.00	\$4,813.79	duty wrongly put in freight column, typo error	
28	5604767	13-05-2023	INNSAI	\$12,840.68	\$17,749.18	\$12,840.68	\$4,908.50		
29	5609511	13-05-2023	INNSAI	\$12,828.15	\$17,037.18	\$12,828.15	\$4,209.04	duty wrongly put in freight column, typo error	
30	5735580	13-05-2023	INNSAI	\$13,250.00	\$18,158.50	\$13,250.00	\$4,908.50	duty wrongly put in freight column, typo error	
31	5775633	13-05-2023	INNSAI	\$13,250.00	\$17,799.59	\$13,250.00	\$4,549.59	duty wrongly put in freight column, typo error	
32	5820926	13-05-2023	INNSAI	\$13,250.00	\$17,806.50	\$13,250.00	\$4,556.50	duty wrongly put in freight column, typo error	
33	5847783	13-05-2023	INNSAI	\$13,250.00	\$18,495.39	\$13,250.00	\$5,245.39	duty wrongly put in freight column, typo error	
34	5942644	13-05-2023	INNSAI	\$13,250.00	\$17,759.83	\$13,250.00	\$4,500.83	duty wrongly put in freight column, typo error	
35	5948070	13-05-2023	INNSAI	\$13,250.00	\$18,459.12	\$13,250.00	\$5,209.12	duty wrongly put in freight column, typo error	
36	5948083	13-05-2023	INNSAI	\$13,250.00	\$17,082.57	\$13,250.00	\$3,832.57	duty wrongly put in freight column, typo error	
37	6051527	13-05-2023	INNSAI	\$13,250.00	\$17,501.07	\$13,250.00	\$4,251.07	duty wrongly put in freight column, typo error	
38	6066699	13-05-2023	INNSAI	\$13,250.00	\$17,607.06	\$13,250.00	\$4,357.06	duty wrongly	

									put in freight column, typo error
39	6137115	13-05-2023	INNSA1	\$13,612.00	\$17,162.98	\$13,612.00	\$3,550.98	duty wrongly put in freight column, typo error	
40	6142452	13-05-2023	INNSA1	\$13,250.00	\$18,203.51	\$13,250.00	\$4,953.51	duty wrongly put in freight column, typo error	
41	6144029	13-05-2023	INNSA1	\$13,408.00	\$17,572.79	\$13,408.00	\$4,164.79	duty wrongly put in freight column, typo error	
42	6159100	13-05-2023	INNSA1	\$13,408.00	\$17,572.79	\$13,408.00	\$4,164.79	duty wrongly put in freight column, typo error	
43	6159170	13-05-2023	INNSA1	\$13,408.00	\$16,953.23	\$13,408.00	\$3,545.23	duty wrongly put in freight column, typo error	
44	6255475	13-05-2023	INNSA1	\$13,250.00	\$17,553.33	\$13,250.00	\$4,303.33	duty wrongly put in freight column, typo error	
45	6412345	13-05-2023	INNSA1	\$10,726.40	\$14,144.00	\$10,726.40	\$3,417.60	duty wrongly put in freight column, typo error	
46	6412716	13-05-2023	INNSA1	\$10,726.40	\$14,144.00	\$10,726.40	\$3,417.60	duty wrongly put in freight column, typo error	
47	6854891	13-05-2023	INNSA1	\$13,408.00	\$13,489.43	\$13,408.00	\$81.43		
48	7164372	13-05-2023	INMUN1	\$13,408.00	\$13,588.76	\$13,408.00	\$180.76		
49	8081481	13-05-2023	INVTZ1	\$26,832.00	\$26,884.27	\$26,832.00	\$52.27		
50	8370264	13-05-2023	INNSA1	\$14,575.00	\$18,866.07	\$14,575.00	\$4,291.07		
51	8370265	13-05-2023	INNSA1	\$14,575.00	\$18,866.07	\$14,575.00	\$4,291.07		
52	8370314	13-05-2023	INNSA1	\$14,575.00	\$18,866.07	\$14,575.00	\$4,291.07		
53	8520316	13-05-2023	INVTZ1	\$13,416.00	\$14,007.54	\$13,416.00	\$591.54		
54	8536529	13-05-2023	INVTZ1	\$27,401.00	\$27,447.22	\$27,401.00	\$46.22		
55	8538243	13-05-2023	INVTZ1	\$27,401.00	\$27,447.22	\$27,401.00	\$46.22		
56	8539629	13-05-2023	INVTZ1	\$27,401.00	\$27,447.22	\$27,401.00	\$46.22		
57	8540992	13-05-2023	INVTZ1	\$27,401.00	\$27,447.22	\$27,401.00	\$46.22		
58	8541626	13-05-2023	INVTZ1	\$27,401.00	\$27,447.22	\$27,401.00	\$46.22		

59	8542947	13-05-2023	INVTZ1	\$24,660.90	\$24,701.28	\$24,660.90	\$40.38	
60	8582286	13-05-2023	INNSAI	\$14,575.00	\$19,123.68	\$14,575.00	\$4,548.68	
61	8976289	13-05-2023	INMAAI	\$13,250.00	\$14,600.45	\$13,250.00	\$1,350.45	
62	8976306	13-05-2023	INMAAI	\$13,250.00	\$14,600.45	\$13,250.00	\$1,350.45	
63	9343220	13-05-2023	INNSAI	\$22,525.00	\$23,825.77	\$22,525.00	\$1,300.77	
64	9388650	13-05-2023	INNSAI	\$4,240.00	\$4,460.50	\$4,240.00	\$220.50	
65	9996027	13-05-2023	INVTZ1	\$37,100.00	\$37,184.86	\$37,100.00	\$84.86	
TOTAL				\$9,97,171.44	\$11,51,573.72	\$9,97,171.44	\$154402.28	

4. **Wrongful Deductions:** It is submitted that, the deductions w.r.t. 45 shipping bills in question which appears wrongful deductions to the DRI are pertaining to the payment made to the Alfarana i.e. foreign agent of the respondent, wherein out of total due amount to Alfarana, approximately 70% has been paid to the same and 30 % is on hold due to receiving of the present Notice and uncertainty of the fate of the case. It is important to mention here that, 45 % were transferred even before initiation of investigation by DRI via TT through legal channel and more than 40 % was paid to the foreign Government body via incoming TT similar to that of FCI in India. Supporting evidence of the same are collectively annexed herewith this as Annexure - WS / 1. List of aforesaid Shipping Bills are given below:

Sr. no	SB No	SB DATE	Port	Duty Payable as per customs	Duty Paid by Applicant	Remarks
1	100245	13-05-2023	INMUN 1	\$1,19,236.75	\$88,775.00	Out of total value of contract of 545 FOB was 335 115 was to be paid to Alfarana foreign agent of the respondents Out of which 70 percent payment already made to alfarana and 30 percent on hold due to SCN
2	102564	13-05-2023	INMUN 1	\$71,542.07	\$53,265.00	
3	105199	13-05-2023	INKR11	\$46,316.69	\$35,510.00	
4	114090	13-05-2023	INMUN 1	\$59,618.39	\$44,387.50	
5	114206	13-05-2023	INMUN 1	\$59,618.39	\$44,387.50	
6	124784	13-05-2023	INVTZ1	\$46,634.70	\$37,100.00	
7	126624	13-05-2023	INMAA 1	\$47,694.69	\$35,510.00	
8	130706	13-05-2023	INMUN 1	\$59,618.39	\$44,387.50	
9	130706	13-05-2023	INMUN 1	\$71,542.05	\$53,265.00	
10	130706	13-05-2023	INMUN 1	\$59,618.39	\$44,387.50	
11	131373	13-05-2023	INVTZ1	\$46,634.70	\$37,100.00	
12	138942	13-05-2023	INVTZ1	\$46,634.70	\$37,100.00	
13	142832	13-05-2023	INMUN 1	\$59,618.39	\$44,387.50	
14	142834	13-05-2023	INMUN 1	\$59,618.39	\$44,387.50	
15	143303	13-05-2023	INMAA 1	\$47,694.69	\$35,510.00	
16	143381	13-05-2023	INKR11	\$46,316.69	\$35,510.00	
17	143393	13-05-2023	INMAA 1	\$47,694.69	\$35,510.00	

