



सीमा शुल्क कार्यालय का आयुक्त के (निवारक), सीमा शुल्क भवन,
जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास,
जामनगर (गुजरात) - 361 001

Office of the Commissioner of Customs (Preventive),
'Seema Shulk Bhavan', Jamnagar – Rajkot Highway,
Near Victoria Bridge, Jamnagar (Gujarat) – 361 001
Email: commr-custjmr@nic.in; adj-custjmr@nic.in

DIN – 20250771MM00001151BF

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| 1. | फाइल क्रमांक/ File Number | F. No. CUS/3361/2025-Adjn |
| 2. | मूल आदेश क्रमांक/ Order-in-Original No. | 06/ Additional Commissioner/ 2025-26 |
| 3. | द्वारा पारित/ passed by | एन. श्रुजन कुमार/N. Srujan Kumar अपर आयुक्त/ Additional Commissioner, सीमा शुल्क, निवारक/Customs (Preventive) जामनगर/ Jamnagar. |
| 4. | Date of Order /आदेश दिनांक | 22.07.2025 |
| | Date of issue / आदेश जारी किया | 22.07.2025 |
| 5. | कारण बताओ नोटिस क्रमांक एवं दिनांक Show Cause Notice Number & Date | ADC-06/2025-26 dated 10.07.2025 |
| 6. | नोटिसी का नाम/ Name of Noticee | M/s. Sidhhartha Corporation Pvt Ltd., Survey No. 216, Rampara – 2, Pipavav Port Road, Tal. – Rajula, Dist. – Amreli |
| 01. | इस आदेश की मूल प्रति संबन्धित व्यक्ति को निशुल्क प्रदान की जाती है। The original copy of this order is provided free of cost to the person concerned. | |
| 02. | इस मूल आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, की धारा 1962 128A)(1)a सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है।फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। जिनमें से कम से कम)एक प्रमाणित प्रति हो | |
| | आयुक्त (अपील) वी मंजिल 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद – 380 009 | |
| | Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the provisions of Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate and shall be accompanied by an equal number of | |

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| | copies of the order appealed against (one of which at least shall be a certified copy). |
| 03. | अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये) 0.50 पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है। |
| | The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paise only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870. |
| 04. | अपीलीय जापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है। |
| | Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962. |
| 05. | अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क अपील)) नियम, 1982 नियम (प्रोसीजर) और सिस्टेट प्रक्रिया, के सभी नियमों का पूरा पालन हुआ है। 1982 |
| | While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects. |
| 06. | इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5% के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है। |
| | An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute. |

BRIEF FACTS OF THE CASE

M/s. Sidhhartha Corporation Pvt Ltd., Survey No. 216, Rampara – 2, Pipavav Port Road, Tal. – Rajula, Dist. – Amreli (hereinafter referred to as **“Importer”**) has filed 04 Bills of Entry through M/s A. M. Sodder & Co. Custom Broker, Pipavav (hereinafter referred to as **“Custom Broker”**), seeking the clearance of imported goods viz. **Indian Groundnut Kernels (80-90 TJ)** (hereinafter referred to as **“said goods”**). The importer claimed the benefit of the exemption from payment of duty, as per Notification No. 045/2017 dated 01.07.2017, in the said Bills of Entry. The details of Bills of Entry filed by the importer and other relevant details are, as under:-

| Sl. No. | BE No. / Date | No. of Containers | Container Details | No. of Bags | Qty. (MTS) | Assessable Value (INR) | B/L No. & Date |
|---------|-------------------|-------------------|-------------------|---------------|------------|------------------------|--------------------------------------|
| 1 | 7897804 /20.01.25 | 2 x 20' Feet | SGRU-2192784 | 400 X 50 Kgs. | 20.00 MTS | 40,41,440/- | DAHPAVBLW2417477A Date:14.01.2025 |
| | | | SGRU-2193158 | 400 X 50 Kgs. | 20.00 MTS | | |
| 2 | 7897802 /20.01.25 | 2 x 20' Feet | NLLU-2047950 | 400 X 50 Kgs. | 20.00 MTS | 40,24,020/- | DAHPAVBLW2417476A Date:14.01.2025 |
| | | | NLLU-2050505 | 400 X 50 Kgs. | 20.00 MTS | | |
| 3 | 7897803 /20.01.25 | 3 x 20' Feet | NLLU-2047353 | 400 X 50 Kgs. | 20.00 MTS | 55,39,560/- | DAHPAVBLW2417478A Date:14.01.2025 |
| | | | NLLU-2047800 | 400 X 50 Kgs. | 20.00 MTS | | |
| | | | NLLU-2051348 | 400 X 50 Kgs. | 20.00 MTS | | |
| 4 | 8031441 /27.01.25 | 5 x 20' Feet | ECNU-2249457 | 400 X 50 Kgs. | 20.00 MTS | 1,04,43,290/- | DXB497227PIP Date:21.01.2025 |
| | | | ECNU-2012866 | 400 X 50 Kgs. | 20.00 MTS | | |
| | | | ECNU-2272919 | 400 X 50 Kgs. | 20.00 MTS | | |
| | | | ECNU-2256570 | 400 X 50 Kgs. | 20.00 MTS | | |
| | | | ECNU-2265859 | 400 X 50 Kgs. | 20.00 MTS | | |

2.1 The said goods were earlier exported by the importer to the various recipients from the Port of Pipavav, per vessel Maersk Frankfurt 428. Details are as under:-

| Sr. No. | BE No. | BL No. & Date | Name of Exporter (M/s) | SB No. |
|---------|------------------------|---------------------------------|---------------------------------------|--------------------------|
| 1. | 7897802 dtd 20.01.2025 | DAHPAVBLW2417476 dtd 12.07.2024 | PT. Pancaran Tani Gemilang, Indonesia | 1895296 dated 24.06.2024 |
| 2. | 7897803 dtd 20.01.2025 | DAHPAVBLW2417476 dtd 12.07.2024 | CV Sinar Makmur Prima, Indonesia | 1892772 dated 24.06.2024 |
| 3. | 7897804 dtd 20.01.2025 | DAHPAVBLW2417477 dtd 12.07.2024 | PT. Agra Garlica Lestari, Indonesia | 1894523 dated 24.06.2024 |
| 4. | 8031441 dtd 27.01.2025 | PIP467817SUB dtd 12.07.2024 | PT. Adil Hasan Augerah, Indonesia | 2237315 dated 06.07.2024 |

