

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-KUTCH (GUJARAT)-370421 Phone No. 02838-271423/271426
A. File No.	CUS/ASS/MISC/125/2025-EA -O/o Pr-Commr-Cus-Mundra
B. Order-in- Original No.	MCH/ADC/MK/311/2024-25 dated 19.02.2025
C. Passed by	Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order /Date of issue	19.02.2025 / 21-02-2025
E. Show Cause Notice No. & Date	SCN and PH Waiver
F. Noticee(s)/Party/ Exporter	M/s Chandra Enterprises, Plot No 13, Jalram Nagar 1 Gandhidham, District Kachchh, Gujarat-370205.
G. DIN	20250271MO000000EDAD

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 असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

“सीमा शुल्क आयुक्त (अपील),
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

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

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

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

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

(i) उक्त अपील की एक प्रति और A copy of the appeal, and

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

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

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

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

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

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

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष माग शुल्क का 7.5% भुगतान करना होगा।

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

BRIEF FACTS OF THE CASE:

M/s. Chandra Enterprises (IEC: EDOPK7051Q) (hereinafter referred to as “the Exporter” for sake of brevity) having its registered office at Plot No 13, Jalram Nagar 1 Gandhidham, Distrct Kachchh, Gujarat-370205, filed the following Shipping Bills for export of Industrial Salt falling under CTH-25010090 at Mundra Port-

TABLE –A

Sr. No.	Shipping Bill No. and Date	Container No.	Description of goods	Value of goods (in Rs.)	Quantity (in Kgs)
1	5512913 dated 11.11.2024	TGHU0290503, LCUU2537076 & XINU1153047	Industrial Salt	5,20,728/-	78000
2	5513008 dated 11.11.2024	LCUU3378960, DJLU2007041 & CARU3759771	Industrial Salt	5,20,728/-	78000

2. Examination and Investigation:

Based on the intelligence, the consignments pertaining to shipping bill nos. 5512913 and 5513008 both dated 11.11.2024 were put on hold for examination. The examination of above said shipping bills were carried out at Adani Exim yard CFS in presence of Shri Hitesh Guntu, authorized representative of exporter M/s. Chandra Enterprises and Shri Debabrata Bose, Assistant Manager of Adani Exim Yard vide Examination Report dated 25.11.2024 prepared.

2.2 During the course of examination, it was observed that the goods were packed in whitish

colour PP bags. On some bags, the mark industrial salt were printed while other bags were plain.

Thereafter, the bag of containers pertaining to shipping bill no. 5512913 dated 11.11.2024 were opened & the goods were de-stuffed and was found that there were 02 types of goods. In some bags, the goods appeared to be salt and in other bags, the goods were rice. The weight & no. of bags containing rice and salt were as following:

TABLE –B

Sr No.	Container no.	No. of bags containing Salt (in no.)	Weight (in Kgs)	No. of bags containing Rice (in no.)	Weight (in Kgs)	Total Weight
1	TGHU0290503	78	3978	442	22056	26034
2	LCUU2537076	83	4233	437	21806	26039
3	XINU1153047	86	4386	434	21657	26043

Further, the bag of containers pertaining to shipping bill no. 5513008 dated 11.11.2024 were opened & the goods were de-stuffed and was found that there were 02 types of goods. In some bags, the goods appeared to be salt and in other bags, the goods were rice. The weight & no. of bags containing rice and salt were as following:

TABLE –C

Sr No.	Container no.	No. of bags containing Salt (in no.)	Weight (in Kgs)	No. of bags containing Rice (in no.)	Weight (in Kgs)	Total Weight
1	LCUU3378960	67	3430	453	22605	26035
2	DJLU2007041	88	4506	432	21557	26062
3	CARU3759771	74	3789	446	22255	26044

Further, to check the characteristics and types of cargo/goods, samples were drawn for further lab-testing.

In view of the above, it appears that the exporter has mis-classified the goods i.e. “Industrial Salt” under CTH- 25010090.

2 . 3 The Samples drawn were sent to the CRCL, Kandla for testing vide test memo nos. 217/26.11.2024, 218/26.11.2024, 219/26.11.2024 and 220/26.11.2024. The test reports of the above said samples were received from CRCL Kandla vide Test report Lab No. 7177-SIIB/27.11.2024, 7178-SIIB/27.11.2024, 7179-SIIB/27.11.2024 and 7180-SIIB/27.11.2024 respectively. The relevant portion of laboratory test reports for the said consignment is reproduced below:

2.3.1 Test report Lab No. 7177-SIIB/27.11.2024 dated 03.12.2024 in respect of test memo no. 217/26.11.2024 pertaining to Shipping bill no. 5513008 dated 11.11.2024:

<i>Nature:</i>	<i>The Sample as received is in the form of off white crystalline very small lump of irregular shape and sizes along with coarse powder.</i>
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<i>Composition</i>	<i>It is mainly composed of Sodium Chloride.</i> <i>% of Chloride content as Sodium Chloride = 97.46 % by wt.</i>
<i>Note/comments:</i>	<i>Sealed remnant sample returned herewith.</i>