18	143761 2	13-05- 2023	INKRI1	\$46,316.69	\$35,510.00	
19	155670 1	13-05- 2023	INVTZ1	\$46,634.70	\$37,100.00	
20	161332 0	13-05- 2023	INMUN 1	\$59,618.37	\$44,387.50	
21	165915 4	13-05- 2023	INKRI1	\$20,842.51	\$15,979.50	
22	168394 8	13-05- 2023	INMAA 1	\$47,694.70	\$35,510.00	
23	179824 9	13-05- 2023	INVTZ1	\$23,317.34	\$18,550.00	
24	211546 9	13-05- 2023	INMUN 1	\$59,618.37	\$44,387.50	
25	216623 8	13-05- 2023	INMUN 1	\$14,308.40	\$10,653.00	
26	912838 9	13-05- 2023	INMUN 1	\$20,952.99	\$17,755.00	
27	912839 0	13-05- 2023	INMUN 1	\$20,952.99	\$17,755.00	
28	912839 2	13-05- 2023	INMUN 1	\$20,952.99	\$17,755.00	
29	914819 1	13-05- 2023	INMUN 1	\$20,952.99	\$17,755.00	
30	914819 5	13-05- 2023	INMUN 1	\$20,952.99	\$17,755.00	
31	914820 1	13-05- 2023	INMUN 1	\$20,952.99	\$17,755.00	
32	932246 0	13-05- 2023	INMUN 1	\$95,389.40	\$71,020.00	
33	947769 2	13-05- 2023	INMAA 1	\$47,694.70	\$35,510.00	
34	975238 5	13-05- 2023	INMAA 1	\$47,694.70	\$35,510.00	
35	975380 1	13-05- 2023	INMAA 1	\$47,694.70	\$35,510.00	
36	976702 7	13-05- 2023	INMUN 1	\$1,19,236.7 4	\$88,775.00	
37	988409 3	13-05- 2023	INVTZ1	\$46,634.69	\$37,100.00	
38	988431 1	13-05- 2023	INVTZ1	\$46,634.69	\$37,100.00	
39	989785 0	13-05- 2023	INMUN 1	\$1,19,236.7 5	\$88,775.00	
40	993849 6	13-05- 2023	INMUN 1	\$1,19,236.7 5	\$88,775.00	
41	993940 8	13-05- 2023	INMAA 1	\$47,694.69	\$35,510.00	
42	997212 5	13-05- 2023	INMAA 1	\$47,694.69	\$35,510.00	
43	998448 9	13-05- 2023	INVTZ1	\$46,634.69	\$37,100.00	
44	999602 7	13-05- 2023	INVTZ1	\$46,634.69	\$37,100.00	
45	999602 8	13-05- 2023	INVTZ1	\$46,634.69	\$37,100.00	
				\$29,34,771. 99	\$23,04,838. 48	

They submitted that 15 Shipping Bills in question are out of the purview of this Hon'ble Commission: It is submitted that, an appeal before the Hon'ble

CESTAT has been preferred before the Hon'ble Custom Excise and Service Tax Appellate Tribunal (Hyderabad) pertaining to 15 shipping bills given below. Wherein duty upon duty as per the calculation of Custom officer was paid under protest, still same was again reopened as deficit and thus these shipping bills should be excluded from the purview of the present Show Cause Notice in question.

S. No.	Shipping Bill No.	Shipping Bill Date	Export Duty as per Department (in Rs.)	Export Duty payable as per Appellant (in Rs.)	Export duty paid by Appellant under protest (in Rs.)	Excess Export Duty Paid by Appellant (in Rs.)
1	8081481	05-Mar-24	22,05,590.40	18,37,992.00	22,05,590.40	3,67,598.40
2	8520316	21-Mar-24	11,00,112.00	9,16,760.00	11,00,112.00	1,83,352.00
3	8538243	22-Mar-24	22,46,882.00	18,72,401.67	22,46,882.00	3,74,480.33
4	8536529	22-Mar-24	22,46,882.00	18,72,401.67	22,46,882.00	3,74,480.33
5	8542947	22-Mar-24	20,22,193.80	16,85,161.50	20,22,193.80	3,37,032.30
6	8539629	22-Mar-24	22,46,882.00	18,72,401.67	22,46,882.00	3,74,480.33
7	8540992	22-Mar-24	22,46,882.00	18,72,401.67	22,46,882.00	3,74,480.33
8	8541626	22-Mar-24	22,46,882.00	18,72,401.67	22,46,882.00	3,74,480.33
9	9429881	26-Apr-24	21,91,550.00	18,26,291.67	21,91,550.00	3,65,258.33
10	9393779	25-Apr-24	21,91,550.00	18,26,291.67	21,91,550.00	3,65,258.33
11	9394440	25-Apr-24	21,91,550.00	18,26,291.67	21,91,550.00	3,65,258.33
12	9405160	25-Apr-24	21,91,550.00	18,26,291.67	21,91,550.00	3,65,258.33
13	9406087	25-Apr-24	21,91,550.00	18,26,291.67	21,91,550.00	3,65,258.33
14	9878414	15-May-24	20,35,677.00	16,96,397.50	20,35,677.00	3,39,279.50
15	1010497	20-May-24	20,36,909.28	16,97,424.40	20,36,909.28	3,39,484.88
Total			3,15,92,642.47	2,63,27,202.06	3,15,92,642.47	52,65,440.41

They Submitted that Additional Payment on account of freight may kindly be adjusted: It is submitted that, as already stated there is practical difficulty while booking ship and fixing freight as the same may fluctuate, here are the few shipping bills where additional revenue paid to the custom due to fluctuation in freight, which may kindly be repaid to the respondent or set off / adjusted against the deficit of duty if any, details of which are given below:

S. No.	SB No.	SB Date	FREIGHT AS PER SB INR	Actual freight charges paid	DIFFERENCE
Nature of Consignment is CIF basis					
1	1874032	22-06-2024	₹19,04,343.00	₹20,71,709.33	₹-1,67,366.33
2	1874037	22-06-2024	₹19,04,343.00	₹20,71,709.33	₹-1,67,366.33
3	1874020	22-06-2024	₹19,04,343.00	₹20,71,709.33	₹-1,67,366.33
4	1582369	11-06-2024	₹12,03,895.00	₹12,26,948.92	₹-23,053.92
5	1155977	25-05-2024	₹12,04,623.75	₹12,26,949.92	₹-22,326.17
6	1010497	20-05-2024	₹9,41,796.75	₹16,96,920.98	₹-7,55,124.23