2.2 The importer vide their letter dated Nil had submitted that a fire broke in the said vessel, during transit from Port of Pipavav, on 20th July, 2024, therefore, the Shipping line discharged all containers at Refuge Port Jabel Ali. Subsequently, these containers were called back to Port of Pipavav by them. The said goods remained in these containers for more than six months. The

details of Shipping Bills filed by the importer at the time of export of goods under above referred containers and other relevant details are, as given below :-

| Sl. No. | S/B No. & Date | No. of Containers | Container Details | No. of Bags/ QTY (MTS) | FOB Value (INR) | RoDTEP | DBK | IGST |
|---------|----------------------|-------------------|-------------------|------------------------|-----------------|---------|---------|------------|
| 1 | 1894523/ 24.06.24 | 2 x 20' | SGRU-2192784 | 800 Bags/ 40 MTS | 3810936.02 | 38109/- | 5716/- | 191632/- |
| | | | SGRU-2193158 | | | | | |
| 2 | 1895296/ 24.06.24 | 2 x 20' | NLLU-2047950 | 800 Bags/ 40 MTS | 3794420.15 | 37944/- | 5692/- | 190806/- |
| | | | NLLU-2050505 | | | | | |
| 3 | 1892772/ 24.06.24 | 3 x 20' | NLLU-2047353 | 1200 Bags /60 MTS | 52,20,940.33 | 52209/- | 7831/- | 262668/- |
| | | | NLLU-2047800 | | | | | |
| | | | NLLU-2051348 | | | | | |
| 4 | 2237315/ 06.07.24 | 5 x 20' | ECNU-2249457 | 2000 Bags /100 MTS | 98,50,978.38 | 98510/- | 14776/- | 495786.5/- |
| | | | ECNU-2012866 | | | | | |
| | | | ECNU-2272919 | | | | | |
| | | | ECNU-2256570 | | | | | |
| | | | ECNU-2265859 | | | | | |

3.1 The aforesaid Bills of Entry were assigned to the Virtual Assessment Officers, Faceless Assessment Group (FAG) for the purpose of assessments. The Virtual Assessment Officers then sent the Bills of Entry for First Check Examination of the goods at the Port of Pipavav.

3.2 Accordingly, on being brought back / re-importation of all these containers, same were moved to CFS, Contrans, Pipavav Port, Pipavav by CHA/Importer for the purpose of discharge of customs clearance formalities for its home-consumption. Accordingly, the said Containers have been examined by the Customs Officers in the presence of Shri Bhavesh Rameshbhai Mothia, (G-Card Holder of CHA, A. M. Soddar & Co.), Shri Mepabhai Surabhai Solanki, Depo Manager, M/s Sidhhartha Corporation Pvt Ltd (Importer's representative) & Shri Jadeja Surendrasinh Juvasinh, Operation in-charge, Contrans CFS (Representative of CFS) and found that Container No. and Seal No. affixed on it are tallied with the details thereof shown in relevant Export Shipping Bills and are intact. Thereafter, fumigation and plant quarantine procedures have been carried out.

3.3 Subsequently, the seal of the containers were broken to open its doors. On visual examination, it is found that these containers found to have loaded with Indian Groundnut

Kernels (80-90 TJ) and front-side of these containers are covered with transparent plastic tarpaulin. It is also observed that plastic tarpaulin is wet in condition along with dust and tiny insects. Thereafter, the said plastic tarpaulin was removed to verify the position and condition of cargo found inside the containers and found that goods are stuffed in 50 Kgs. Jute bags. On

initial examination of the same, it is observed that some of the bags are torn out due to moisture / sprinkling of water, thereby, causing groundnuts bags damaged to spill out ground-nuts from it.

3.4 Later on, all the bags were de-stuffed one-by-one from each container separately and found that initial some bags stored in front-side were torn out and in damaged condition whereas goods stored in back-side of the containers and de-stuffed later on, were found in better condition and without affecting the condition of the bags.

3.5 The importer vide their letters dated Nil made the request that the goods were lying for more than six months in these containers and of perishable in nature, the goods may be segregated. Accordingly, the goods de-stuffed from each containers were segregated into two parts/ lots from each container viz. (1) Groundnuts in Damaged Bags, and (2) Groundnut in Un-damaged Bags, in the presence of the Customs Officers as well as in the presence of Shri Bhavesh Rameshbhai Mothia, (G-Card Holder of CHA, A. M. Soddar & Co.), Shri Mepabhai Surabhai Solanki, Depo Manager, M/s Sidhartha Corporation Pvt Ltd (Importer's representative) & Shri Jadeja Surendrasinh Juvasinh, Operation in-charge, Contrans CFS (Representative of CFS) and Incidence Reports for the same have also been prepared / drawn. Subsequently, two representative samples were drawn lot-wise from each lot, from 12 containers i.e., one from lot of Un-damaged Bags and another one from Damaged Bags of each containers. Thus, in all, 24 (12 X 2) representative samples were drawn and were sent to Central Revenue Laboratory, Vadodara for the purpose of testing the same of its fitness in terms of FSSAI Norms. Incidence Report/ Factual Report in respect of each BsE has been drawn separately.

