

**DIN-20240171ML00007757AA****SHOW CAUSE NOTICE****(Issued under Section 28AAA of Customs Act, 1962)**

A specific intelligence was received that M/s Capital Ventures Pvt. Ltd., 1002, 10th floor, Aggarwal Corporate Heights, Netaji Subhash Place, Pitampura, Delhi-110034 (IEC -0500050309), (hereinafter also referred to as the 'exporter') were engaged in the export of FMCG products i.e. tea, soaps, cosmetics, shampoo, toothpaste, Atta, Pan Masala, Ghee, rice and tobacco products etc. to various countries and involved in mis-declaration with an intention to avail undue export benefits on inflated value.

**2.** M/s Capital Ventures Pvt. Ltd. having an office at 1002, 10th floor, Aggarwal Corporate Heights, Netaji Subhash Place, Pitampura, Delhi-110034, are a private limited company registered with the Ministry of Corporate Affairs. It was also gathered that the exporting firm was controlled by Shri Vivek Aggarwal and Shri Vaneet Aggarwal, the directors of the company.

**3.** Acting upon the intelligence, a search operation was conducted by DRI Hqrs. (Hereinafter referred to as 'DRI') at various places on 11.09.2019 and 21.09.2019 as under:-

Table-1

Sr.No.	Details of the premises	Date of panchnama
1	Office premises of M/s Capital Ventures Pvt. Ltd. situated at 1002, 10th floor, Netaji Subhash Place, Pitampura, New Delhi ( <b>RUD-1</b> )	11.09.2019
2	Premises of M/s Capital Ventures Pvt. Ltd., Shop No. 7, Sarja Market Complex, Phase-2, Sector-7, Rohini,	11.09.2019 & 21.09.2019

	Delhi ( <b>RUD-2</b> )	
3	Premises M/s Rich Soya Products Pvt. Ltd. (supplier of M/s capital Ventures Pvt. Ltd.) situated at E-884, DSIDC, Industrial Area, Narela, New Delhi -110040 <b>(RUD-3)</b>	11.09.2019
4	Premises of M/s Capital Ventures Pvt. Ltd., Khasra no. 67/14, Revenue Estate of Alipur, New Delhi <b>(RUD-4)</b>	11.09.2019
5	Premises of M/s Capital Ventures Pvt. Ltd., Khasra No. 1052, Palla Bakoli Road, Village Bakoli, New Delhi-110036 <b>(RUD-5)</b>	11.09.2019
6	Residential premises of Shri Risabh saggar, one of the directors, situated at A-1, Indraprashth Apartments, Sector-14, Rohini <b>(RUD-6)</b>	11.09.2019
7	Office premises of M/s Toshnek International Forwarders, 432, Ground floor, Sant Nagar, East of Kailash, New Delhi-110065 <b>(RUD- 7)</b>	11.09.2019
8	Residential premises of Shri Vivek Aggarwal, Director of M/s Capital Ventures Pvt. Ltd. situated at D-95, Pushpanjali Enclave, Pitampura, New Delhi <b>(RUD- 8)</b>	11.09.2019

**4.** Certain live export consignments of the exporter were put on hold for further examination in presence of DRI at various ports/ICDs. Examination of shipments were conducted at various locations under panchnama proceedings **(RUD-9 & 10)** in presence of DRI officers, Customs port officers, representative of the exporter and representative of customs broker. During physical examination the quantity declared by M/s Capital Ventures Pvt. Ltd. in the shipping bills was found as per declaration.

**5.** In continuation to Search proceedings dated 11.09.2019, the DRI officers visited the premises of M/s Capital Ventures Pvt. Ltd., Khasra No. 1052, Palla Bakoli Road, Village Bakoli, New Delhi-110036 on 21.09.2019 **(RUD-11)** and took 3 representative samples of each type of goods detained vide detention memo dated 11.09.2019. The goods detained vide Detention Memo dated 11.09.2019 were later release vide this office letter dated 15.11.2019 and 03.01.2020.

**6. Details of statements recorded during the investigation-**

Statements of Directors and Concerned Persons of M/s Capital Ventures Pvt. Ltd.