7	9878414	15-05-2024	₹9,41,227.00	₹16,89,034.14	₹-7,47,807.14
8	9429881	26-04-2024	₹11,17,690.50	₹12,33,460.04	₹-1,15,769.54
9	9406087	25-04-2024	₹11,17,690.50	₹12,18,023.28	₹-1,00,332.78
10	9405160	25-04-2024	₹11,17,690.50	₹12,18,023.28	₹-1,00,332.78
11	9394440	25-04-2024	₹11,17,690.50	₹12,46,413.16	₹-1,28,722.66
12	9393779	25-04-2024	₹11,17,690.50	₹12,46,413.16	₹-1,28,722.66
13	6593892	08-01-2024	₹4,12,409.25	₹9,27,734.00	₹-5,15,324.75
14	6570799	06-01-2024	₹3,78,675.00	₹8,89,586.50	₹-5,10,911.50
15	6570794	06-01-2024	₹4,45,500.00	₹8,85,530.50	₹-4,40,030.50
16	6570798	06-01-2024	₹2,45,025.00	₹4,89,744.17	₹-2,44,719.17
17	6570785	06-01-2024	₹4,12,409.25	₹8,41,514.80	₹-4,29,105.55
18	6571969	06-01-2024	₹2,45,025.00	₹4,89,744.17	₹-2,44,719.17
19	6570788	06-01-2024	₹2,45,025.00	₹4,89,396.17	₹-2,44,371.17
20	6570783	06-01-2024	₹3,46,500.00	₹7,09,466.55	₹-3,62,966.55
21	6570805	06-01-2024	₹3,46,500.00	₹7,09,972.55	₹-3,63,472.55
22	5758833	02-12-2023	₹6,42,330.00	₹7,92,226.00	₹-1,49,896.00
23	4613400	13-10-2023	₹3,46,080.00	₹4,12,622.50	₹-66,542.50
24	4616068	13-10-2023	₹3,46,080.00	₹4,12,622.50	₹-66,542.50
25	4612036	13-10-2023	₹3,46,080.00	₹4,12,622.50	₹-66,542.50
26	4609265	13-10-2023	₹3,46,080.00	₹4,12,622.50	₹-66,542.50
27	4609484	13-10-2023	₹7,49,840.00	₹8,51,610.42	₹-1,01,770.42
28	4464624	07-10-2023	₹5,84,269.56	₹9,06,193.69	₹-3,21,924.13
29	2166238	01-07-2023	₹3,49,235.55	₹4,07,394.40	₹-58,158.85
30	2115469	30-06-2023	₹14,55,148.13	₹16,59,819.15	₹-2,04,671.03
31	1683948	12-06-2023	₹11,69,127.00	₹13,43,849.39	₹-1,74,722.39
32	1613320	08-06-2023	₹14,61,408.75	₹15,93,862.26	₹-1,32,453.51
33	1433938	31-05-2023	₹11,66,980.50	₹13,86,816.78	₹-2,19,836.28
34	1433032	31-05-2023	₹11,66,980.50	₹13,86,816.78	₹-2,19,836.28
35	1428346	31-05-2023	₹14,58,725.63	₹16,60,840.94	₹-2,02,115.31
36	1428327	31-05-2023	₹14,58,725.63	₹16,60,840.94	₹-2,02,115.31
37	1389420	30-05-2023	₹14,69,531.00	₹15,86,946.16	₹-1,17,415.16
38	1307068	26-05-2023	₹14,58,725.63	₹17,29,718.74	₹-2,70,993.12
39	1307063	26-05-2023	₹14,58,725.63	₹17,29,718.74	₹-2,70,993.12
40	1307067	26-05-2023	₹17,50,470.75	₹20,73,794.89	₹-3,23,324.14
41	1313736	26-05-2023	₹14,69,531.00	₹16,10,420.84	₹-1,40,889.84
42	1266245	25-05-2023	₹11,66,980.50	₹13,71,796.54	₹-2,04,816.04
43	1247840	24-05-2023	₹14,69,531.00	₹16,11,230.00	₹-1,41,699.00
44	1142067	19-05-2023	₹14,58,725.63	₹18,41,990.16	₹-3,83,264.54
45	1140902	19-05-2023	₹14,58,725.63	₹18,41,990.16	₹-3,83,264.54
46	1025644	15-05-2023	₹17,35,445.25	₹23,52,433.60	₹-6,16,988.35
47	9996028	13-05-2023	₹14,56,917.00	₹16,13,732.20	₹-1,56,815.20
48	1002456	13-05-2023	₹28,92,408.75	₹35,86,590.95	₹-6,94,182.20
49	9972125	12-05-2023	₹11,56,963.50	₹13,32,104.45	₹-1,75,140.95
50	9984489	12-05-2023	₹14,56,917.00	₹16,26,182.00	₹-1,69,265.00
51	9938496	11-05-2023	₹28,92,408.75	₹36,72,564.00	₹-7,80,155.25
52	9939408	11-05-2023	₹11,56,963.50	₹13,77,476.08	₹-2,20,512.58
53	9897850	09-05-2023	₹28,92,408.75	₹35,94,855.75	₹-7,02,447.00
54	9884311	09-05-2023	₹14,56,917.00	₹20,84,296.00	₹-6,27,379.00
55	9884093	09-05-2023	₹14,56,917.00	₹16,42,897.00	₹-1,85,980.00
56	9753801	04-05-2023	₹11,64,834.00	₹13,81,830.43	₹-2,16,996.43
57	9767027	04-05-2023	₹29,12,085.00	₹39,18,036.75	₹-10,05,951.75
58	9752385	04-05-2023	₹11,64,834.00	₹14,67,386.40	₹-3,02,552.40
59	9477692	22-04-2023	₹11,64,834.00	₹13,81,763.90	₹-2,16,929.90
60	9322460	15-04-2023	₹23,21,082.00	₹28,74,960.70	₹-5,53,878.70
61	9148191	08-04-2023	₹5,83,920.00	₹7,08,990.66	₹-1,25,070.66

62	9148201	08-04-2023	₹5,83,920.00	₹7,08,990.66	₹-1,25,070.66
63	9148195	08-04-2023	₹5,83,920.00	₹7,08,990.66	₹-1,25,070.66
64	9128389	07-04-2023	₹5,83,920.00	₹7,08,990.66	₹-1,25,070.66
65	9128390	07-04-2023	₹5,83,920.00	₹7,08,990.66	₹-1,25,070.66
66	9128392	07-04-2023	₹5,83,920.00	₹7,08,990.66	₹-1,25,070.66
67	7342997	28-01-2023	₹14,44,664.25	₹16,10,706.68	₹-1,66,042.43
68	7342944	28-01-2023	₹14,44,664.25	₹15,64,306.68	₹-1,19,642.43
69	7274376	25-01-2023	₹19,33,200.00	₹23,19,655.08	₹-3,86,455.08
70	7274043	25-01-2023	₹19,33,200.00	₹23,19,655.08	₹-3,86,455.08
71	7274040	25-01-2023	₹19,33,200.00	₹23,19,655.08	₹-3,86,455.08
72	7274041	25-01-2023	₹19,33,200.00	₹23,19,655.08	₹-3,86,455.08
73	7272173	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
74	7272143	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
75	7272130	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
76	7272114	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
77	7272116	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
78	7272214	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
79	7272191	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
80	7272174	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
81	7272187	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
82	7272186	25-01-2023	₹19,33,200.00	₹23,87,454.62	₹-4,54,254.62
83	7272722	25-01-2023	₹805.50	₹1,02,688.20	₹-1,01,882.70
84	6843491	10-01-2023	₹14,99,807.93	₹16,06,175.41	₹-1,06,367.49
85	6840547	10-01-2023	₹14,99,807.93	₹16,06,175.41	₹-1,06,367.49
86	6280693	19-12-2022	₹1,636.00	₹2,30,965.00	₹-2,29,329.00
87	4575526	01-10-2022	₹36,214.59	₹4,00,764.96	₹-3,64,550.36
88	4391192	23-09-2022	₹5,11,550.00	₹5,76,278.06	₹-64,728.06
89	4336008	21-09-2022	₹5,11,550.00	₹5,76,278.06	₹-64,728.06
90	4254438	17-09-2022	₹5,11,550.00	₹5,99,357.16	₹-87,807.16
91	4221153	16-09-2022	₹4,45,442.00	₹5,85,679.44	₹-1,40,237.44
92	4213889	16-09-2022	₹5,11,550.00	₹6,00,174.32	₹-88,624.32
93	4155155	13-09-2022	₹4,48,590.00	₹5,83,965.16	₹-1,35,375.16
94	4155053	13-09-2022	₹4,48,590.00	₹5,89,107.99	₹-1,40,517.99
95	4155012	13-09-2022	₹4,48,590.00	₹5,69,222.58	₹-1,20,632.58
96	4110856	12-09-2022	₹4,48,590.00	₹5,51,726.31	₹-1,03,136.31
97	4113754	12-09-2022	₹4,48,590.00	₹5,51,726.31	₹-1,03,136.31
98	4114160	12-09-2022	₹4,48,590.00	₹5,51,726.31	₹-1,03,136.31
99	4128378	12-09-2022	₹4,48,590.00	₹5,56,931.82	₹-1,08,341.82
100	4114466	12-09-2022	₹4,48,590.00	₹5,51,726.31	₹-1,03,136.31
Total			₹11,47,36,348.43	₹14,12,28,274.18	₹-2,64,91,925.75

Further they submitted that

- Violation of Principle of Natural Justice specifically Doctrine of "Nemo Judex Causa Sua Non" i.e. "**No one can be judge in his own Cause**". Here SCN issuing authority and adjudicating authority are same.
- Due procedure was not followed: Investigating officer is not proper officer and at that relevant point of time no officer of DRI was proper officer in view of Canon Judgment.
- Duty upon reimbursement of duty received by the said noticee after end of export cannot be levied.
- Duty upon the expenses incurred in the foreign territory or payment done in lieu of the same is also out of the purview of jurisdiction of custom being part of expenses of foreign land.
- Once a self - declaration is accepted by the Assessing Officer of Port. Reassessment is not open to any officer of custom but limited to the same

jurisdictional officer who has verified and assessed at the first stage and that is also after rejection of the said self - declared value.

- f) Penalty, under Section 114A is not applicable as there is no deliberate evasion of duty.
- g) Penalty under Section 114AA of the Custom Act, is not applicable in the present case as there is no misrepresentation or fraud and as the same is supported by agreement executed between the agent Alfarana and the respondent firm annexed under Annexure - WS /1. Further, ultimate buyer of the goods was Government of Republic of Egypt and LC of Egypt Government was backed up by the Government of Saudi Arabia and thus there is no scope of manipulation, fraud or misrepresentation.
- h) Exported Goods cannot be confiscated as the same has already been exported to the Government of Egypt and there is no evasion of duty and there is only bona fide issue of duty on duty which is pending before the Hon'ble Supreme Court.
- i) Export in question was majorly related to foreign Government and not to the private body and services on their territory such as delivery to the bunkers of warehouses of their armed forces, was provided by local service provider Alfarana upon mutual understanding subject to the payment of \$115 which was shown in deduction and the investigating agency took it as wrongful deductions.
- j) DRI is seeking recovery of double duty by claiming duty on difference of freight and also on freight without adjustment of excess freight paid to custom and eliminating the element of double duty application.

In view of the above mentioned reply and supporting legal provisions, they prayed before this Adjudicating Authority to pass an order:

- a) To set aside or recall the impugned show cause notice dated 19.09.2024 by this Authority on the basis of unauthorized / ultra-wires investigation carried out by the Senior Intelligence Officer (Superintendent) of DRI at Delhi, or
- b) To grant further time of 10 days to furnish calculation of application of delicacy of duty under all the 158 shipping bills in question which could not be calculated in view of absence of staff due to ongoing Maratha Arakshan Andolan and Ganesh Chaturthi,

Pass any other order as this Hon'ble Authority may deem fit and proper in the interest of the Justice in favor of the answering respondents.