3.6 The container-wise details of ground nuts contained in lot of Damaged Bags viz-a-viz lot of Un-damaged Bags, Test Memo No. & Date of each sample drawn from these 12 X 2 lots and result thereof, is as under:-

| Sr. No. | BOE NO & DATE | CONTAINER NO. | TYPE'S OF BAGS | NO.OF BAGS (Each of 50 KGS) | TEST MEMO NO. | DATE | REMAKS |
|---------|----------------------|---------------|----------------|-----------------------------|---------------|------------|------------------|
| 1 | 7897804 / 20.01.2025 | SGRU2192784 | UN-DAMAGED | 286 | IMP/383/24-25 | 13.02.2025 | Fit for H.C. |
| | | | DAMAGED | 114 | IMP/384/24-25 | 13.02.2025 | Not fit for H.C. |
| | | SGRU2193158 | UN-DAMAGED | 211 | IMP/385/24-25 | 13.02.2025 | Fit for H.C. |
| | | | DAMAGED | 189 | IMP/386/24-25 | 13.02.2025 | Not fit for H.C. |
| 2 | 7897802 / 20.01.2025 | NLLU2047950 | UN-DAMAGED | 251 | IMP/379/24-25 | 13.02.2025 | Fit for H.C. |
| | | | DAMAGED | 149 | IMP/380/24-25 | 13.02.2025 | Not fit for H.C. |
| | | NLLU2050505 | UN-DAMAGED | 278 | IMP/381/24-25 | 13.02.2025 | Fit for H.C. |
| | | | DAMAGED | 122 | IMP/382/24-25 | 13.02.2025 | Not fit for H.C. |
| 3 | 7897803 / 20.01.2025 | NLLU2047353 | UN-DAMAGED | 210 | IMP/373/24-25 | 13.02.2025 | Not fit for H.C. |
| | | | DAMAGED | 190 | IMP/374/24-25 | 13.02.2025 | Not fit for H.C. |
| | | NLLU2047800 | UN-DAMAGED | 180 | IMP/375/24-25 | 13.02.2025 | Not fit for H.C. |
| | | | DAMAGED | 220 | IMP/376/24-25 | 13.02.2025 | Not fit for H.C. |
| | | NLLU2051348 | UN-DAMAGED | 188 | IMP/377/24-25 | 13.02.2025 | Not fit for H.C. |
| | | | DAMAGED | 212 | IMP/378/24-25 | 13.02.2025 | Not fit for H.C. |
| 4 | 8031441 / 27.01.2025 | ECNU2249457 | UN-DAMAGED | 255 | IMP/394/24-25 | 18.02.2025 | Fit for H.C. |
| | | | DAMAGED | 145 | IMP/395/24-25 | 18.02.2025 | Not fit for H.C. |
| | | ECNU2012866 | UN-DAMAGED | 314 | IMP/392/24-25 | 18.02.2025 | Fit for H.C. |
| | | | DAMAGED | 86 | IMP/393/24-25 | 18.02.2025 | Not fit for H.C. |
| | | ECNU2272919 | UN-DAMAGED | 299 | IMP/400/24-25 | 18.02.2025 | Fit for H.C. |
| | | | DAMAGED | 101 | IMP/401/24-25 | 18.02.2025 | Not fit for H.C. |
| | | ECNU2256570 | UN-DAMAGED | 329 | IMP/396/24-25 | 18.02.2025 | Fit for H.C. |
| | | | DAMAGED | 71 | IMP/397/24-25 | 18.02.2025 | Not fit for H.C. |
| | | ECNU2265859 | UN-DAMAGED | 296 | IMP/398/24-25 | 18.02.2025 | Fit for H.C. |
| | | | DAMAGED | 104 | IMP/399/24-25 | 18.02.2025 | Not fit for H.C. |

3.7 The Chemical Examiner, CRCL, Vadodara have analyzed all 24 samples and submitted the Chemical Analysis Reports separately for all 24 samples. On perusal of Chemical Test Reports, it is observed that 09 lots of groundnut kernels containing 2519 Bags (each bag of 50

kgs.) found fit for home-consumption whereas 15 lots of groundnut kernels containing 2281 bags (each bag of 50 kgs) and are found not fit for human consumption, based on the test results.

4.1 The importer vide its letter dated 12.03.2025 have informed that the groundnut kernels found unfit for human-consumption, may be fit for animal feed or cattle-feed or bird feed, therefore, they requested to allow them to verify the same on this angle.

4.2 Accordingly, the Chemical Examiner, CRCL, Vadodara had been requested vide this office letter F. No. CUS/LAB/MISC/14/2023 dated 17.03.2025 to give their opinion about the fitness of the Groundnut Kernels as Animal Feed / Cattle-feed / Bird-feed, which are found not fit for human-consumption.

4.3 The Chemical Examiner, CRCL, Vadodara has informed vide reply email dated 02.04.2025 informed that samples may be forwarded to any other Govt. approved food testing laboratory.

5.1 The relevant paras of **Chapter-X of Food Safety and Standards (Import) Regulations, 2017**, is reproduced hereunder:

***14. No Objection Certificate.** — (1) The Authorised Officer shall issue a ‘no objection certificate’ in FORM – 3, after assessing the safety of food being imported under these regulations under his seal and signature for allowing import of food, and shall communicate such order in a specified manner to the customs and the Food Importer.*

*(5) The Authorised Officer shall issue a **non conformance report in FORM – 4** specifying the grounds mentioned in these regulations for refusal, wherever the clearance of the imported food is refused, under his seal and signature, and shall communicate such order in a specified manner to the customs, Food Authority and the Food Importer.*

*(7) Based on the findings and recommendations in non- conformance report of the laboratory analysis and subsequent confirmation from the referral laboratory, if contamination or presence of microbiological organisms is likely to pose a significant risk to public health, the Authorised Officer, with the prior approval the Food Authority shall pass necessary orders for **mandatory destruction of articles of food in FORM- 5**.*

5.2 The Chemical Examiner, CRCL, Vadodara indicated in the Test Result that (02) Quality parameters viz. (1) Moisture, and (2) Damaged Kernel including slightly damaged Kernel were analyzed and found one or more parameters **below** the permissible limits / norms viz. (1) Not more than 7.0%, and (2) Not more than 5.0 % by wt. respectively, as per the regulation 2.3.47(1) of Food Safety and Standards (Food products and food additive) Regulation, 2011 and provisions of Food Safety and Standard Act, 2006 and the rules made thereunder. Accordingly, Authorized Officer (FSSAI), Custom House, Pipavav Port issued Conformance Report (No Objection Certificate) wherein opined that goods/ articles **may be released or cleared from the Port**. The details are as tabulated below:-