2.3.2 Test report Lab No. 7178-SIIB/27.11.2024 dated 03.12.2024 in respect of test memo no. 218/26.11.2024 pertaining to Shipping bill no. 5513008 dated 11.11.2024:

<i>Nature:</i>	<i>The Sample as received is in the form of off white opaque rice grains of assorted sizes.</i>
<i>Composition</i>	<i>It has the following constants:</i> <i>Broken grains (% by mass) = 30.84</i> <i>Foreign Matter (% by mass) = Nil</i> <i>Damaged/Discol. Grains (% by mass) = Nil</i> <i>Chalky Grains (% by mass) = Nil</i> <i>Weevilled Grains (% by mass) = Nil</i> <i>Chalky Grains (% by mass) = Nil</i> <i>Average length (in mm) = 5.93</i> <i>Average width (in mm) = 2.17</i> <i>Length/ width ratio = 2.75</i> <i>Moisture content (% by mass) = 9.87</i>
<i>Note/comments:</i>	<i>Based on the physical appearance, forms and analytical findings, it may be considered as white rice. However % of broken grain exceed the limit as per the specification issued from Ministry of Consumer Affairs, Food & Public Distribution (F. No. 8-4/2020 S&I dt. 28.09.2020). It is other than industrial salt.</i>

2.3.3 Test report Lab No. 7179-SIIB/27.11.2024 dated 03.12.2024 in respect of test memo no. 219/26.11.2024 pertaining to Shipping bill no. 5512913 dated 11.11.2024:

<i>Nature:</i>	<i>The Sample as received is in the form of off white crystalline very small lumps of irregular shape and sizes along with coarse powder.</i>
<i>Composition</i>	<i>It is mainly composed of Sodium Chloride.</i> <i>% of Chloride content as Sodium Chloride = 97.58 % by wt.</i>
<i>Note/comments:</i>	
	<i>Sealed remnant sample returned herewith.</i>

2.3.4 Test report Lab No. 7180-SIIB/27.11.2024 dated 03.12.2024 in respect of test memo no. 220/26.11.2024 pertaining to Shipping bill no. 5512913 dated 11.11.2024:

<i>Nature:</i>	<i>The Sample as received is in the form of off white opaque rice grains of assorted sizes.</i>
<i>Composition</i>	<i>It has the following constants:-</i> <i>Broken grains (% by mass) = 29.12</i> <i>Foreign Matter (% by mass) = Nil</i> <i>Damaged/Discol. Grains (% by mass) = Nil</i> <i>Chalky Grains (% by mass) = Nil</i> <i>Weevilled Grains (% by mass) = Nil</i> <i>Chalky Grains (% by mass) = Nil</i> <i>Average length (in mm) = 6.23</i> <i>Average width (in mm) = 2.23</i> <i>Length/ width ratio = 2.81</i> <i>Moisture content (% by mass) = 9.87</i>
<i>Note/comments:</i>	<i>Based on the physical appearance, forms and analytical findings, it may be considered as white rice. However % of broken grain exceed the limit as per the specification issued from Ministry of Consumer Affairs, Food & Public Distribution (F. No. 8-4/2020 S&I dt. 28.09.2020). It is other than industrial salt.</i>

	<i>Sealed remnant sample returned herewith.</i>
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2.4 The DGFT has issued Trade Notice No. 18/2022-23 dated 04.10.2022 regarding issues related to export policy of Rice. The relevant portion of the said notification is reproduced hereunder:

“3. Accordingly, in supersession of Trade Notice No. 17/2022-23 dated 28.09.2022, it is clarified in respect of normal rice that “Rice (5% and 25%) is already exempted as it is not broken rice but normal rice with permissible limits of broken rice as per standards. However, it will carry 20% duty as per notification.””

2.5 From the above test reports, received from CRCL, Kandla, the goods are found to be broken rice (based on the limit of broken grains specified by Ministry of Consumer Affairs, Food & Public Distribution) along with industrial salt. Further, it has also been clarified by the DGFT vide the above said Trade notice that the rice is to be treated as broken, if the limit of broken grains exceeds 25%. Therefore, the goods pertaining to Shipping bill nos. 5512913 and 5513008 both dated 11.11.2024 were placed under seizure vide seizure memo (DIN-20241271MO0000207576) dated 20.12.2024 and the same were handed over for safe custody to representative of Adani Exim yard, Mundra, vide Supratnama dated 20.12.2024.

3. Classification of the Exported goods:

3.1 The test reports received from the CRCL Kandla as discussed above have been examined with respect to the declaration made by the Exporter to determine the correct and proper CTH of the Exported goods. The goods covered under Test Memo nos. 218/26.11.2024 and 220/26.11.2024 are found to be mis-declared in terms of description of the goods as the goods were declared as “Industrial Salt under CTH- 25010090”, however, as per test reports, the goods are white rice and the % of broken grain exceed the limit as per the specification issued by DGFT vide Trade Notice No. 18/2022-23 dated 04.10.2022. Therefore, the correct Classification of the goods, pertaining to Test Memo nos. 218/26.11.2024 and 220/26.11.2024, are required to be ascertained. Accordingly, the impugned goods are “*Broken rice*” which are appropriately classifiable under the CTH-10064000.