DISCUSSION AND FINDINGS-

30. After having carefully gone through the Show Cause Notice, relied upon documents, submissions made by the Noticee's and the records available before me, I now proceed to decide the case. The main issues involved in the case which are required to be decided in the present adjudication are as under: -

- (i) Whether, in accordance with the provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Price of Export Goods) Rules, 2007, the differential Customs duty, in respect of the Shipping Bills mentioned in Table A1, A2, B, and C at Para 17 above—where a part of the export proceeds was apparently not declared to the concerned Customs authorities and thus not included in the declared transaction value—has to be computed based on the actual transaction value of the export goods as revealed during the investigation; or whether the export duty reimbursed by the buyer, other expenses reimbursed by the buyer, and excess freight declared are eligible for deduction from the

FOB value?

- (ii) Whether the FOB value declared by the said noticee in the Shipping Bills at the time of export of goods is required to be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3 (1) *ibid* and Section 14 (1) of the Customs Act, 1962;
- (iii) Whether the actual assessable value in respect of Shipping Bills detailed in 'Annexure-I, II, III & IV' is required to be re-determined at Rs.217,71,48,299/- under the provisions of Section 14 (1) of the Customs Act, 1962, and total differential (export) duty amounting to Rs.12,56,35,659/- payable, as calculated and shown in 'Annexure-I, II, III & IV' to the notice, in respect of these 158 Shipping Bills filed by them at 6 different ports, is required to be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA *ibid*;
- (iv) Whether the shipments of rice exported vide Shipping Bills detailed in 'Annexure-I, II, III & IV' to the Notice having proposed re-determined assessable value of Rs.2,17,71,48,299/- deserve to be confiscated under the provisions of Section 113 (i) of the Customs Act, 1962;
- (v) Whether penalty under Section 114 and Section 114AA of the Customs Act, 1962 is required to be imposed on the said noticee; and
- (vi) Whether for their acts and omissions in evasion of Customs duty amounting to Rs.12,56,35,659/- through their partnership firm, Sh. Mohit C. Murgai and Sh. Amol C. Murgai and Sh. Chander Murgai, are liable for penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 total duty.

31. After framing the main issues for consideration, I now proceed to examine each issue in detail. The foremost issue before me is whether the abatement of expenses, including export duty, on four different accounts claimed by the said noticee from the FOB value of the goods for export, is admissible under the provisions of Section 14 of the Customs Act, 1962 read with the relevant provisions of the Customs Valuation (Determination of Price of Export Goods) Rules, 2007. The relevant provisions for the valuation of the export goods are reproduced below for the ease of reference :-

***1[Section 14. Valuation of goods. -**

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the

transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,-

- (i) the circumstances in which the buyer and the seller shall be deemed to be related;*
- (ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;*
- (iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section;*
- 2(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria]*

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff

values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation . - For the purposes of this section -

(a) "rate of exchange" means the rate of exchange -

(i) determined by the Board, or

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]"

Rule 3 of CVR, 2007

"Rule 3. Determination of the method of valuation. -

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price."

"CUS CIR NO. 18/2008 DATE 10/11/2008

Computation of Value under Section 14 for Levy of Export Duty

1. After the imposition of export duty on steel at ad valorem rates in May 2008, a doubt has been raised regarding the manner of calculation of export duty, particularly in view of the introduction of transaction value concept under Section 14 as part of the 2007 budgetary exercise. Specifically, the doubt is whether the export duty should be charged simply as a percentage of FOB price or whether the FOB price should be taken as the 'cum-duty price' for determination of assessable value and duty due thereon.

2. Hitherto, the export duty and cesses were calculated by taking the FOB price declared by the exporter as the cum-duty price and working backwards from the FOB price. This methodology is based

on instructions issued by the Board (contained in Appraising Manual) in 1966. This view was reconfirmed by the Board in 2000 while developing the software for Indian Customs EDI System (ICES-Exports) for the purpose of levy of cess under various enactments of different Ministries.

3. The matter has been examined in consultation with the Ministry of Law who have opined that Section 14 of the Customs Act or the rules framed thereunder, do not specify any procedure for calculation of assessable value for the purpose of charging export duty in a situation where the exporter has not collected any amount in excess of what has been declared in the shipping bill/invoice. As per practice in vogue for the last more than four decades, transaction value of export goods has invariably been taken as 'cum-duty price'. This practice is not in conflict with any of the statutory provisions. Amendments made in Section 14 of the Customs Act by the Finance Act, 2007 have also not brought any change in the procedure for calculation of assessable value for the purpose of charging export duty. However, any decision on this issue is essentially a matter of policy on which decision is to be taken by the administrative department.

4. In view of the above, a policy decision has been taken that till 31.12.2008, the existing practice of computation of export duty and cesses by taking the FOB price as the cum-duty price may be continued. All pending cases may be finalized accordingly.

5. It has also been decided that with effect from 1st January, 2009, the practice of computation of export duty shall be changed. It is proposed that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation. For example if the transaction is at Rs 100 FOB, and the duty is 15%, the export duty will be 15% of FOB price, that is Rs 15. In case the transaction is on CIF basis, the FOB price may be deduced from the CIF value, and then the export duty be calculated as 15% of such FOB price.

6. Any difficulties which are anticipated in the implementation of the change in computation of export duty from 1st January, 2009 may be brought to the notice of the Board by 20th November, 2008 positively.

7. The contents of this Circular may be brought to the notice of the field formations and the Trade under your jurisdiction.

8. Hindi version follows.

F. No. 467/45/2008-CusV"

32. I observe that as per the allegations made against the said noticee in the Show Cause Notice, the said noticee failed to declare the actual transaction value (i.e., the correct FOB value) in their export documents. They have allegedly undervalued and mis-declared the transaction value with the intent to evade the applicable Customs duty, which is leviable at 20% ad valorem on the actual transaction value of the export goods, in the following manner: -

33. I find it appropriate to mention here that Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 stipulates that the value of export goods shall be based on the transaction value that is, the actual price paid or payable for the goods when sold for export from India at the time and place of exportation, provided that the buyer and seller are not related and the price is the sole consideration. I noticed that the Central Board of Excise and Customs (CBIC) vide Circular No. 18/2008-Cus., dated 10.11.2008 has clarified that, for assessment of export duty, the transaction value should be taken as the FOB value of the export goods at the time and place of exportation and no abatement of export duty is permissible from this value.

34. I find that export duty is a statutory levy and therefore form part of transaction value. In the present case the exporter has not borne the incidence of duty but the duty amounts were recovered by the exporter from the buyers as part of sale consideration. Hence, these recovered amounts must be included in transaction value. I find that that all taxes/expenses before the point of loading of the export goods on board the vessel are included in the definition of 'FOB'. In the case of export of goods, loading of the export goods starts after issuance of the 'Let Export Order (LEO)' by the proper officer of the Customs. LEO is issued after payment of the export duty. As the export duty is leviable before the point of loading of the export goods on to the vessel the same is includable in the FOB Value of the export goods in the present case. I find that the provisions of the **Incoterm or International Commercial Terms**, which are widely used in the international transactions, published by the International Chamber of Commerce clearly define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction. I noticed that these incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as "**Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility**

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

From the above definition, it is evident that definition of "FOB" includes all cost until the loading of export goods on board the foreign going vessel including customs clearance and related charges which are to be borne by the seller. Since export duty discharged prior to issuance of the Let Export Order and before the goods are physically loaded on board, it is evident that duty portion is an integral part of the costs which is to be borne by the seller. Therefore, I find that where the seller has recovered the export duty amount separately from the buyer, such recovered amount become a part of the consideration for the sale of export goods. Thus, the said amount is liable to be included in the FOB value for determining the correct assessable value. Accordingly, I hold that the export duty recovered from overseas buyers is includable in the FOB value of the export goods.

35. I find that **in respect of the 12 Shipping Bills** as mentioned in Table-A 1, M/s Mac Impex, had wrongly claimed deductions equal to the export duty amounts payable at the time of export. I noticed that the deduction amounts of USD 116,644 (equivalent to Rs.93,60,611/-) were claimed in the said Shipping Bills. These deductions were found equal to the export duty amounts paid by the exporter. This fact indicate clearly that the exporter deliberately reduced the declared FOB Value by the duty component and therefore, mis-declared the transaction value for the purpose of assessment.

36. I find that the exporter in the export invoices and shipping bills had mentioned duty paid amounts separately in the invoices, they did not include these amounts in the total invoice value or the FOB value declared before the Customs Authority. On the contrary, they showed these as deductions under the head "Deduct/Deduction" in the shipping bills. By doing these act, the exporter had suppressed the actual consideration received from the overseas buyers and presented an artificially reduced FOB Value to the Customs authorities at the time of export.