CONFORMANCE REPORT (IN FORM-3)

| Sr. No. | BOE NO & DATE | CONTAINER NO. | TYPE'S OF BAGS | NO.OF BAGS (Each of 50 KGS) | TEST MEMO NO. & Date | FSSAI NOC No. & Date | REMAKS |
|---------|----------------------|---------------|----------------|-----------------------------|-----------------------------------|------------------------------------|--------------|
| 1 | 7897804 / 20.01.2025 | SGRU2192784 | UN-DAMAGED | 286 | IMP/383/24-25 Date: 13.02.2025 | 04/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 2 | 7897804 / 20.01.2025 | SGRU2193158 | UN-DAMAGED | 211 | IMP/385/24-25 Date: 13.02.2025 | 05/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 3 | 7897802 / 20.01.2025 | NLLU2047950 | UN-DAMAGED | 251 | IMP/379/24-25 Date: 13.02.2025 | 02/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 4 | 7897802 / 20.01.2025 | NLLU2050505 | UN-DAMAGED | 278 | IMP/381/24-25 Date: 13.02.2025 | 03/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 5 | 8031441 / 27.01.2025 | ECNU2249457 | UN-DAMAGED | 255 | IMP/394/24-25 Date: 18.02.2025 | 07/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 6 | 8031441 / 27.01.2025 | ECNU2012866 | UN-DAMAGED | 314 | IMP/392/24-25 Date: 18.02.2025 | 06/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 7 | 8031441 / 27.01.2025 | ECNU2272919 | UN-DAMAGED | 299 | IMP/400/24-25 Date: 18.02.2025 | 10/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |

| | | | | | | | |
|---|----------------------|-------------|------------|------|-----------------------------------|------------------------------------|--------------|
| 8 | 8031441 / 27.01.2025 | ECNU2256570 | UN-DAMAGED | 329 | IMP/396/24-25 Date: 18.02.2025 | 08/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| 9 | 8031441 / 27.01.2025 | ECNU2265859 | UN-DAMAGED | 296 | IMP/398/24-25 Date: 18.02.2025 | 09/GPPL/2025-26 Dtd. 08.04.2025 | Fit for H.C. |
| | | | TOTAL | 2519 | | | |

5.3 Further, the Chemical Examiner, CRCL, Vadodara indicated in the Test Result that (02) Quality parameters viz. (1) Moisture, and (2) Damaged Kernel including slightly damaged Kernel were analyzed and found one or more parameters **above** the permissible limits/ norms viz. (1) Not more than 7.0%, and (2) Not more than 5.0% by wt. respectively, as per the regulation 2.3.47(1) of Food Safety and Standards (Food products and food additive) Regulation, 2011 and provisions of Food Safety and Standard Act, 2006 and the rules made thereunder. Accordingly, Authorized Officer (FSSAI), Custom House, Pipavav Port issued Non-Conformance Report wherein opined that goods/ articles **may not be released or cleared from the Port.**

NON-ONFORMANCE REPORT (IN FORM-4)

| Sr. No. | BOE NO & DATE | CONTAINER NO. | TYPE'S OF BAGS | NO.OF BAGS (Each of 50 KGS) | TEST MEMO NO. | FSSAI NOC No. & Date | REMAKS |
|---------|----------------------|---------------|----------------|-----------------------------|-----------------------------------|------------------------------------|------------------|
| 1 | 7897804 / 20.01.2025 | SGRU2192784 | DAMAGED | 114 | IMP/384/24-25 Date: 13.02.2025 | 09/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 2 | 7897804 / 20.01.2025 | SGRU2193158 | DAMAGED | 189 | IMP/386/24-25 Date: 13.02.2025 | 10/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 3 | 7897802 / 20.01.2025 | NLLU2047950 | DAMAGED | 149 | IMP/380/24-25 Date: 13.02.2025 | 07/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 4 | 7897802 / 20.01.2025 | NLLU2050505 | DAMAGED | 122 | IMP/382/24-25 Date: 13.02.2025 | 08/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 5 | 7897803 / 20.01.2025 | NLLU2047353 | UN-DAMAGED | 210 | IMP/373/24-25 Date: 13.02.2025 | 01/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 6 | 7897803 / 20.01.2025 | NLLU2047353 | DAMAGED | 190 | IMP/374/24-25 Date: 13.02.2025 | 02/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 7 | 7897803 / 20.01.2025 | NLLU2047800 | UN-DAMAGED | 180 | IMP/375/24-25 Date: 13.02.2025 | 03/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 8 | 7897803 / 20.01.2025 | NLLU2047800 | DAMAGED | 220 | IMP/376/24-25 Date: 13.02.2025 | 04/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 9 | 7897803 / 20.01.2025 | NLLU2051348 | UN-DAMAGED | 188 | IMP/377/24-25 Date: 13.02.2025 | 05/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 10 | 7897803 / 20.01.2025 | NLLU2051348 | DAMAGED | 212 | IMP/378/24-25 Date: 13.02.2025 | 06/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 11 | 8031441 / 27.01.2025 | ECNU2249457 | DAMAGED | 145 | IMP/395/24-25 Date: 18.02.2025 | 12/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 12 | 8031441 / 27.01.2025 | ECNU2012866 | DAMAGED | 86 | IMP/393/24-25 Date: 18.02.2025 | 11/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 13 | 8031441 / 27.01.2025 | ECNU2272919 | DAMAGED | 101 | IMP/401/24-25 Date: 18.02.2025 | 15/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 14 | 8031441 / 27.01.2025 | ECNU2256570 | DAMAGED | 71 | IMP/397/24-25 Date: 18.02.2025 | 13/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| 15 | 8031441 / 27.01.2025 | ECNU2265859 | DAMAGED | 104 | IMP/399/24-25 Date: 18.02.2025 | 14/GPPL/2025-26 Dtd. 08.04.2025 | Not fit for H.C. |
| | | | TOTAL | 2281 | | | |

5.4 Further, the FSSAI Officer, CH Pipavav has, on the basis of Test Results issued pursuant to sample drawn by Custom House, Pipavav, issued 09 Conformance Report (In Form-03) where the imported goods found "Fit for Human Consumption" and 15 Non-Conformance Report (in Form-4) where imported goods found "Not-Fit for Human Consumption" in the light of the directions/ instructions contained in **Chapter-X of Food Safety and Standards (Import) Regulations, 2017**, for the subject imported goods.