3.2 The exporter has declared goods as “Industrial Salt under CTH-25010090” in the Shipping Bill no. 5512913 and 5513008 both dated 11.11.2024. However, as per test reports received from the CRCL Kandla as discussed above, the goods pertaining to Test Memo nos. 218/26.11.2024 and 220/26.11.2024 are broken white rice. Further, as per test reports received from the CRCL Kandla as discussed above, the goods pertaining to Test Memo nos. 217/26.11.2024 and 219/26.11.2024 are industrial salt and the same appears to be correctly declared in terms of description of the goods as well as CTH.

3.3 The above test results summarized hereunder:-

TABLE -D

Cargo declared	CTH Declared	TM	Test results	Correct CTH	Remarks
Industrial Salt	25010090	217/26.11.2024	Industrial Salt	25010090	Correctly declared
		218/26.11.2024	Broken rice	10064000	Mis-declared
		219/26.11.2024	Industrial Salt	25010090	Correctly declared
		220/26.11.2024	Broken rice	10064000	Mis-declared

3.4 As per examination report and further confirmed by above test reports, the total weight of the goods, i.e. Broken Rice are found as 131936 Kgs and the total weight of goods i.e. industrial salt, are found as 24322 Kgs. The details of the same are as below:

TABLE -E

S. No.	Shipping bill no. & Date	Industrial Salt (in Kgs)	Broken Rice (in Kgs)
1	5512913 dated 11.11.2024	12597	65519
2	5513008 dated 11.11.2024	11725	66417
Total		24322	131936

3.5 The export of broken rice is prohibited as per the schedule 2 Export Policy of the DGFT. The policy Conditions for broken rice against ITC (HS) code 10064000 has been incorporated vide Notification No. 07/2023 dated 24.05.2023. The relevant portion is reproduced hereunder:

ITC HS Code	Description	Export Policy	Policy Conditions
10064000	Only for broken rice	Prohibited	<i>Export will be allowed on the basis of permission granted by the Government of India to other countries to meet their food security needs and based on the request of their Government.</i>

From the above, it is observed that the export of broken rice is prohibited and allowed, only,

on the basis of permission granted by the Government of India.

3.6 In view of the above, it appears that the “*Broken Rice*” have been concealed in the guise of Industrial Salt to avoid the export policy conditions of the DGFT. The “broken rice” is to be classified under CTH-10064000. Therefore, the exporter has mis-declared the goods as “Industrial Salt” under CTH- 25010090 instead of correct CTH-10064000 and CTH-25010090. Accordingly, the goods have been found liable for confiscation under Section 113 (d), (h) & (i) and Section 119 of the Customs Act, 1962.

4.1 During the course of investigation, Summons dated 17.12.2024 was issued to the Exporter i.e. M/s. Chandra Enterprises to produce all the relevant documents pertaining to the Shipping Bill no. 5512913 & 5513008 both dated 11.11.2024 and to tender statement. In response, the statement of Shri Hitesh Guntu, Manager of M/s. Chandra Enterprises was recorded on 17.12.2024, wherein, he, inter-alia stated that:-

- He looks after day to day work of the firm and their firm is engaged in export and import of Rice, Salt, Plywood and electric goods.
- He stated that there were 2642 bags of Rice and 478 bags of Salt in all the six containers mentioned in the shipping bill no. 5513008 and 5512913 both dated 11.11.2024. They were exporting Industrial Salt but the labour wrongly stuffed Rice bags with the Industrial salt as both were lying next to each other. The Broken rice was meant to be sold in the local market only.
- He perused the test results of the samples drawn from the cargo of shipping bill no. 5513008 and 5512913 both dated 11.11.2024 and agreed with the same.
- He agreed that % of broken rice in their consignment of Shipping Bill no. 5513008 and 5512913 both dated 11.11.2024 exceeded the limit as per the specification issued from Ministry of consumer affair, Food & public distribution (F.No.8-4/2020 S&I dt.28.09.2020).
- He further stated that it was an unintentional mistake and they don't want SCN/PH in the current matter and ready to pay any fine and penalty as per customs procedure. Further, he requested for permission of back to town for the shipping bill no. 5513008 and 5512913 both dated 11.11.2024.

4.2 Further, Summons dated 01.01.2025 was issued to the CHA i.e. M/s. Transimpex Logistics to produce all the relevant documents pertaining to the Shipping Bill no. 5512913 & 5513008 both dated 11.11.2024 and to tender statement. In response, the statement of Shri Chirag Mendiratta, Proprietor of M/s Transimpex Logistics was recorded on 09.01.2025, wherein, he, inter-alia stated that:-

- He looks after day to day work of the firm and their firm is engaged in custom clearance and logistics.
- He perused the above said shipping bills and submit that they had filled the same for the export of Industrial Salt (CTH-25010090).