37. I find that the exporter during the investigation period has also admitted in their statements recorded under Section 108 of the Customs Act, 1962, that these deducted amounts were in fact recovered from the overseas buyers. Such

amounts were duly realized in the bank accounts of the exporter. However, these receipts were not reflected in BRCs. Thus, the fact were never discovered that the declared invoice value was not the sole amount received by the exporter from the foreign buyer. These acts show a deliberate attempt by the exporter to suppress facts and make false statements.

38. I have also examined the **SB number 4318982 dated 21-09-2022** and noticed that the deduction amount exactly matched the export duty amount. The Deduction of Rs. 573959/- was claimed in that shipping bill and that amount is equal to the export duty leviable on the goods covered under the said shipping bill. The exporter deducted this amount from the actual transaction value however received the same from the overseas buyer as part of the sale proceeds. This method adopted by the exporter proves an organized and thoughtful modus operandi of undervaluation. By treating the actual FOB Value as a cum-duty price and deducting the duty amount, the exporter attempted to take an abatement of duty which is not permissible to them in subject 12 shipping bills. CBIC Circular No. 18/2008-Cus dated 10.11.2008 clarifies that export duty is chargeable on the transaction value, i.e. the FOB price, and no abatement of duty is allowed. The conduct of the exporter is therefore not only contrary to law but also deliberate in nature.

39. I find that as per Section 14 of the Customs Act, 1962, the transaction value is defined as the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation. Export duty is leviable on such transaction value, which includes all consideration received by the exporter from the overseas buyer. When the exporter recovers the export duty amount separately from the buyer, that recovery becomes part of the sale consideration. Excluding such amounts from the declared FOB Value is contrary to Section 14 of the Customs Act, 1962 read with Rule 3 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

40. In view of the above, I hold that the declared FOB Value in respect of the 12 shipping bills covered under Table-A is liable for rejection under Rule 8 of the CVR(E), 2007. The actual transaction value has to be re-determined by including the deduction amounts wrongly excluded by the exporter. Accordingly, I hold the re-determined FOB Value comes to Rs. 5,61,63,677/- against the declared Rs. 46803064/-, as calculated in Table-D of the SCN under the provisions of Section 14 of the Customs Act, 1962.

41. In respect of the Shipping Bills listed in Table A2, it is alleged that the declared FOB value was undervalued by the said noticee by an amount equal to the export duty, along with additional amounts claimed as expenses incurred in

the country of destination i.e. Egypt, such as, clearance, transportation and warehousing of the exported cargo in Egypt for final delivery of the same to nominated godowns of the Government agencies of Egypt. For instance, of Shipping Bill Number 9938496 dated 11-05-2023 the price of goods as per invoice dated 10.05.2023 has been mentioned as USD 721462.50 (at the unit price of USD 544.50 per MT CIF). The same amount has also been declared in the shipping bill as Invoice Amount (in foreign currency) of USD 721462.50 and rate is also mentioned as USD 544.50 per MT CIF. However, in the shipping bill, the said noticee had declared the invoice value as USD 480378.75 which is 241083.75 USD lower than the actual invoice value. Thus, the said noticee had claimed deduction of USD 241083.75 in respect of the actual invoice value which is inclusive of the deduction of export duty amount of USD 88775. After deducting the freight amount of USD 35775, insurance amount of USD 728.75, from the declared invoice value of USD 480378.75, the said noticee had declared the FOB Value at USD 443875 in the shipping bill. Thus, exporter had claimed deduction of USD 88775 for export duty amount and deduction of USD 152,308.75 towards purported ineligible expenses from the actual FOB Value. The total deduction wrongly claimed in respect of the afore-said shipping bill is USD 241083.75. The position which should have been permissible for valuation is that after deducting the actual freight amount of USD 35775 and insurance amount of USD 728.75, the resultant actual FOB Value in respect of the said consignment should have been USD 684958.75. The said noticee should have declared the actual FOB Value of USD 684958.75 for payment of export duty, on which the export duty was payable by the said noticee in respect of the said shipping bill. These amounts were also wrongly claimed as deductions in the Shipping Bills.

42. As regards the excess deduction amounts claimed by the said noticee from the FOB as per Table A2 above, I observe that in respect of 69 shipping bills mentioned in this Table A2, the said noticee had at the time of filing of shipping bills claimed the deduction of total amounts of USD 54,61,895. The export duty paid by them in respect of these 69 S/Bs was USD 23,18,099/-. Thus, in addition to the claim of deduction of duty amount of USD 23,18,099/-, the said noticee had claimed deduction of an additional amount of USD 3143796/. It is evident from the investigation that all these deduction amounts were also recovered by the said noticee from the overseas buyer in their bank accounts, hence, these amounts were part of consideration received by the said noticee for sale of their goods. In this regard, to cover up the amount of deduction the said noticee had submitted a forged ante-dated agreement dated 07/08.09.2023 with M/s Al Farana Company, as M/s. Mac Impex and Al Farana

had never executed any contract for USD 115 as Shri Sourabh Mehta, Shri Mohit Murgai and Shri Amol Murgai had drafted and prepared the said ante dated agreement for submission in the DRI office to justify their excess deductions of USD 115 to evade payment of export duty as the said facts have been found from the Whatsapp Chat made between the partners and CFO of the firms during the period 26.08.2023 to 12.09.2023. This again clearly revealed that the agreed price of the goods exported to the government agencies of Egypt was 545 USD per MT CIF, however, the said noticee had suppressed the aforesaid tender document (Installation Order dated 21.02.2023) from the Customs Authorities at various ports of export, such as, Vizag, Nhava Sheva, Mundra, etc., and declared a lower FOB Value of USD 335 per MT in respect of the said goods. The said noticee has received the entire CIF amounts of USD 545 per MT in their bank accounts and thereupon they have wrongly claimed deduction and have declared lower FOB Value for the purpose of payment of lesser export duty. Thus, all these deduction amounts claimed by the said noticee also ought to have been included in the actual transaction value (i.e. FOB Value) of these shipments and the export duty ought to have been discharged on the same without claiming the deduction of other expenses paid to M/s Al Farana for making expenses at the port of destination till the goods are warehoused.

43. All these deductions are liable to be included in the actual assessable value of the export goods and differential duty of Rs.8,87,88,862/- is required to be demanded and recovered from the said noticee in respect of these deduction amounts as concised in Table-E above.

44. I also find that **in respect of the 77 Shipping Bills** mentioned under Table-B, the exporter did not show any deduction of export duty under the head "Deduct/Deduction" at the time of filing of shipping bills. From the investigation it has been revealed that they had adopted another type of modus operandi of undervaluation wherein they recovered the amounts equal to the export duty separately from overseas buyers. Scrutiny of records and documents submitted during investigation shows that after discharging export duty at the time of Let Export Order, the exporter reimbursed these amount form the overseas buyers separately. The exporter also admitted in their submissions that these recoveries were made in respect of 77 shipments. These recoveries were made from the foreign buyers and duly credited in the bank accounts of the exporter. From these facts before me, I have no doubt that the exporter imposed a condition that unless the overseas buyer reimbursed the duty element, the goods would not be released. Hence, these recoveries are part of the "price actually paid or

payable" for the export goods within the meaning of Section 14 of the Customs Act, 1962.

45. I noticed that these receipts were not declared in the export invoices submitted to Customs. The invoices show only the reduced price of goods wherein export duty component was excluded. The fact regarding collection of that additional amounts equal to export duty from the buyers was not disclosed before the customs authority at the time of export. This omission indicates suppression of critical information regarding the value of the export goods.

46. I find that in the case of Shipping Bill No. 4113754 dated 12-09-2022, although no deduction was claimed in the shipping bill by the exporter, however, as per the details submitted by the exporter during investigation, an amount of Rs. 10,07,011/- from the overseas buyer was separately recovered. This recovery amount was equal to the export duty amount in the subject shipping bill. I find that the said amount was never disclosed either in the shipping bill or in the invoice however the same amount was realized in the exporter's bank account. This reflects a deliberate intent of the exporter to misdeclare the FOB value of export shipments.

47. I also observed that the method of routing these receipts also reveals deliberate suppression. I find that the exporter remitted these amounts through banking channels under RBI Purpose Code P1306, which is meant for "refund of taxes" and falls under the category "Transfers". It is evident from RBI's notified categorization that this purpose code pertains to transactions of a personal nature such as personal gifts, donations, or family maintenance and the said code is not meant for payment related to export of goods. By misusing this purpose code, the exporter misrepresented the nature of receipts to the banking authorities. The Customs authorities also at the port of export remained unaware of the full consideration agreed between the exporter and overseas buyers. This practice of declaring 'nil' deduction in the shipping bills, recovering duty amounts through debit notes, routing them under an incorrect RBI purpose code, and keeping them out of the BRCs, clearly shows a deliberate attempt by the exporter to undervalue the goods for evasion of legitimate Customs duty. I noticed that the total recoveries made through this method adopted by the Noticee match the export duty amount. Thus, it is evident that the exporter never intended to bear the duty cost themselves and they shifted the burden on the foreign buyer by recovering it as part of the sale value.