5.5 Based on the Test Results & FSSAI Certificates and other relevant documents, the Examination Report in respect of all 04 Bills of Entry were submitted to Virtual Assessment Officers (FAGs) to the effect that "the identity of the goods has been established with the relevant export shipping bills and the importer has reversed the export incentives viz. Drawback & RoDTEP availed at the time of export.

5.6 The Virtual Assessment Officers (FAGs) have, after due deliberation with the importers in the form of queries & replies, returned the said Bills of Entry to Local Assessment for the

purpose of Adjudication with a remark that as the goods are found to be unfit for human consumption and why should not be disposed of through destruction.

6. In view of the above, it appears that the goods declared as **"Indian Groundnut Kernels (80-90 TJ)"** of 4800 Bags (each of 50 Kgs.) totally weighing 240 MTS having an Assessable Value of Rs. 2,40,48,310 covered by said 04 Bills of Entry have been re-imported / returned back. Out of which, 2519 Bags (each Bag of 50 Kgs.) having Assessable Value of Rs. 1,26,20,353/- found fit for Human-Consumption as per FSSAI norms and have been allowed the clearance for home-consumption by the FSSAI Authorities, in as much as, the cargo i.e. **"Indian Groundnut Kernels (80-90 TJ)"** conforms to provisions of FSS Act, Rules and Regulations made there under. Whereas remaining 2281 bags (each bag of 50 Kgs) weighing 114.050 MTS having assessable value of Rs. 1,14,27,957/- have not been found fit for Human-Consumption as per FSSAI norms. Accordingly, these goods have not been allowed the clearance for home consumption by the FSSAI Authorities, in as much as, the cargo i.e. **"Indian Groundnut Kernels (80-90 TJ)"** does not conform to provisions of FSS Act, Rules and Regulations made there under.

7.0 LEGAL PROVISIONS CONTRAVENED/ VIOLATED IN THE CASE:

7.1 Section 2(33) of the Customs Act, 1962:

"Prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

7.2 SECTION 111 (d) OF THE CUSTOMS ACT, 1962:

111. Confiscation of improperly imported goods etc.

The following goods brought from the place outside India shall be liable to confiscation:

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs water for the purpose of being imported contrary to any prohibition imposed by or under this Act or any other law for the time being in force.

7.3 SECTION 112(a) OF THE CUSTOMS ACT, 1962:

112. Penalty for improper importation of goods, etc.

Any person,—

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, shall be liable,—

i. in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

7.4 Moreover, Para 2.2 of the CBIC Circular No. 58/2001-Cus. Dated 25.10.2001 reads, as under:-

2.2 All the consignments of edible/ food products imported through ports, airports, ICDs, CFSs, Land Customs Stations shall be referred to PHOs for testing and clearance shall be allowed only after receipt of the test report. Pending receipt of test report, such consignments may be allowed to be stored in warehouses under section 49 of the Customs Act, 1962. If the product fails the test, the Customs authorities will

ensure that the goods are re-exported out of the country by following the usual adjudication procedure or destroyed as required under the relevant rules.

8 Whereas, it appears from the above that 15 samples in respect of the goods i.e. **“Indian Groundnut Kernels (80-90 TJ)”** tested under the provisions of the Food Safety & Standards Act, 2006 have been failed in as much as the moisture content in the sample found more than permitted limit (i.e. 7%), therefore, found **not fit for home consumption** and resulted into non-compliance of the provisions of Food Safety & Standards Act, 2006 as discussed in the foregoing paras. As a result, the said re-imported / returned goods i.e. **“Indian Groundnut Kernels (80-90 TJ)”** of Qty 114.050 MTs having assessable value of Rs. 1,14,27,957/- (approx) are prohibited goods as per Section 2(33) of the Customs Act, 1962 read with the regulation 2.3.47(1) of Food Safety and Standards (Food products and food additive) Regulation, 2011 and provisions of Food Safety and Standard Act, 2006 and the rules made thereunder, thereby, rendered the said goods liable for confiscation under Section 111(d) of the Customs Act, 1962. Further, for these acts of omission or commission, which rendered the goods liable for confiscation, it appears that the importer is liable for penal action under section 112(a)(i) of the Customs Act, 1962.

9.1 Whereas, in view of the above facts & circumstances narrated hereinabove, 2519 Bags (each Bag of 50 Kgs.) weighing 125.050 MTs and having Assessable Value of Rs. 1,26,20,353/-, which are found fit for Human-Consumption by the FSSAI officer covered by aforementioned 04 Bills of Entry have been given Out of Charge manually.

9.2 Whereas, in view of the above facts & circumstances and legal provisions discussed hereinabove, the remaining goods i.e. 2281 Bags (each Bag of 50 Kgs.) of **“Indian Groundnut Kernels (80-90 TJ)”** weighing 114.050 MTs and having assessable value of Rs. 1,14,27,957/-, as per the details given in the table below, which are found not fit for human consumption by the FSSAI officer, as discussed in detailed hereinabove, have been placed under Seizure on 10.05.2025 and a Memorandum of Seizure has been drawn and said seized goods have been handed over to the Contrans CFS for safe-custody with a direction not to move, take away, remove, sell, breach, part with, break of otherwise deal with the said goods in any manner except with the prior permission in writing from competent authority of Customs.