**6.1** Statement dated 11.09.2019 of Shri Kundanlal, Manager of M/s Capital Ventures Pvt. Ltd., Khasra No. 1052, Pall Bakoli Road, Village Bakoli, Delhi-110036 was recorded under section 108 of the Customs Act, 1962 (**RUD-12**) wherein he *inter alia* stated that he was working as Manager of M/s Capital Ventures at Khasra No. 1052, Village Bakoli, Delhi since last 4 years and was in-charge of the whole business activities, being performed there. He confirmed that they did not maintain any kind of register or record in other form at their village Bakoli premises and they had received goods along with challan and/ or invoice and made an entry of such goods on a plain paper; by the end of day, all such challans and invoices were sent to their purchase department at Pitampura office; later on after receipt of directions from Shri Gaurav Aggarwal (Employee of M/s CVPL and relative of M/s Vivek and Vaneet Aggarwal)only, export goods used to be loaded on the containers. He also clarified that no export documents were prepared by him at Village Bakoli premises; those were prepared at Pitampura and handed over to the truck driver by them (Pitampura office); all the details of inward or outward were either destroyed/deleted from the e-mail folder/ physical form.

**6.2** Statement of Shri Rishab Saggar, Director of M/s. Capital Ventures Pvt. Ltd., 1002, 10<sup>th</sup> floor, Aggarwal Corporate Heights, Netaji Subhash Place, New Delhi-110034 (**RUD-13**) was recorded on 11.09.2019 under Section 108 of the Customs Act, 1962 wherein he inter alia stated that after completion of his studies he joined a company namely M/s. Capital Ventures Pvt. Ltd. in the year 2015 as a Marketing Executive and became a Director in the same company in September 2017 and Shri Vivek Aggarwal and Sh. Vaneet Aggarwal were other Directors in the company; that presently he was looking after the work related to sales and Marketing of the company and report to Shri Vivek Aggarwal; that Shri Vivek Aggarwal also looked after the work related to sales and marketing; that Shri Vaneet Aggarwal looked after the work related to purchase and finance.

**6.3** Statement dated 11.09.2019 (**RUD-14**) of Shri Vivek Aggarwal, Director of M/s Capital Ventures Pvt. Ltd. was recorded on 11.09.2019 under Section 108 of the Customs Act, 1962 wherein he interalia stated that Shri Vaneet Aggarwal took care of purchase and finance of the company, Shri Rishabh Saggar took care of marketing sector and he himself took care of exports sales and he used to take orders from the buyers and pass them to purchase department also. He said that

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he had a working knowledge of all the aspects of his domain, the main functions were handled by individual managers or Head of Departments respectively and hence specific and accurate details may be provided by them only.

**6.4** Statement dated 11.09.2019 (**RUD-15**) of Shri Rakesh Dhamir, Proprietor of M/s Toshnek International Forwarders, New Delhi (Freight Forwarder) under Section 108 of the Customs Act, 1962, wherein he was shown Panchnama dated 11.09.2019 drawn at the office premises of his firm situated at 432, Ground Floor, Sant Nagar, East of Kailash, New Delhi. On being asked, he stated that he used to handle the export related work of various exporters at ICD Tughlakabad; that for the said purpose, he used to provide export related documents to the Customs Broker Firms M/s Shri Ram Cargo Movers and M/s Mauli Worldwide Logistics; that during the past two years, he had got done customs clearance of his clients by both above said customs broker firms through ICD Tughlakabad.

**6.5** Statement dated 19.09.2019 (**RUD-16**) of Shri Sanjay Gandhi, Proprietor of M/s SAP Global Agency was recorded under section 108 of the Customs Act 1962 wherein he stated that he was providing various services of Certificate of Origin, Export Inspection agency work(GSP), Legalization of Commercial documents, Phytosanitary Certificate issuance through various agencies. He further stated that the exporter/agent of exporter send invoice and draft of certificate of origin through e-mail or hard copy to them, after that they verify the details mentioned in draft of certificate with the details mentioned in respective invoice / packing list; that after verifying the details he sent the documents to FISME for issuance of certificate of origin. He mentioned that they generally got issued 4 copies of the set of certificate of origin along with attestation on invoice/ packing list from FISME; that one copy was kept by FISME for office use and remaining three copies were handed over to the exporter/ agent; that generally he received unsigned invoices cum packing list from the exporter and in such cases sometimes his field boy put signature on the invoices on his direction; that the copy of invoices/ packing list and draft certificate of origins for both M/s Capital Ventures Private Limited were received through e-mail from M/s Toshnek International Forwarders. He further submitted copies of e-mail printouts of the draft certificate of origin, invoices cum packing list for M/s Capital Ventures Private Limited received from e-mail [gaurav@toshnek.com](mailto:gaurav@toshnek.com), [ravi@toshnek.com](mailto:ravi@toshnek.com) and [amit@toshnek.com](mailto:amit@toshnek.com); that in few cases M/s Toshnek International Forwarders had forwarded the draft certificate of origins with a logo

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and address of IIA (Indian Industries Association); that as the certificate of origins got issued from M/s FISME, therefore, he had replaced the address and logo of IIA with that of FISME.