48. As already discussed, Section 14 of the Customs Act, 1962 mandates that the transaction value of export goods shall be the price actually paid or payable when sold for export for delivery at the time and place of exportation. The

recovery of amounts equal to export duty from the buyers was not optional but a precondition to sale and delivery of the goods. Unless the overseas buyers paid these sums (in addition to the declared invoice price), the exporter would not have effected the sale. Hence, such recoveries clearly form part of the consideration payable for the goods and are necessarily includable in the FOB Value. I find that by doing these acts of not including these amounts in the declared FOB Value, the exporter not only violated the statutory requirement under Section 14 but also contravened CBIC Circular No. 18/2008-Cus. dated 10.11.2008 which clearly provide guidance that no abatement of export duty is permissible and that duty is leviable on the transaction value, i.e. the FOB price. The deliberate suppression of such amounts, mis-use of RBI purpose codes, and non-reflection in BRCs, all establish the fact of mindful and wilful intent of the exporter to evade payment of duty.

49. In view of the above, I hold that the FOB Values declared in respect of the 77 shipping bills under Table-B are liable to rejection under Rule 8 of the CVR(E), 2007. The actual transaction value has to be re-determined by including the amounts separately recovered by the exporter from the buyers which is equivalent to Rs 11,23,27,840/-. Accordingly, I hold the re-determined FOB Value comes to Rs. 67,39,67210/- against the declared Rs. 56,16,39,370/-, as calculated in Table-F of the SCN under the provisions of Section 14 of the Customs Act, 1962.

50. I find that **in respect of the 65 shipping bills** covered under Table-C, the exporter declared inflated amounts of ocean freight in their shipping bills as compared to the actual freight paid to the freight forwarders/shipping lines. The total excess freight declared across these shipments has been calculated at Rs. 6,25,45,520/-. By adopting this method, the exporter artificially reduced the assessable FOB value declared before Customs and thereby resulting in short-payment of export duty.

51. From the investigation, it is evident that the excess freight amounts were not borne by the exporter and the same were actually recovered from their overseas buyers as part of the total consideration for the consignments. The exporter inflated freight amount in the shipping bills which reduced the FOB values declared before the Customs. However, the exporter collected the full payment from their overseas buyers. The discrepancy between declared freight and actual freight paid was also accepted by the exporter during the investigation period by submitting the details of shipments. For example, in the Shipping Bill No. 1437612 dated 31-05-2023, the exporter declared freight of USD 21200 which is equivalent to 17,28,860/- (taking exchange rate at Rs.

81.55 per USD as per shipping bill). However, records produced during investigation showed that the actual freight paid to the shipping line was only Rs. 13,96,537/- . The excess freight declared of Rs. 3,32,323/- which was deducted from the CIF value reduced the FOB value declared before the customs at the time of export. I find that this excess freight was also recovered from the overseas buyer but was not included in the amount for duty assessment at the time of export. This instance demonstrates the method adopted by the exporter for all shipments covered under Table-C.

52. I state that under Section 14 of the Customs Act, 1962, the transaction value is defined as the price actually paid or payable for the goods at the time and place of exportation, where price is the sole consideration. In CIF contracts, deductions can only be made for actual freight and insurance incurred by the exporter. Any excess freight declared over and above the actual cost is not a deductible expense but represents part of the consideration payable by the buyer to the seller, and therefore forms part of the FOB value. By declaring inflated freight in the shipping bills, the exporter contravened the statutory arrangement, leading to suppression of the true transaction value.

53. In view of the above, I hold that the FOB values declared in respect of the 65 shipping bills covered under Table-C are liable to rejection under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the values have to be re-determined by adding the excess freight amounts of Rs. 6,25,45,520/- to the declared FOB values under the provisions of Section 14 of the Customs Act, 1962. Accordingly, I hold the re-determined FOB Value comes to Rs. 46,75,68,482/- against the declared Rs. 405022962/-, as calculated in Table-G of the SCN.

54. Regarding the allegation of excess freight claimed in the deductions than the actual freight paid by them, the said noticee has submitted in their additional written submissions that it is the practical difficulty of exporter which compel them to book ship prior to the date of export and the gap between the same lead to the increase or decrease of the freight over the period of time which is beyond the control of the said noticees and thus may lead to deficit or surplus of duty. Further, in 65 bills duty was added in freight column by bonafide mistake and may kindly be considered as clerical error and accordingly after adjustment of the aforesaid discrepancies there shall be no deficit in freight duty. I observe that the said noticee himself accepts that due to clerical error the duty was added into the freight amount. In fact, it was not a clerical error, it was a deliberate attempt of the said noticee to add the duty amount in the freight amount in those 65 shipping bills which fact has also been admitted by

Shri Sourabh Mehta, Chief Financial Officer of the said noticee company in his statement dated 13.09.2023 recorded under Section 108 of the Customs Act, 1962, relevant excerpts of his statement are reproduced below:-

On being asked why there was difference in FOB value mentioned in Commercial invoice 754/2022-23 dated 17-09-2022 and corresponding Shipping Bill no 4280423 dated 19-09-2022 he stated that the amount of Freight in Commercial invoice 754/2022-23 dated 17-09-2022 is USD 6440 and the amount of freight mentioned in the corresponding Shipping Bill no 4280423 dated 19-09-2022 is USD 13733, the amount of cess calculated on the FOB value in that shipping bill i.e. USD 7293 has been added to the freight i.e. $13733 = 6440 + 7293$; that it was done to reduce the FOB value to USD 36465 instead of actual FOB value of USD 43758.

55. I find that the investigation has revealed that the amounts claimed as 'deduction/deduct' were also recovered by the said noticee from the overseas buyer in their bank accounts as reimbursement. This fact was confirmed by Shri Sourabh Mehta, CFO of the said noticee in his statement dated 13.09.2023 and further this fact has also been admitted in the whatsapp chat. The whatsapp conversation of Shri Sourabh Mehta with the partners of the said noticee namely Shri Mohit Murgai and Shri Amol Murgai also revealed that both the partners were very well aware of these facts of submission of forged ante dated agreement and receipt of undervalued amounts around USD 115 per MT received in their overseas bank accounts. The said noticee claimed that the deduction/deduct amounts shown in the Shipping Bills were received by them from the overseas buyers in the form of reimbursement of taxes.

56. The noticee has claimed that the said transactions of deductions and reimbursement of taxes from their overseas buyers were made under Purpose Code P1306, regulated by the Reserve Bank of India (RBI). The RBI Purpose Codes are unique identifiers assigned to various international transactions, enabling banks and financial institutions to classify and process remittances accurately. These Purpose Codes are notified by the RBI for reporting forex transactions related to Payment and Receipt purposes and are categorized into 16 different 'Purpose Group Names', including Exports (of Goods), Transportation, Travel, Financial Services, Royalties & License Fees, Transfers, among others. The Purpose Code P1306, referred to by the said noticee for reimbursement of taxes (i.e., export duty), falls under the 'Transfer' group, which pertains to forex transactions of a personal nature such as personal gifts, family maintenance, donations, etc. Therefore, the accounting Purpose Code P1306 is clearly not associated with payments received in respect of exported goods. Thus, it is evident that the said noticee had used incorrect RBI Accounting Code for receipt of the export duty amounts from the buyers and even had mis-

represented the facts before the bank authorities also to process the receipt of export duty amounts from the overseas buyer. These amounts are not reflected in the bank realisation certificates obtained by the said noticee from the bank. This shows that the said noticee had malafide motive to mis-lead the department by showing the amount received as reimbursement of export duty (Cess) as transfer for personal gifts, family maintenance, etc. code P1306 of RBI.