| Sr. No. | BOE NO & DATE | CONTAINER NO. | TYPE'S OF BAGS | NO. OF BAGS (Each of 50 KGS) | TEST MEMO NO. | FSSAI NOC No. & Date |
|---------|----------------------|---------------|----------------|------------------------------|-----------------------------------|------------------------------------|
| 1 | 7897804 / 20.01.2025 | SGRU2192784 | DAMAGED | 114 | IMP/384/24-25 Date: 13.02.2025 | 09/GPPL/2025-26 Dtd. 08.04.2025 |
| 2 | 7897804 / 20.01.2025 | SGRU2193158 | DAMAGED | 189 | IMP/386/24-25 Date: 13.02.2025 | 10/GPPL/2025-26 Dtd. 08.04.2025 |
| 3 | 7897802 / 20.01.2025 | NLLU2047950 | DAMAGED | 149 | IMP/380/24-25 Date: 13.02.2025 | 07/GPPL/2025-26 Dtd. 08.04.2025 |
| 4 | 7897802 / 20.01.2025 | NLLU2050505 | DAMAGED | 122 | IMP/382/24-25 Date: 13.02.2025 | 08/GPPL/2025-26 Dtd. 08.04.2025 |
| 5 | 7897803 / 20.01.2025 | NLLU2047353 | UN-DAMAGED | 210 | IMP/373/24-25 Date: 13.02.2025 | 01/GPPL/2025-26 Dtd. 08.04.2025 |
| 6 | 7897803 / 20.01.2025 | NLLU2047353 | DAMAGED | 190 | IMP/374/24-25 Date: 13.02.2025 | 02/GPPL/2025-26 Dtd. 08.04.2025 |
| 7 | 7897803 / 20.01.2025 | NLLU2047800 | UN-DAMAGED | 180 | IMP/375/24-25 Date: 13.02.2025 | 03/GPPL/2025-26 Dtd. 08.04.2025 |
| 8 | 7897803 / 20.01.2025 | NLLU2047800 | DAMAGED | 220 | IMP/376/24-25 Date: 13.02.2025 | 04/GPPL/2025-26 Dtd. 08.04.2025 |
| 9 | 7897803 / 20.01.2025 | NLLU2051348 | UN-DAMAGED | 188 | IMP/377/24-25 Date: 13.02.2025 | 05/GPPL/2025-26 Dtd. 08.04.2025 |
| 10 | 7897803 / 20.01.2025 | NLLU2051348 | DAMAGED | 212 | IMP/378/24-25 Date: 13.02.2025 | 06/GPPL/2025-26 Dtd. 08.04.2025 |
| 11 | 8031441 / 27.01.2025 | ECNU2249457 | DAMAGED | 145 | IMP/395/24-25 Date: 18.02.2025 | 12/GPPL/2025-26 Dtd. 08.04.2025 |
| 12 | 8031441 / 27.01.2025 | ECNU2012866 | DAMAGED | 86 | IMP/393/24-25 Date: 18.02.2025 | 11/GPPL/2025-26 Dtd. 08.04.2025 |
| 13 | 8031441 / 27.01.2025 | ECNU2272919 | DAMAGED | 101 | IMP/401/24-25 Date: 18.02.2025 | 15/GPPL/2025-26 Dtd. 08.04.2025 |
| 14 | 8031441 / 27.01.2025 | ECNU2256570 | DAMAGED | 71 | IMP/397/24-25 Date: 18.02.2025 | 13/GPPL/2025-26 Dtd. 08.04.2025 |
| 15 | 8031441 / 27.01.2025 | ECNU2265859 | DAMAGED | 104 | IMP/399/24-25 Date: 18.02.2025 | 14/GPPL/2025-26 Dtd. 08.04.2025 |
| | | | TOTAL | 2281 | | |

9.3. The importer vide their letter dated 18.06.2025 have submitted that they do not have any objection in the destruction of the said seized goods and have also prayed not to impose any fine or penalty for considering the unforeseen nature of this incident caused by a fire during the transit. They have also stated that they do not wish Show Cause Notice in this matter. Further, they requested for personal hearing to present their case in case of any adverse decision regarding fine and/or penalties. Accordingly, to decide the instant case, I proceed to issue Show Cause Notice was issued following principles of natural justice.

10. Now therefore, M/s Sidhhartha Corporation Pvt Ltd., Survey No. 216, Rampara – 2, Pipavav Port Road, Tal. – Rajula, Dist. – Amreli vide Show Cause Notice No.ADC-06/2025-26 dated 10.07.2025 called upon to show cause to the Additional Commissioner, Customs (Preventive), Jamnagar having his office at Seema Shulk Bhavan, Jamnagar-Rajkot Highway, Near Victoria Bridge, Jamnagar – 361 001 (Gujarat), within 30 days from the date of receipt of this Show Cause Notice as to why:

- (i) Seized goods of Qty 114.050 MTs having assessable value of Rs. 1,14,27,957/- covered under 04 Bills of Entry, as mentioned in Table-A, should not be confiscated under Section 111(d) of the Customs Act, 1962;
- (ii) Penalty should not be imposed on them under Section 112(a)(i) of the Custom Act, 1962;

DEFENCE SUBMISSION

11. The Importer, M/s. Sidhhartha Corporation Pvt. Ltd., vide their letter dated 'NIL' filed defence submission; wherein they interalia submitted that the consignment of groundnut kernels under valid shipping documentation was loaded on the vessel Maersk Frankfurt, which sailed from Pipavav on 12.07.2024. The shipping line, Dahnay Lines, informed them that the vessel Maersk Frankfurt, en route from Mundra, India to Colombo, Sri Lanka, experienced a fire breakout on board on 19.07.2024. Subsequently, on 22.07.2024, the ship owners declared General Average, and Richards Hogg Lindley was appointed as the General Average adjusters to handle the matter. The vessel was later taken to Jebel Ali, UAE as the port of refuge. Following the fire incident on 19.07.2024 and the declaration of General Average on 22.07.2024, the vessel remained at sea while arrangements were made for offloading and inspections. They further submitted that between August and October 2024, the vessel carrying the cargo faced prolonged delays due to a fire incident and securing approvals at multiple ports of refuge, including Khor Fakkan and Sohar. After over two months of uncertainty, the vessel was given permission to offload at Jebel Ali on 21.10.2024. The cargo was eventually discharged at Jebel Ali Port during 29.10.2024 to end of November 2024. They have further submitted that on 19.11.2024, they were informed that while some containers were visibly affected by fire or fire fighting operations, many others, including their consignment, were declared 'sound' by surveyors. The prolonged wait for discharge, storage, and clearance entirely outside their control resulted in significant delays before the cargo could be returned to India.

12. They have further submitted that they were constantly pursuing with New India Assurance Co. Ltd for providing Guarantee and Salvage Security so that their cargo is not unduly held at Jebel Ali port. After extensive follow-up, they confirmed on 31st December 2024 that the GA Guarantee and Salvage Security had been duly lodged with the General Average Adjuster. The containers were then loaded for return shipment to India. Upon arrival at Pipavav, and as per normal procedures, the containers were opened and inspected. Unfortunately, it was found that a portion of the cargo was no longer fit for human consumption, likely due to prolonged delay, heat exposure, or humidity while at port.