- He stated that they received enquiry/documents of the consignment mentioned in the above shipping bills from the exporter M/s Chandra Enterprises for the export of Industrial Salt (CTH-25010090).
- He stated that they had completed the KYC verification of M/s Chandra Enterprises who is the exporter in the shipping bill nos. 5512913 and 5513008 both dated 11.11.2024 and submitted the documents regarding KYC verification of the same.
- He perused the test report Lab No.7178-SIIB/27.11.2024 and 7180-SIIB/27-11-2024, received from CRCL, Kandla and agreed with the test reports. He further stated that they came to know that the product mentioned in the shipping bill was Industrial Salt (CTH-25010090) along with Broken white rice (CTH-10064000). The containers were factory stuffed under self-sealing and submitted the copy of Self Sealing permission. He also stated that they had filled the said shipping bill on the basis of documents provided by the exporter only.
- He stated that they are aware that this product Broken white rice (CTH-10064000) is prohibited commodity vide DGFT Notification no. 31/2015-2020 dated 08.09.2022.
- He stated that they will produce any further information required by customs and will cooperate in further investigation.

From the above, it appears that, the exporter has mis-classified the goods under CTH 25010090 instead of correct CTH-10064000 and CTH-25010090 as detailed in para-supra with an intention to export the prohibited goods. Consequently, the exported goods appear liable to be re-classified in different CTH arrived on the basis of lab test results as discussed in para-supra. It appears that the goods, i.e. broken rice, have been attempted to be exported in the guise of Industrial Salt. The “broken rice” is classifiable under CTH-10064000. However, the exporter has classified all the goods being exported vide Shipping Bill no. 5512913 and 5513008 both dated 11.11.2024 under CTH-25010090 and mentioned the description of goods as “Industrial Salt”. However, as per CRCL Kandla test report Lab no. “7178-SIIB/27.11.2024 and 7180-SIIB/27.11.2024”, the goods are broken white rice. Therefore, the entire goods do not fall under the category of Industrial Salt. The exporter has also agreed with the above said test report and stated in his statement that there are broken rice (CTH-10064000) in the consignment attempted to be exported vide Shipping Bill no. 5512913 are 5513008 both dated 11.11.2024. The exporter has also requested to give permission for back to town of the goods pertaining to shipping bill no. 5512913 and 5513008 both dated 11.11.2024. As per Test report, cargo are of two types (1) Broken rice (2) Industrial Salt. The details of cargo are mentioned hereunder-

TABLE -F

Sr. No.	Goods ascertained	Classification of goods	Weight in Kgs
1	Broken rice	10064000	131936
2	Industrial Salt	25010090	24322

5. Rejection of declared Value & Redetermination of Assessable value:

5.1 Since as per the Lab test report received from CRCL Kandla, the goods being exported vide shipping bill nos. 5512913 and 5513008 both dated 11.11.2024, were found mis-declared in terms of classification. Therefore, the value of item declared by the exporter in the shipping bill did not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (hereinafter referred to as "CVR, 2007" for sake of brevity) and therefore, the same appears liable to be rejected in terms of Rule 8 of CVR, 2007.

5.2 The Rule 3 of the CVRs, 2007 provides the method of valuation. Rule 3(1) of the CVRs, 2007 provides that "Subject to Rule 8, the value of export goods shall be the transaction value. Rule 3(3) ibid states that "if the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6 of CVR, 2007". Whereas, the explanation has been provided with CVRs, 2007, wherein it is mentioned that "*the proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include the mis-declaration of goods in parameters such as description, quality, quantity, year of manufacture or production*". Whereas, in the present case, it appears that, the exporter has mis-classified the subject goods, i.e. Industrial Salt, under CTH-25010090 instead of correct CTH with an intention to export the goods which are otherwise prohibited. Accordingly, there is reasonable doubt regarding the truth and accuracy of the declared value, and hence is liable to be rejected in terms of Rule 8 of the CVR, 2007. In view of the same, the goods attempted to be exported have been found liable for confiscation under section 113 of the Customs Act, 1962.

5.3 To ascertain the correct value of the goods, the opinion of empanelled Chartered Engineer was sought. The CE Varun Chandok has submitted his report vide Ref. No. VC/CFS/MUNDRA/SIIB-EXP/CE/@VC&JH3HF9*/XII/19/2024-25 dated 19.12.2024, wherein he submitted that the cargo consists of 02 types of goods which are packed in PP bags. The bags mentioning Industrial salt contained Industrial salt and the plain bags contained rice. Further, he submitted vide his above said report that taking into consideration quality of material, condition of goods, related information obtained from local market & internet etc., price of industrial salt as declared in invoice for export value of INR 6.65 per Kg seems reasonable. This type of rice is broken rice and according to information obtained from local market, verbal discussions with manufacturers, information obtained from internet, this type of broken rice has suggestive FOB price of approx. Rs.32/- to Rs.33/- per Kg.