### **7.1 Invoices recovered from Federation of Indian Micro and Small & Medium Enterprises (FISME):-**

During the investigation of M/s Capital Ventures Private Limited's exported goods, it was discovered that they obtained certificates of origin from FISME office. The staff of M/s Toshnek International Forwarders, under the supervision of M/s CVPL directors, handled the submission of completed proforma certificates of origin, invoices, and packing lists to FISME. Shri Rakesh Dhamir, with the assistance of Shri Sanjay Gandhi from M/s SAP Global Agency, facilitated the issuance of COOs by FISME for M/s CVPL. Both Sanjay Gandhi and Rakesh Dhamir admitted in their statements that accurate invoices with proper value and description were necessary for customs clearance in the importing countries. **In some instances, M/s Capital Ventures Pvt. Ltd. obtained multiple certificates of origin for a single invoice number by creating two similar invoices with different details and values.** Accordingly, FISME was contacted and requested to provide the details of invoices & documents submitted by M/s CVPL FISME submitted hard copies of COO and Invoices **(RUD-17)** and details received are shown below. Analysis of the documents received from FISME, confirmed the submission of multiple invoices with the same number but varying descriptions. The details of 6 such invoices are mentioned in Annexure A, and copies of the relevant invoices are provided as **RUD-18**. Summary of goods mentioned in Annexure A have been summarised in the table 2 below:-

Table 2: Summary of parallel invoices received from FISME

S.N o	Declared before Indian Customs				Declared before Customs authorities of supplier country		Percentage of Overvaluati on observed
	Invoice Number	Goods Description	Invoice Curren cy	Item Value In Foreign Currency	Goods Description	Item Value In Foreign Curren	

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						cy	
1	CVPL/EXP/ 17-0334	CHOCOLATE ASSORTED	USD	1,13,796. 90	KINDERJOY 20 GM BOXES GIRLS	16988. 00	8 5.07
2		CHOCOLATE ASSORTED	USD	26,790.7 5	KINDERJOY 20 GM BOXES BOYS	20755. 00	2 2.53
3	CVPL/EXP/ 17-0352	WILKINSON SWORD BLADES	USD	47812.5	WILKINSON SWORD BLADES	6448.5	8 6.51
4		KINDER JOY 20GM	USD	4957.2	KINDER JOY 20GM	2740	4 4.73
5	CVPL/EXP/ 18-0428	PROTEINEX 250 GM	USD	6,454.60	PROTEINEX 250 GM	90.50	9 8.60
6		MALTED FOOD BOURNVITA 200 GM	USD	219.25	MALTED FOOD BOURNVITA 200 GM	28.00	8 7.23
7		NOODLES 140 GM	USD	3,234.72	NOODLES 140 GM	433.44	8 6.60
8		NOODLES 280 GM	USD	10,111.7 7	NOODLES 280 GM	1377.0 0	8 6.38
9		NOODLES 70 GM	USD	1,994.10	NOODLES 70 GM	273.00	8 6.31
10		NOODLES 420 GM	USD	19,474.2 9	NOODLES 420 GM	2821.5 0	8 5.51
11		MALTED FOOD BOURNVITA 500 GM	USD	478.80	MALTED FOOD BOURNVITA 500 GM	74.80	8 4.38
12		NOODLES 560 GM	USD	16,402.5 0	NOODLES 560 GM	3125.0 0	8 0.95
13		CHYAWANPR ASH DABUR 500 GM	USD	513.50	CHYAWANPR ASH DABUR 500 GM	98.50	8 0.82
14		HAJMOLA CANDY DABUR 455 GM	USD	119.50	HAJMOLA CANDY DABUR 455 GM	59.75	5 0.00
15	CVPL/EXP/ 18-0551	H&C HAIR OIL 100 ML	USD	3841.8	IDHAYAM SESAME OIL 1 LTR	644.1	8 3.23
16		H&C HAIR OIL 200 ML	USD	3531.9	IDHAYAM SESAME OIL	676.5	8 0.85