13. They have further submitted that the exported consignment of groundnut kernels was of merchantable quality and complied with all applicable export requirements. The goods were tested by an APEDA-recognized laboratory, found fit for human consumption, and certified by both APEDA and the Plant Quarantine (PQ) Authority with a valid Phytosanitary Certificates.

14. They have further submitted that the cargo was unfortunately affected due to a marine casualty - a fire broke out on board the vessel Maersk Frankfurt on 19.07.2024, leading to the declaration of General Average on 22.07.2024. This incident was beyond their control and does not reflect any negligence or malafide intention on their part. The vessel was subsequently taken to Jebel Ali Port as a port of refuge. Offloading and inspection delays ensued due to port congestion, survey prioritization of visibly damaged containers, and procedural requirements for GA guarantees. They have further submitted that their cargo, although not visibly damaged, remained stuck overseas for several months, eventually returning to India only after December 2024. Based on repeated communication from the General Average Surveyor (W.K. Webster) — including their mail dated 29.11.2024 — they were informed that their containers were sound and not among those affected by fire or water. Accordingly, they re-imported the cargo in good faith and with the intention to recover any salvageable value through lawful sale in the domestic market.

15. They have further submitted that upon arrival in Pipavav, the cargo was examined by Customs and FSSAI. While some of the containers were cleared, a portion was found unfit for human consumption — likely due to delays, prolonged storage, and climatic exposure. They are fully willing to undertake destruction of the affected cargo at their own cost, subject to permission.

16. They have further submitted that this was a case of accidental deterioration due to force majeure, not an attempt to import prohibited or substandard goods. There was no commercial advantage in bringing back deteriorated cargo; in fact, they have already suffered substantial financial loss and have even returned export incentives to the authorities. The delay of approximately seven months was caused due to the fire incident and related salvage procedures, followed by an additional delay of about three months attributable to re-import clearance, inspections, and regulatory formalities with Customs and FSSAI.

17. Further, they have requested that this bona fide situation be considered sympathetically. The re-import of the goods was necessitated solely due to these uncontrollable events. The deterioration of the goods occurred due to circumstances entirely beyond their control, following a marine casualty and extended delays in inspection and clearance. They wish to clarify that there has been no willful misstatement, suppression of facts, or omission to comply with the conditions of any applicable policy or notification on their part.

18. In view of the above, they seek permission to destroy the said cargo at their own cost, in accordance with customs procedures, in lieu of confiscation under Section 125 of the Customs Act, 1962. They also request that the penalty proposed under Section 112 of the Act be waived, as there was no mens rea, deliberate violation, or willful non-compliance on their part.

PERSONAL HEARING

19. Personal hearing in the matter was held on 14.07.2025. Shri Suresh Ramrakhiani, Advisor to the importer/Noticee appeared in Virtual mode. In the personal hearing, Shri Suresh Ramrakhiani stated that the Ship carrying their cargo (Groundnut Kernel) caught fire near New Mangalore, and it took 6 months to get their cargo back. Further, he stated that most of the cargo is damaged and not fit for human consumption. They are also ready to destroy the cargo at their own cost. Accordingly, they requested not to impose any penalty, as they are compliant with Customs Laws for long time, there is no fault of them in this case and they suffered huge loss already.

DISCUSSION AND FINDINGS:

20. I have carefully gone through the facts of the case, Show Cause Notice and written Defence submissions and submission made during the personal hearing held in virtual mode on 14.07.2025

I find that, the issues to be decided in the instant case are as follows:

- (i) Whether the seized goods with quantity 114.050 MTs having assessable value of Rs. 1,14,27,957/- covered under 04 Bills of Entry, should be confiscated under Section 111(d) of the Customs Act, 1962 or otherwise;
- (ii) Whether penalty should be imposed on them under Section 112(a)(i) of the Custom Act, 1962 or otherwise;

21. I observe that the goods declared as "Indian Groundnut Kernels (80-90 TJ)" of 4800 Bags (each of 50 Kgs.) totally weighing 240 MTS having an Assessable Value of Rs. 2,40,48,310 covered under 04 Bills of Entry have been re-imported at Pipavav Port. Out of which, 2519 Bags (each Bag of 50 Kgs.) having Assessable Value of Rs. 1,26,20,353/- found fit for Human-Consumption as per FSSAI norms and therefore, have been allowed the clearance for home-consumption by the FSSAI Authorities, in as much as, the cargo i.e. "Indian Groundnut Kernels (80-90 TJ)" conforms to provisions of FSS Act, Rules and Regulations made there under. Whereas remaining 2281 bags (each bag of 50 Kgs) weighing 114.050 MTS having assessable value of Rs. 1,14,27,957/- have not been found fit for Human-Consumption as per FSSAI norms. Accordingly, these goods have not been allowed the clearance for home consumption by the FSSAI Authorities, in as much as, the cargo i.e. "Indian Groundnut Kernels (80-90 TJ)" does not conform to provisions of FSS Act, Rules and Regulations made there under.

22. I further observe that samples in respect of the goods i.e. "Indian Groundnut Kernels (80-90 TJ)" tested under the provisions of the Food Safety & Standards Act, 2006 have failed in as much as the moisture content in the sample found more than permitted limit (i.e. 7%), therefore, found not fit for home consumption and resulted into non-compliance of the provisions of Food Safety & Standards Act, 2006 as discussed in the foregoing paras. As a result, the said re-imported / returned goods i.e. "Indian Groundnut Kernels (80-90 TJ)" of Qty. 114.050 MTs having assessable value of Rs. 1,14,27,957/- (approx.) are prohibited goods as per Section 2(33) of the Customs Act, 1962 read with the regulation 2.3.47(1) of Food Safety and Standards (Food products and food additive) Regulation, 2011 and provisions of Food Safety and Standard Act, 2006 and the rules made thereunder, thereby, rendered the said goods liable for confiscation under Section 111(d) of the Customs Act, 1962. Further, for these acts of omission or commission, which rendered the goods liable for confiscation, it appears that the importer is liable for penal action under section 112(a) (i) of the Customs Act, 1962. Accordingly, Show Cause Notice was issued.