5.4 On the basis of CE report vide Ref. No. VC/CFS/MUNDRA/SIIB-EXP/CE/@VC&JH3HF9*/XII/19/2024-25 dated 19.12.2024, it appears that the value of broken rice can be determined by taking average price of Rs.32.5/- per Kg and therefore, the assessable value of goods, i.e. broken rice, comes to the tune of Rs.42,87,921/-. Further, the value of industrial salt can be re-determined as per the price declared by the exporter. Accordingly, the assessable value of goods, i.e. industrial salt, comes to the tune of Rs.1,61,741/-. The details of the

same are as below:

TABLE-G

S. No.	Goods	Weight of Industrial Salt (in Kgs)	Assessable Value as per CE report	Remarks
1	Industrial Salt	24322	1,61,741	Rs. 6.65/- per Kg
2	Broken Rice	131936	42,87,921	Rs. 32.5/- per Kg
Total			44,49,662/-	

5.5 Therefore, the value provided by the Chartered Engineer may be considered as the assessable value of these goods. Therefore, the assessable value of the goods declared by the exporter is required to be rejected under Rule 8 of the CVR, 2007. Accordingly, the assessable value of the goods attempted to be exported are re-determined under Rule 6 of the CVR, 2007 as **Rs.44,49,662/-** instead of total assessable value of **Rs.10,41,456/-** as declared in the said shipping bills.

5.6 The export of broken rice is prohibited as per the schedule 2 Export Policy of the DGFT. The policy Conditions for broken rice against ITC (HS) code 10064000 has been incorporated vide Notification No. 07/2023 dated 24.05.2023 (**RUD-10**). The relevant portion is reproduced hereunder:

ITC HS Code	Description	Export Policy	Policy Conditions
10064000	<i>Only for broken rice</i>	Prohibited	<i>Export will be allowed on the basis of permission granted by the Government of India to other countries to meet their food security needs and based on the request of their Government.</i>

From the above, it is observed that the export of broken rice is prohibited and allowed, only, on the basis of permission granted by the Government of India. Therefore, it appears that the exporter has attempted to export the prohibited goods, i.e. broken rice, by way of concealment and mis-declaration. Thus, by the act of omission and commission at the level of exporter, it appears that, these goods, i.e. "Broken Rice", are liable for confiscation under section 113 (d), (h) & (i) of the Customs Act, 1962.

Further, it appears that declared goods, i.e. "Industrial Salt", have been used for the concealment of goods, i.e. broken rice, the export of which are otherwise prohibited. Further, the quantity & weight of goods, i.e. industrial salt, appears to be mis-declared, as some bags of "Broken Rice" having weight of 1,31,936 Kgs were found concealed. Thus, by the act of omission and commission at the level of exporter, it appears that, these goods, i.e. "Industrial

Salt", are liable for confiscation under section 113(i) & Section 119 of the Customs Act, 1962.

6. **RELEVANT LEGAL PROVISIONS:**

(A) **RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:**

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(18): "Export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

Section 2(19): "Exported goods", means any goods which are to be taken out of India to a place outside India;

Section 2(20): "Exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes [any owner, beneficial owner] or any person holding himself out to be the exporter;

Section 2(39): "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under Section 111 or section 113.

Section 11H: "illegal Export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 50. Entry goods for exportation:

.....

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) the exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:-

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 113. Confiscation of goods attempted to be improperly exported, etc. - The following export goods shall be liable to confiscation:-

--

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(h) any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;;

(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;

Section 114. Penalty for attempt to export goods improperly, etc. -

Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, 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 three times the value of the goods as declared by the exporter or the value as determined under this Act], whichever is the greater;;*
- ii. *in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher;*
- iii. *in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.*

Section 114AA. Penalty for use of false and incorrect material. -

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

Section 117. Penalties for contravention, etc., not expressly mentioned.

- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees] [Substituted by Act 18 of 2008, Section 70, for "ten thousand rupees"].

Section 119. Confiscation of goods used for concealing smuggled goods. -

"Any goods used for concealing smuggled goods shall also be liable to confiscation."

7. Summary of Investigations Conducted:

7.1 The exporter M/s Chandra Enterprises (IEC EDOPK7051Q), had filed shipping bill nos. 5512913 & 5513008 both dated 11.11.2024 at Mundra port (INMUN1) through their Custom Broker M/s Transimpex Logistics, for export of "Industrial Salt". The said shipping bill was put on hold on the basis of intelligence.