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					500 ML		
17		LIVON HAIR SERUM 50 ML	USD	7764.75	TATA TEA PREMIUM JAR 1 KG	1550	8 0.04
18		LIVON HAIR SERUM 20 ML	USD	7344	TATA TEA PREMIUM JAR 500 GM	1750	7 6.17
19		MASALA NOODLES 70 GM	USD	7631.64	MASALA NOODLES 70 GM	2157.6	7 1.73
20		MASALA NOODLES 420 GM	USD	7879.5	MASALA NOODLES 420 GM	2505	6 8.21
21		MASALA NOODLES 280 GM	USD	2809.08	MASALA NOODLES 280 GM	966.6	6 5.59
22		MALTED FOOD BOURNVITA PLAIN JAR 1KG	USD	1759.4	MALTED FOOD BOURNVITA PLAIN JAR 1KG	877.6	5 0.12
23		CHIPS KURKURE 100 GM	USD	1099.56	CHIPS KURKURE 100 GM	1098.3 1	0.11
24	CVPL/EXP/ 18-0658	GHEE TIN 1 LTR	USD	27927	GHEE TIN 1 LTR	9237	6 6.92
25		GHEE TIN	USD	10336	GHEE TIN	5775	4 4.13
26		MAMRA 400 GM	USD	118.49	MAMRA 400 GM	117.67	0.69
27	CVPL/EXP/ 18-0549	PUNJABI WADI IN PET JAR 400 GM	AUD	126.76	PUNJABI WADI IN PET JAR 400 GM	63.38	5 0.00

## 7.2 Invoices/details received from Overseas Customs Formations

During the course of the further investigation, overseas enquiries were conducted from the customs authorities of the importing countries to which M/s CVPL had exported goods. The reports received in lieu of such enquiries confirmed that Parallel invoices with respect to some of the exported consignments of the M/s CVPL had been generated which had clearly specified overvaluation on account of the exporter. The details of the 7 such invoices received from the overseas customs formations have been mentioned in Annexure B and a copy of the COIN report has been made RUD-19. Summary of goods mentioned in Annexure B have been summarised in the table 3 below:

**Table 3: Comparison table for parallel invoices recovered from overseas customs formations and the values declared before Indian Customs**

S.No	Declared before Indian Customs				Declared before Customs authorities of supplier country		Percentage of Overvaluation observed
	Invoice Number	Goods Description	Invoice Currency	Item Value in Foreign Currency	Goods Description	Item Value in Foreign Currency	
1	CVPL/ EXP/17- 0305	GHEE TIN BUFFALO 1 LTR	USD	83000	GHEE	6730	91.89
2		CHANND DAL DESI 15 KG	USD	3273.75	PULSES	1158.75	64.60
3		MOTH DESI 15 KG	USD	1455	PULSES	515	64.60
4	CVPL/ EXP/18- 0577	WOODEN SIZZLER WITH IRON PLATE	USD	172.5	WOODEN SIZZLER WITH IRON PLATE	90	47.83
5		COPPER STEEL FORK SMALL	USD	122.4	COPPER STEEL FORK SMALL	69.5	43.22
6		M.S. IRON KADAHI FOR SERVING 8 NO.	USD	39	M.S. IRON KADAHI FOR SERVING 8 NO.	22.6	42.05
7		COPPER STEEL BUTTER KNIFE SMALL	USD	241.2	COPPER STEEL BUTTER KNIFE SMALL	140.6	41.71
8		COPPER STEEL HANDI HAMMERED 1NO.	USD	207.9	COPPER STEEL HANDI HAMMERED 1NO.	151.5	27.13
9		COPPER STEEL HANDI HAMMERED 2NO.	USD	282.24	COPPER STEEL HANDI HAMMERED 2NO.	211.2	25.17
10		COPPER SERVING	USD	120	COPPER SERVING BOWL	90	25.00

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		BOWL 2 NO.			2 NO.		
11	CVPL/ EXP/18- 0708	COPPER STEEL SERVING SPOON BIG	USD	79.2	COPPER STEEL SERVING SPOON BIG	60	24.24
12		COPPER STEEL BALTI HAMMERED 2NO.	USD	195.84	COPPER STEEL BALTI HAMMERED 2NO.	152	22.39
13		COPPER STEEL HANDI HAMMERED 2NO.	USD	192.24	COPPER STEEL HANDI HAMMERED 2NO.	151.6	21.14
14		BRASS PICKLE STAND	USD	435	BRASS PICKLE STAND	351.2	19.26
15		COPPER STEEL SPOON SMALL	USD	48.96	COPPER STEEL SPOON SMALL	40	18.30
16		COPPER SERVING DISH 2 NO.	USD	306	COPPER SERVING DISH 2 NO.	270	11.76
17		GHEE TIN 1 LTR	USD	45375	GHEE TIN 1 LTR	15450	65.95
18		MASALA NOODLES 280 GM	USD	6950	MASALA NOODLES 280 GM	2700	61.15
19		MASALA NOODLES 560 GM	USD	997.5	MASALA NOODLES 560 GM	397.5	60.15
20		ATTA NOODLES 300 GM	USD	962.5	ATTA NOODLES 300 GM	537.5	44.16
21		ATTA NOODLES 300 GM	USD	192.5	ATTA NOODLES 300 GM	107.5	44.16
22		ATTA MULTIGRAIN 5 KG	USD	685.08	ATTA MULTIGRAIN 5 KG	660	3.66
23		ATTA 5 KG	USD	2904	ATTA 5 KG	2800	3.58
24		ATTA SELECT 5 KG	USD	1038	ATTA SELECT 5 KG	1012.5	2.46
25	CVPL/ EXP/18- 0736	MAGGIE MASALA NOODLES 70 GM	USD	34265	FOOD PASTES ETC: NOODLE	14240	58.44
26	EXP/19- 0102	AATA 5 KG	USD	2450	DURUM WHEAT FLOURS	2163.8 25	11.68