57. I find that the noticee was issued Install Order No. 1 dated 21.02.2023 by Mr. A. Mustafa Ismail, Supervisor of Central Administration, for 25,000 MT of Indian rice to be imported during the period from 17.04.2023 to 04.05.2023 at the price of USD 545 CIF at sight per MT. The aforesaid order further stipulated that, in addition to the cargo price, the expenses towards customs clearance and transportation to warehouses within Egypt, including value added tax amounting to 375 Egyptian Pounds per MT, were also payable by GASC to M/s. Al Farana Co. Rice Mill/Mac Impex. It is observed that M/s. Mac Impex failed to provide a satisfactory explanation regarding the said amount of 375 Egyptian Pounds. Further, a contract dated 23.02.2023 was executed between M/s. Al Farana and M/s. Mac Impex for the supply of rice at the price of USD 335 FOB, with duty on reimbursement basis. During investigation, it was revealed that M/s. Mac Impex had declared the price of USD 545 per MT in the invoice submitted to the customs authorities. However, they simultaneously mis declared the FOB price of the export goods as USD 335 per MT (as per the contract dated 23.02.2023) by wrongly claiming ineligible deductions of USD 115. When it was pointed out that Installation Order No. 1 dated 21.02.2023 specifies local expenses amounting to Egyptian Pound 375 (approx. 12 USD), whereas they have claimed deduction of USD 115, M/s. Mac Impex produced an ante-dated agreement dated 02.03.2023 and a GASC letter dated 06.09.2023 in order to justify their deduction of USD 115. The investigation has conclusively established that the said ante-dated agreement dated 02.03.2023 and the GASC letter dated 06.09.2023 were forged by M/s. Mac Impex solely with an intention to mislead the investigation to justify their ineligible deductions of USD 115 to evade export duty.

58. DEMAND OF DUTY UNDER EXTENDED PERIOD OF TIME UNDER SECTION 28(4) OF THE CUSTOMS ACT, 1962:

58.1 It is obligatory on the exporter to subscribe a declaration as to the truthfulness of the contents of the Shipping Bill in terms of Section 50(2) of the Customs Act, 1962, in all their export declarations. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, '**Self-Assessment**' had been introduced in Customs. Section 17 of the Customs

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

58.2 It is evident from the investigation that there was deliberate mis-statement and suppression of facts on their part, who was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on ad valorem basis on such goods. . As discussed in above paras, the said noticee had deliberately avoided to declare the export duty and include it in the FOB value at the time of export, they had suppressed the receipt of various expenses paid by the foreign buyer through the intermediary for delivery of the export goods in the godowns of the foreign buyer in Egypt, they had suppressed the fact that they were also getting the export duty re-imbursed from the foreign buyer and on the contrary in the shipping bills as per Table B above, they had shown the deductions as "Nil" and finally they had also mis-declared the freight amounts whereas they were very well aware of the actual freight amounts paid by them in respect of the goods exported vide Shipping Bills mentioned in Table C above. Thus, by adopting to the four different manners of modus operandi, the said noticee had not declared the actual FOB Values in the shipping bills thereby intentionally evading the

applicable duties of customs on such undue deduction amounts/excess freight and export duty reimbursement amounts claimed by them.

From the above provisions, it is evident that the partners of the said noticee were well aware about the actual value of the export goods. They have knowingly got indulged in preparation and planning of forged/manipulated export documents with the assistance of their employee i.e. Shri Sourabh Mehta, Chief Financial Officer, which they used to forward to the Customs broker in relation to Customs clearance of the said export goods at the time of exportation by way of wilful mis-declaration and intentional suppression of these facts in the Shipping Bills filed by them and thus they appear to have evaded the applicable Customs duty on export of rice.

From the above provisions, it may be seen that the responsibility lies on the exporter to ensure that all details related to the shipments are correctly declared at the time of filing shipping bills. I have already discussed in detail the modus adopted by the exporter to evade the duty at the time of export. I find that the extended period of five years under Section 28(4) of the Customs Act, 1962 has been correctly invoked in the present case. The pre-condition for such invocation is that the non-levy, short-levy or short-payment of duty should arise due to collusion, wilful misstatement, or suppression of facts with intent to evade duty. In the present matter, I find that evidence brought on record correctly establish the fact that the exporter indulged in deliberate mis-declaration of assessable value of export goods through three different modus operandi i.e. (i) wrongful deduction of duty element from declared FOB value (ii) non-declaration of separate reimbursements of duty collected from overseas buyers through debit notes, and (iii) inflation of actual freight amount to claim unacceptable deductions. Each of these modus is adopted by the exporter with full knowledge by concealment of material facts at the time of filing shipping bills. These acts done by the exporter cannot be termed as clerical error or interpretative dispute.

58.3 I find that the Noticee had received payment of export duty from overseas buyers, which directly influenced the determination of transaction values. However, instead of declaring these payments clearly in the shipping bills, the Noticee chose to reflect such receipts under vague heads i.e. "deductions." This method cannot be accepted as transparent disclosure of important information. The essence of statutory compliance under the Customs Act is clear and truthful declaration of all particulars in the prescribed documents in relation to value, description, and quantity of goods. By concealing duty reimbursements under unrelated fields, the Noticee mis-

declared key facts and therefore withheld accurate information at the time of export clearance.

58.4 Further, the exporter had received payment of duty paid at the time of export separately under a separate RBI purpose code (P1306) and the method for routing these amounts adopted by choosing incorrect purpose code which is in no way related to the export of the goods. I find that the exporter had never disclosed the fact before the customs authority that additional amounts over and above declared FOB were being recovered by them by way of debit notes.

58.5 As discussed above, it is clear that the exporter inflated freight amount in the shipping bills for the purpose to reduce the declared FOB values before the Customs. The fact is now not in dispute that the exporter received the full payment from their overseas buyers. The example of the Shipping Bill No. 1437612 dated 31.05.2023 clearly establish the fact. The noticees did not bother to inform the authorities at the time of export that excess freight amounts were not borne by them but ultimately will be recovered from their overseas buyers as part of the total value for the consignments. I also find that the acceptance of inflating the price, wrongly claim under "deduction" heads, inflating freight amounts, receiving payment from buyers, using wrong RBI purpose code; during the recording of statement leaves no scopes for not invoking extended period of time.

58.6 These above acts on the part of the exporter supports the finding that the Noticee in a very planned manner had received these amounts and concealed the true nature of the transaction from Customs by suppression the fact and by not disclosing the complete details before the Customs Authority. I find that in the present case the duty reimbursement was masked under not permissible deduction under the shipping bills and separate remittance codes were used purposely to evade the legitimate Customs Duty. These acts on the part of Noticee amounts to suppression and mis-statement at their end.

58.7 The deliberate undervaluation and suppression of true assessable value of 158 shipments across multiple ports set up a fit case for application of the extended limitation period which involves a large evasion of duty amounting to Rs. 12,56,35,659/- . In view of the above, I hold that the conditions for invoking Section 28(4) are squarely satisfied in this case. Therefore, the extended period has been rightly invoked, and the demand of differential duty as proposed in the Show Cause Notice is sustainable.

VALUATION AND DUTY CALCULATION-

59. For the purpose of charging export duty, the value to be considered is the FOB price. This is so because, the terms "for export from India for delivery at

the time and place of exportation" appearing in Section 14 of the Customs Act, 1962, means to FOB (Free On Board) value only. This has been clarified also by the Central Board of Indirect Taxes and Customs (CBIC) vide Circular No. 18/2008, dated 10.11.2008, wherein it stated that in case of export shipments, for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation. In view of these provisions of the Customs Act, 1962 read with the rules made there under, the valuation of the export goods is the price which is the sole consideration received by the exporter from the buyer. In this case, the said noticee is insisting that the export duty is on reimbursement basis from the overseas buyer of the export goods. By doing so, the noticee is separately receiving a part of the export proceeds from the overseas buyer and not including the same in the assessable value of the export goods. By imposing the condition for reimbursement of duty from the buyer, the seller has imposed a condition on the buyer of the export goods which provides that if the buyer does not pay him a fixed amount (equal to the 20% export duty), they would not sell the export goods to the overseas buyer and would not deliver the same at the time and place of exportation. Thus, all such agreements wherein the seller had imposed a condition on the buyer by which buyer has to pay a part of the payment separately in the bank accounts of the seller on account of sale of the export goods, such payments are necessarily part of the consideration received by the seller for sale of the imported goods and all such amounts which are equal to the export duty amounts and in some cases the deduction amounts are in excess to the export duty amounts are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon. By declaring the excess freight amounts in the export documents pertaining to the shipments exported on CIF/CF incoterm basis, the exporter had wrongly claimed excess deduction from the transaction value and all such excess freight amounts are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon.

60. In case of 158 Shipping Bills as listed in **Tables A1, A2, B and C in para 17.2 to 17.5 above**, it is evident from the above discussion that the said noticee had knowingly and deliberately mis-declared the transaction value (i.e FOB Value). Hence, the extended period of five years is rightly invoked in all these cases to recover the differential duty as detailed in corresponding **Annexure -I, Annexure -II, Annexure -III, and Annexure -IV** of the SHOW CAUSE NOTICE.

Accordingly, the demand of Rs.12,56,35,659/- as per Table-D to Table-G above, is required to be confirmed against the said noticee under Section 28(8) of the Customs Act, 1962 and the interest at the applicable rate in terms of notification issued under Section 28AA of the said Act is required to be recovered from the said noticee on the differential amount of Customs duty.