7.2 Whereas, on the basis of the Lab test reports received from CRCL Kandla and investigation carried out in this regard, it appears that the exporter has mis-classified the goods i.e. "Industrial

Salt" under CTH 25010090. The goods, i.e. "*broken rice*" to be classifiable under CTH-10064000, have been found along with declared goods, i.e. "*Industrial Salt*". These facts have also been admitted by the proprietor of M/s. Chandra Enterprises in his statement dated 17.12.2024. The exporter was trying to export "*broken rice*" by way of concealment in the guise of declared goods, i.e. *Industrial Salt*. As per DGFT Export policy for the goods, i.e. broken rice, its Export is prohibited as per Notification No. 07/2023 dated 24.05.2023. The Export is allowed on the basis of permission granted by the Government of India to other countries to meet their food security needs and based on the request of their Government. Therefore, it appears that the exporter has mis-declared the goods i.e. "*broken rice*" as "*Industrial Salt*" to avoid the conditions of DGFT export policy. Accordingly, it appears that, the exporter has failed to declare true and correct description, CTH as well as assessable value of the goods i.e. "*broken rice*" exported vide the said SBs and hence, the cargo is liable for confiscation under Section 113 (d), (h) & (i) of the Customs Act, 1962.

7.3 Accordingly, the assessable value of the goods, i.e. "*broken rice*", are re-determined as Rs.42,87,921/- as per CE report ref. no. VC/CFS/MUNDRA/SIIB-EXP/CE/@VC&JH3HF9*/XII/19/2024-25 dated 19.12.2024 under Rule 6 of the CVR, 2007. The export of broken rice under CTH-10064000 is prohibited as per Export policy of the DGFT as discussed in para-supra. Thus, in view of the act of omission and commission at the level of exporter, it appears that, the exporter has contravened the provisions of Section 50 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information in the said shipping bills and hence appears to be liable for penalty under section 114(i) of the Customs Act, 1962.

7.4 As per Lab test reports received from CRCL Kandla, the consignment have broken rice along with declared goods, i.e. Industrial salt. However, the exporter has declared all the goods as Industrial Salt under CTH- 25010090 in the said shipping bills. Therefore, the declared goods "*industrial salt*" have been used for the concealment of goods, i.e. broken rice, the export of which are otherwise prohibited. Further, the quantity & weight of goods, i.e. industrial salt, appears to be mis-declared, as some bags of broken rice having weight of 1,31,936 Kgs were found. Accordingly, it appears that the exporter has failed to declare true and correct quantity, weight as well as assessable value of the goods attempted to be exported vide the said SBs and hence, the goods i.e. "*Industrial Salt*" appear to be liable for confiscation under Section 113(i) & Section 119 of the Customs Act, 1962.

7.5 Accordingly, the assessable value of the goods i.e. "*Industrial Salt*" are re-determined as Rs.1,61,741/- as per as per CE report ref. no. VC/CFS/MUNDRA/SIIB-EXP/CE/@VC&JH3HF9*/XII/19/2024-25 dated 19.12.2024. Thus, in view of act of omission and commission at the level of exporter, it appears that, the exporter has contravened the provisions of Section 50 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of shipping bill and hence appear to be liable for penalty under section 114(iii) of the Customs Act, 1962.

The relevant portion of said provisions is as under:

Section 17. Assessment of duty. –

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 50. Entry of goods on Exportation. –

(1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed:

7.6 It appears that the exporter has knowingly submitted false and incorrect declaration in the invoice and Shipping Bill Nos. 5512913 & 5513008 both dated 11.11.2024 submitted before Customs authorities. The exporter has thereby appears to be rendered themselves liable for penalty under Section 114 AA of the Customs Act, 1962.

7.7 The exporter vide letter dated 26.12.2024 requested to waive issuance of any show cause notice and personal hearing in respect of shipping bill nos. 5512913 & 5513008 both dated 11.11.2024. Further, they have informed that they are prepared to pay any applicable duty, interest, fines or penalties and requested for permission to return the goods to the town. They also submitted that they will not file any appeal or application for a refund claim concerning these issues.

8. In view of the above facts, it appears that –

- i. The classification of the goods i.e. 25010090 as declared by the exporter in the Shipping Bill Nos. 5512913 & 5513008 both dated 11.11.2024 is liable to be rejected and the goods are liable to be re-classified under different CTHs as discussed at para 3 of this IR in accordance with the CRCL lab test reports.
- ii. The total assessable value of the exported goods is liable to be re-determined as Rs.44,49,662/- (Rupees Forty Four Lakh, Forty Nine thousand and six hundred sixty two only), as discussed at para 5 of this IR instead of Rs.10,41,456/- (Rupees Ten Lakh forty one thousand and four hundred fifty six only) as declared in the Shipping Bill No. 5512913 & 5513008 both dated 11.11.2024 in accordance with the CVR, 2007 read with Section 14 of the Customs Act, 1962.
- iii. The goods, i.e. Broken rice, having re-determined value of Rs.42,87,921/- were attempted to be exported by way of mis-declaration in contravention of Sec 50 of the Customs Act, 1962 and are therefore liable for confiscation under Section 113 (d), (h) & (i) of the Customs Act, 1962.
- iv. The goods, i.e. Industrial Salt, having re-determined value of Rs.1,61,741/- have been used

for the concealment of the goods, i.e. Broken rice, and are therefore liable for confiscation under Section 113(i) and Section 119 of the Customs Act, 1962.

v. The Exporter i.e., M/s. Chandra Enterprises, holding IEC No: EDOPK7051Q are liable for Penalty under Section 114 (i) & (iii) and Section 114AA of the Customs Act, 1962.