23. The importer/noticee has contended that the cargo was unfortunately affected due to a marine casualty - a fire broke out on board of the vessel Maersk Frankfurt on 19.07.2024, leading to the declaration of General Average on 22.07.2024. This incident was beyond their control and does not reflect any negligence or malafide intention on their part. The vessel was subsequently taken to Jebel Ali Port as a port of refuge. Offloading and inspection delays ensued due to port congestion, survey prioritization of visibly damaged containers, and procedural requirements for GA guarantees. They have further submitted that their cargo, although not visibly damaged, remained stuck overseas for several months, eventually returning to India only after December 2024. They were informed that their containers were sound and not among those affected by fire or water. Accordingly, they re-imported the cargo in good faith and with the intention to recover any salvageable value through lawful sale in the domestic market. They have further submitted that upon arrival in Pipavav, the cargo was examined by Customs and FSSAI. While some of the containers were cleared, a portion was found unfit for human consumption — likely due to delays, prolonged storage, and climatic exposure. They are fully willing to undertake destruction of the affected cargo at their own cost, subject to permission.

24. The importer/noticee has further submitted that this was a case of accidental deterioration due to force majeure, not an attempt to import prohibited or substandard goods. In fact, they have already suffered substantial financial loss. The delay of approximately seven months was caused due to the fire incident and related salvage procedures, followed by an additional delay of about three months attributable to re-import clearance, inspections, and regulatory formalities with Customs and FSSAI. Further, they have requested that this bona fide situation be considered sympathetically. The re-import of the goods was necessitated solely due to these uncontrollable

events. The deterioration of the goods occurred due to circumstances entirely beyond their control, following a marine casualty and extended delays in inspection and clearance.

25. I observe that seized goods of Qty. 114.050 MTs of Indian Groundnut Kernel, having assessable value of Rs.1,14,27,957/- are found to be unfit for human consumption hence not compliant with FSSAI Act, 2006. Accordingly, they fall under definition of "prohibited goods" under Section 2(33) of Customs Act, 1962 and also liable for confiscation under Section 111(d) of Customs Act, 1962 read with FSSAI Act, 2006. Further the importer/noticee has undertaken to destroy the affected cargo at their own cost. Accordingly, the seized goods of Qty. 114.050 MT are to be confiscated. Further, as the cargo is unfit for human consumption, the confiscation is absolute and question of redemption will not arise.

26. Further, with respect to penalty under section 112(a)(i) of the Customs Act, 1962, I notice that, the instant case pertains to reimport of 'Indian Groundnut Kernel' which was exported previously and re-imported due to fire accident and subsequent events as narrated in defence reply. Further, portion of goods became damaged and unfit for human consumption. From the reply dated 18.06.2025, email dated 20.07.2025 from Shipping Line-M/s. Dahmaylines and General Average Adjustor's (Richards Hogg Lindley) report, it is amply clear that the vessel carrying noticee's cargo had caught fire, and there was considerable delay in getting the cargo back, due to factors which are beyond control of noticee. Further, I notice that the cargo (Groundnut Kernel) was exported in fit for human consumption state after testing from APEDA recognised laboratory and after obtaining Plant Quarantine Authority Phytosanitary Certificate. The export was under shipping bills mentioned in Show Cause Notice. The cargo was re-imported in same container as export, with seals intact. Hence, I observe that there is no malafide intention on part of noticee to import damaged edible goods in violation of FSSAI Act. Further, I notice that delay of around six months to bring back the cargo was on account of various factors like finding refugee port, General Average Settlement etc. which were beyond the control of noticee. Further, due to delays, prolonged storage, and climatic exposure, the goods which are edible became unfit for human consumption, thus non-compliant with FSSAI Act and hence became prohibited goods liable for confiscation.

27. I observe that this is a case of accidental deterioration of goods due to force majeure, and there was no intention on part of noticee to import prohibited or substandard goods. Further, the cargo is not "prohibited goods" ab initio, but being edible and perishable in nature, became unfit for human consumption over time and thus became "prohibited goods" for the reasons discussed above. Further, Chapter 30, para 9.3 of CBIC's Customs Law Manual states that

"Generally, 'mens rea' is not required to be proof for imposition of penalty under the provisions of the Customs Act. The amount of penalty depends on the gravity of the offence and is to act as a deterrent for the future."

28. In this regard, I find that the importer/noticee is a victim of the circumstances beyond their control and they have to undergo financial loss because of no fault of their own. The goods, owing to long intervening period between export and re-import, have deteriorated and a certain part of the Groundnut become unfit for human consumption. I notice that there is no intention of noticee to violate law and import defective goods. Hence, in given circumstances imposing of penalty merely to act as a deterrent for the future will be unreasonable. Therefore, I find that it is not appropriate to impose penalty on noticee/importer for no fault of theirs and for reasons beyond their control, hence I do not impose any penalty under Section 112(a)(i) of the Customs Act, 1962 on the noticee/importer.

29. In view of the above discussion and findings, I pass the following order.

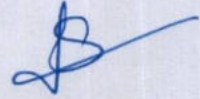
: ORDER:

- (i) I order for absolute confiscation of the seized goods of Qty. 114.050 MTs having assessable value of Rs.1,14,27,957/- under section 111(d) of the Customs Act, 1962, as the same being prohibited goods in nature. Further, the destruction of the

confiscated goods will be at the cost of noticee under supervision of Customs Officers, Customs House, Pipavav.

- (ii) I do not impose any penalty on the importer/noticee- M/s.Siddhartha Corporation Pvt. Ltd. under section 112(a)(i) of the Customs Act, 1962.

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



(N. Srujan Kumar)
Additional Commissioner

DIN-20250771MM00001151BF

F. No. CUS/3361/2025-Adjn

Date: 22.07.2025

BY Hand/RPAD/Speed Post

To,
M/s. Siddhartha Corporation Pvt Ltd.,
Survey No. 216, Rampara – 2,
Pipavav Port Road, Tal. – Rajula,
Dist. – Amreli

Copy to:

1. The Commissioner, Customs (Preventive), Commissionerate, Jamnagar
2. The Assistant Commissioner, Customs Division, Pipavav.
3. The Superintendent (RRA), Customs (Prev.), Jamnagar.
4. The Superintendent(TRC), Customs (Prev.), Commissionerate Jamnagar
5. Guard File.