61. Confiscation of the goods under Section 113(i) of the Customs Act, 1962 and imposition of redemption fine:

61.1 SCN has alleged that the goods are liable for confiscation under Section 113(i) of the Customs Act, 1962. The relevant legal provisions of Section 113(i) of the Customs Act, 1962 are reproduced below: -

"(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;"

61.2 On plain reading of the above provisions of the Section 113(i) of the Customs Act, 1962, it is clear that any goods, which are entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act, will be liable to confiscation. As discussed in the foregoing paras, the said noticee has fraudulently by producing forged contract agreement with the foreign buyer claimed deduction of \$115 in the different shipping bills filed by them for export of rice and thus evaded proper payment of export duty. All the deduction claimed by the said noticee including the reimbursement of export duty was not deductible from the CIF value to arrive at the FOB value. Hence, the impugned exported goods as exported vide 158 shipping bills listed above are liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962.

61.3 As the impugned goods are liable for confiscation under Section 113(i) of the Customs Act, 1962, I find that since the goods in question which are proposed to be confiscated are not available physically and have already been cleared from Customs by the said noticee, I refrain from imposing any redemption fine under Section 125 of the Customs Act, 1962.

62. Imposition of Penalties on main noticee and Co-Noticees

62.1 As regards imposition of penalty on the said noticee, I find that by their acts of omission and commission; by fraudulently producing forged documents and claiming abatement from the CIF value of the deductions which were not permissible as discussed in details in the foregoing paragraphs of this Order, which has resulted into evasion of Customs duty to the tune of Rs.12,56,35,659/-, they have rendered the goods liable to confiscation under Section 113(i) of the Customs Act, 1962. By their above acts, they have also

rendered themselves liable to penalty under Section 114A and Section 114AA of the Act, *ibid.*

62.2 I also find that Shri Mohit C. Murgai, Shri Amol C. Murgai and Shri Chander Murgai, all partners of M/s Mac Impex (having Importer Exporter Code No. 0302048944) were actively involved in abetting the duty evasion on the basis of fraudulent and forged contract agreement submitted before the Customs authorities at the time of investigation. They had claimed ineligible deductions from the CIF value i.e. the expenses related to clearance and transportation, demurrage, port clearance charges etc., in Egypt in respect of the export shipments of rice supplied by them to the Government of Egypt in the guise of export duty and freight and they had also concealed the actual sales consideration received by them for sale of goods for export from their buyers in Egypt. Shri Mohit C. Murgai, Shri Amol C. Murgai, Partners of the noticee were aware about the fact that the declarations made in the shipping bills relating to the goods covered under Shipping Bills listed in Tables A1, A2, B & C above were false and incorrect in material particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were signed in the overall supervision of Shri Mohit C. Murgai and Shri Amol C. Murgai who were handling the day to day business of the export firm. This fact has also been admitted by Shri Mohit C. Murgai in his statements dated 18.10.2023 and 03.05.2023 recorded u/s 108 of the Customs Act, 1962. Shri. Amol C. Murgai, other partner of the said noticee did not join investigation even after issuance of various summons u/s 108 of the Customs Act, 1962 to him which is indicative of the fact that he has nothing to comment thus tacitly accepting these facts of undervaluation. The whatsapp chats of Shri Amol C. Murgai, retrieved from the mobile phone of Shri Sourabh Mehta, CFO of the noticee also indicates that Shri Amol C. Murgai was actively involved in the export of rice and drafting of the forged contracts in relation to the export of rice by them. In view of this, it is evident that Shri Mohit C. Murgai and Shri Amol C. Murgai, are the key person who have orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. Shri. Chander Murgai, partner of the noticee had also not responded and complied with any summons issued to him during investigation which is indicative of the fact that he had nothing to comment in this regard consequently indicating his tacit approval for the acts and omissions leading to the evasion of duty on export of rice by their export firms. Shri Mohit C. Murgai, Shri Amol C. Murgai and Shri Chander Murgai, are, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by the noticee firm which has rendered the export

goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, Shri Mohit C. Murgai, Shri Arnol C. Murgai and Shri Chander Murgai, are required to be visited with penalty under Sections 114 (ii) and 114AA of the Customs Act, 1962.

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

ORDER

- i. I order to reject the declared assessable value of Rs.154,89,69,980/- in respect of 158 shipments of rice exported vide Shipping Bills detailed in 'Annexure-I, II, III & IV', in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3(1) ibid and Section 14(1) of the Customs Act, 1962.
- ii. I order to re-determine the assessable value as Rs. 217,71,48,299/- under Section 14 (1) of the Customs Act, 1962 read with Rule 3 (1) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
- iii. I determine and confirm the demand of the differential (export) duty amounting to Rs.12,56,35,659/- (Rupees Twelve Crore Fifty Six Lakh Thirty Five Thousand Six Hundred & Fifty Nine only), as calculated and shown in 'Annexure-I, II, III & IV' to the notice, in respect of these 158 Shipping Bills filed by them at 6 different ports, under the provisions of Section 28(8) of the Customs Act, 1962 and order to recover the same from M/s. Mac Impex (IEC No. 0302048944) Navi Mumbai, Maharashtra.
- iv. I order to recover the interest from M/s. Mac Impex (IEC No. 0302048944) Navi Mumbai, Maharashtra, at appropriate rate under Section 28AA of the Customs Act, 1962 on the above confirmed demand of duty amounting to Rs. 12,56,35,659/-.
- v. I hold that the goods as detailed in Annexure-I, II, III and IV having assessable value of Rs. 2,17,71,48,299/-are liable to confiscation under the provisions of Section 113(i) of the Customs Act, 1962. Since the goods are not available for confiscation, I don't impose redemption fine under Section 125 of the Customs Act, 1962.
- vi. I impose a penalty of Rs.12,56,35,659/- (Rupees Twelve Crore Fifty Six Lakh Thirty Five Thousand Six Hundred & Fifty Nine only) upon M/s. Mac Impex (IEC No. 0302048944) under Section 114A of the Customs Act, 1962.

vii. I impose a penalty of Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lakh Only) upon M/s. Mac Impex (IEC No. 0302048944) under Section 114AA of the Customs Act, 1962.

viii. I impose penalties under Section 114(ii) and 114AA of the Customs Act, 1962 upon the partners, mentioned in Column (2) of the Table as below:-

Sr.No.	Name of the Noticee/Partner (Shri)	Section 114(ii) (in Rs.)	Section 114AA (in Rs.)
1.	Mohit C. Murgai	50,00,000/- (Rupees Fifty Lakh Only)	50,00,000/- (Rupees Fifty Lakh Only)
2.	Amol C. Murgai	50,00,000/- (Rupees Fifty Lakh Only)	50,00,000/- (Rupees Fifty Lakh Only)
3.	Chander Murgai	50,00,000/- (Rupees Fifty Lakh Only)	50,00,000/- (Rupees Fifty Lakh Only)

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



(Nitin Saini)

Commissioner of Customs
Custom House, Mundra.

F. No- GEN/ADJ/COMM/411/2024-Adjn
To:-

Date:- 18.09.2025

- 1) M/s Mac Impex, R-21/22, APMC Market II, Phase II, Turbhe Vashi, Navi Mumbai, Thane, Maharashtra (IEC-0302048944)
- 2) Sh. Mohit C. Murgai, Partner M/s Mac Impex resident of Om Villa, plot No 72, Sector-28, Vashi, Navi Mumbai
- 3) Sh. Amol C. Murgai, Partner M/s Mac Impex resident of Om Villa, plot No 72, Sector-28, Vashi, Navi Mumbai
- 4) Sh. Chander Murgai, Partner M/s Mac Impex resident of Om Villa, plot No 72, Sector-28, Vashi, Navi Mumbai

Copy for necessary action to:-

- 1) The Chief Commissioner of Customs Gujarat Customs Zone, Ahmedabad.
- 2) The Commissioner of Customs Kandla, Kandla Custom House, Near Balaji Temple, Kandla-370210
- 3) The Commissioner of Customs, Nagpur GST Bhawan, Telangkhedi Road, Civil Lines, Nagpur-440001 [CONCOR ICD MIHAN INKPK6]
- 4) The Commissioner of Customs (Preventive), Vijaywada 55-17-3, C-14, II Floor, Road No. 2, Industrial Estate, Auto Nagar, Vijayawada-520007 [Krishnapatnam Custom House -INKRI1]
- 5) The Commissioner of Customs, Chennai-II (Import) Custom House, 60, Rajaji Salai, Chennai-600001
- 6) The Pr. Commissioner of Customs, Nhava Sheva-I Jawaharlal Nehru Customs House, Nhava Sheva, Tal: Uran, Dist.-Raigad, Maharashtra-400707
- 7) The Pr. Commissioner of Customs, Visakhapatnam Port Area, Visakhapatnam-530001
- 8) The Director General, Central Economic Intelligence Bureau, 6th Floor, B-Wing, Janpath Bhawan, Janpath, New Delhi-110001
- 9) The Superintendent(EDI/Disposal/Recovery/Legal),Customs House, Mundra.