RECORDS OF PERSONAL HEARING:

9. As per para 7.7 of the IR, the exporter vide letter dated 26.12.2024 requested to waive issuance of any show cause notice and personal hearing in respect of shipping bill nos. 5512913 & 5513008 both dated 11.11.2024. Further, they have informed that they are prepared to pay any applicable duty, interest, fines or penalties and requested for permission to return the goods to the town. They also submitted that they will not file any appeal or application for a refund claim concerning these issues.

DISCUSSION AND FINDINGS:

10. I have carefully gone through the records of the case. The exporter requested for waiver of Show Cause Notice and personal hearing and requested to decide the matter on merit. Thus, I find that the principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with and therefore, I proceed to decide the case on the basis of the documentary evidence available on records.

10.1. The issues to be decided by me are:

- i. The classification of the goods i.e. 25010090 as declared by the exporter in the Shipping Bill Nos. 5512913 & 5513008 both dated 11.11.2024 is liable to be rejected and the goods are liable to be re-classified under different CTHs as discussed at para 3 of this IR in accordance with the CRCL lab test reports.
- ii. The total assessable value of the exported goods is liable to be re-determined as Rs.44,49,662/- (Rupees Forty Four Lakh, Forty Nine thousand and six hundred sixty two only), as discussed at para 5 of this IR instead of Rs.10,41,456/- (Rupees Ten Lakh forty one thousand and four hundred fifty six only) as declared in the Shipping Bill No. 5512913 & 5513008 both dated 11.11.2024 in accordance with the CVR, 2007 read with Section 14 of the Customs Act, 1962.
- iii. The goods, i.e. Broken rice, having re-determined value of Rs.42,87,921/- were attempted to be exported by way of mis-declaration in contravention of Sec 50 of the Customs Act, 1962 and are therefore liable for confiscation under Section 113 (d), (h) & (i) of the Customs Act, 1962.
- iv. The goods, i.e. Industrial Salt, having re-determined value of Rs.1,61,741/- have been used for the concealment of the goods, i.e. Broken rice, and are therefore liable for confiscation under Section 113(i) and Section 119 of the Customs Act, 1962.
- v. The Exporter i.e., M/s. Chandra Enterprises, holding IEC No: EDOPK7051Q are liable for Penalty under Section 114 (i) & (iii) and Section 114AA of the Customs Act, 1962.

Now, I proceed to decide the case issue-wise.

10.1. I find that the exporter M/s Chandra Enterprises (IEC EDOPK7051Q), had filed shipping bill nos. 5512913 & 5513008 both dated 11.11.2024 at Mundra port (INMUN1) through their Custom Broker M/s Transimpex Logistics, for export of “Industrial Salt”. The said shipping bill was put on hold on the basis of intelligence.

10.2. I find that on the basis of the Lab test reports received from CRCL Kandla and investigation carried out by SIIB in this regard, it appears that the exporter has mis-declared the goods Broken Rice in the guise of the declared goods Industrial salt. The goods, i.e. “*broken rice*” classifiable under CTH-10064000, have been found along with declared goods, i.e. “*Industrial Salt*”. These facts have also been admitted by the proprietor of M/s. Chandra Enterprises in his statement dated 17.12.2024. The exporter was trying to export “*broken rice*” by way of concealment in the guise of declared goods, i.e. *Industrial Salt*. As per DGFT Export policy for the goods, i.e. broken rice, its Export is prohibited as per Notification No. 07/2023 dated 24.05.2023. The Export is allowed on the basis of permission granted by the Government of India to other countries to meet their food security needs and based on the request of their Government. Therefore, it appears that the exporter has mis-declared the goods i.e. “*broken rice*” as “*Industrial Salt*” to avoid the conditions of DGFT export policy. Accordingly, it appears that, the exporter has failed to declare true and correct description, CTH as well as assessable value of the goods i.e. “*broken rice*” exported vide the said SBs and hence, the cargo is liable for confiscation under Section 113 (d), (h) & (i) of the Customs Act, 1962.

10.3. I find that the assessable value of the goods, i.e. “*broken rice*”, is calculated as Rs. 42,87,921/- as per CE report ref. no. VC/CFS/MUNDRA/SIIB-EXP/CE/@VC&JH3HF9*/XII/19/2024-25 dated 19.12.2024 under Rule 6 of the CVR, 2007. The export of broken rice under CTH-10064000 is prohibited as per Export policy of the DGFT as discussed in para-supra. Thus, in view of the act of omission and commission at the level of exporter, it appears that, the exporter has contravened the provisions of Section 50 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information in the said shipping bills and hence appears to be liable for penalty under section 114(i) of the Customs Act, 1962.

10.4. I find that as per Lab test reports received from CRCL Kandla, the consignment have broken rice along with declared goods, i.e. Industrial salt. However, the exporter has declared all the goods as Industrial Salt under CTH- 25010090 in the said shipping bills. Therefore, the declared goods “industrial salt” have been used for the concealment of goods, i.e. broken rice, the export of which is otherwise prohibited. Further, the quantity & weight of goods, i.e. industrial salt, appears to be mis-declared, as most of the bags of broken rice having weight of 1,31,936 Kgs were found. Accordingly, it appears that the exporter has failed to declare true and correct quantity, weight as well as assessable value of the goods attempted to be exported vide the said SBs and hence, the goods i.e. “*Industrial Salt*” appear to be liable for confiscation under Section 113(i) & Section 119 of the Customs Act, 1962.

10.5. I find that the assessable value of the goods i.e. "Industrial Salt" is re-determined as Rs. 1,61,741/- as per as per CE report ref. no. VC/CFS/MUNDRA/SIIB-EXP/CE/@VC&JH3HF9*/XII/19/2024-25 dated 19.12.2024. Thus, in view of act of omission and commission at the level of exporter, it appears that, the exporter has contravened the provisions of Section 50 and Section 17 of the Customs Act, 1962, in as much as, they failed to make correct and true declaration and information to the Customs Officer in the form of shipping bill and hence appear to be liable for penalty under section 114(iii) of the Customs Act, 1962.

10.6. I find that the exporter has knowingly submitted false and incorrect declaration in the invoice and Shipping Bill Nos. 5512913 & 5513008 both dated 11.11.2024 submitted before Customs authorities. The exporter has rendered themselves liable for penalty under Section 114 AA of the Customs Act, 1962.

10.7. Further, I find that:

Section 17. Assessment of duty. –

(1) *An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

..

(4) *Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.*

Section 50. Entry of goods for exportation. -

(1) *The exporter of any goods shall make entry thereof by presenting electronically] on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed:*

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.

(2) *The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents .*

(3) *The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: -*

- (a) *the accuracy and completeness of the information given therein;*
- (b) *the authenticity and validity of any document supporting it; and*
- (c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

Section 113. Confiscation of goods attempted to be improperly exported, etc. - The following export goods shall be liable to confiscation:-

--

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(h) any goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;;

(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;

Section 114. Penalty for attempt to export goods improperly, etc. -

Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, 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 three times the value of the goods as declared by the exporter or the value as determined under this Act], whichever is the greater;;
- ii. in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher;
- iii. in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

Section 114AA. Penalty for use of false and incorrect material. –

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

Section 117. Penalties for contravention, etc., not expressly mentioned.

- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees] [Substituted by Act 18 of 2008, Section 70, for " ten thousand rupees"].

Section 119. Confiscation of goods used for concealing smuggled goods. –

“Any goods used for concealing smuggled goods shall also be liable to confiscation.”

11. In view of the forgoing discussions and findings, I pass the following order:

ORDER

- i. I order to re-determine the classification of mis-declared goods i.e. Broken Rice found under the Shipping Bills Nos. 5512913 and 5513008 both dated 11.11.2024 under CTH 10064000.
- ii. I order to reject the declared assessable value of impugned goods of Rs.10,41,456/- covered under the Shipping Bills Nos. 5512913 and 5513008 both dated 11.11.2024 and order to re-determine same as Rs.44,49,662/-.
- iii. I order to confiscate the impugned goods Broken Rice found under Shipping Bills Nos. 5512913 and 5513008 both dated 11.11.2024, having re-determined value of Rs.42,87,921/- under section 113(d), 113(h) and 113(i) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same only for Back to Town on payment of a Redemption Fine of Rs. 6,00,000/- (Rupees Six Lakhs only) under Section 125 of the Customs Act, 1962;
- iv. I order to confiscate the impugned goods “Industrial Salt”, which are used to export the concealed prohibited goods, having re-determined value Rs.1,61,741/- under Section 113(i) and 119 of the Customs Act, 1962. However, I give the option to the exporter to redeem the same on payment of a Redemption Fine of Rs. 20,000/- (Rupees Twenty Thousand only) under Section 125 of the Customs Act, 1962;
- v. I order to impose and recover Penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) from the exporter under Section 114(i) of the Customs Act, 1962.
- vi. I order to impose and recover Penalty of Rs. 30,000/- (Rupees Thirty Thousand Only) from the exporter under Section 114(iii) of the Customs Act, 1962.
- vii. I order to impose and recover Penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) from the exporter under Section 114AA of the Customs Act, 1962.

12. This order is issued without prejudice to any other action that may be contemplated against the exporter or any other person(s) under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

MUKESH KUMARI
ADDITIONAL COMMISSIONER
ADC/JC-I-O/o Pr Commissioner-Customs-Mundra

F. No. CUS/ASS/MISC/125/2025-EA-O/o Pr Commr-Cus-Mundra

Date: 21-02-2025

BY SPEED POST

To,
M/s Chandra Enterprises (IEC-2494002460),
Plot No 13, Jalram Nagar 1 Gandhidham,
District Kachchh, Gujarat-370205.

Copy to:

- 1) The Deputy/Assistant Commissioner, TRC / RRA / EDI Sections, Custom House Mundra.
- 2) Guard File.