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				(WHEAT)		
27	EXP/19-0111	REFRESHMEN T DRINK GLASS BOTTLE 200 ML	USD	5056	WATERS, INCLUDING MINERAL WATERS AND GA SATE WITH ADD TA OF SUGARS	4511.4 7 10.77
28		AATA 10 KG	USD	2400	DURUM WHEAT FLOURS (WHEAT)	2163.8 25 9.84
29		ATTA MULTIGRAIN 5 KG	USD	228.6	ATTA MULTIGRAIN 5 KG	150 34.38
30		ATTA SELECT 5 KG	USD	777.24	ATTA SELECT 5 KG	510 34.38
31		EVER CRUNCH TILL LADDU 200 GM	USD	86.85	EVER CRUNCH TILL LADDU 200 GM	63 27.46
32		EVER CRUNCH CHOCOLATE CHIKKI 100 GM	USD	82.4	EVER CRUNCH CHOCOLATE CHIKKI 100 GM	60 27.18
33		EVER CRUNCH TILL CHIKKI 100 GM	USD	81.45	EVER CRUNCH TILL CHIKKI 100 GM	60 26.34
34		EVER CRUNCH UPVAS POTATO CHIKKI 100 GM	USD	81	EVER CRUNCH UPVAS POTATO CHIKKI 100 GM	60 25.93
35		EVER CRUNCH UPVAS SABUDANA CHIKKI 100 GM	USD	81	EVER CRUNCH UPVAS SABUDANA CHIKKI 100 GM	60 25.93
36		EVER CRUNCH UPVAS RAJGEERA LADDU 100 GM	USD	80.55	EVER CRUNCH UPVAS RAJGEERA LADDU 100 GM	60 25.51
37		EVER	USD	77.15	EVER CRUNCH	60

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		CRUNCH UPVAS RAJGEERA CHIKKI 100 GM			UPVAS RAJGEERA CHIKKI 100 GM		22.23
38		EVER CRUNCH UPVAS 3 IN 1 CHIKKI 100 GM	USD	74.15	EVER CRUNCH UPVAS 3 IN 1 CHIKKI 100 GM	60	19.08
39		ATTA 5 KG	USD	3931.71	ATTA 5 KG	3237	17.67
40		DAWAT TRADITIONAL BASMATI RICE 1 KG	USD	1257.6	DAWAT TRADITIONAL BASMATI RICE 1 KG	1050	16.51
41		EVER CRUNCH CRUSH CHIKKI 100 GM	USD	71.15	EVER CRUNCH CRUSH CHIKKI 100 GM	60	15.67
42		EVER CRUNCH DALIYA CHIKKI 100 GM	USD	71.15	EVER CRUNCH DALIYA CHIKKI 100 GM	60	15.67
43		EVER CRUNCH GROUNDNUT CHIKKI 100 GM	USD	71.15	EVER CRUNCH GROUNDNUT CHIKKI 100 GM	60	15.67
44		EVER CRUNCH GROUNDNUT LADDU 200 GM	USD	73.55	EVER CRUNCH GROUNDNUT LADDU 200 GM	63	14.34
45		DAWAT TRADITIONAL BASMATI RICE 5 KG	USD	2093.77	DAWAT TRADITIONAL BASMATI RICE 5 KG	1960	6.39
46		INDIA GATE ROZANA FEAST BASMATI RICE 5KG	USD	1967.13	INDIA GATE ROZANA FEAST BASMATI RICE 5KG	1960.2	0.35
47	CVPL/ EXP/17-	PARLIAMENT RICE BIRYANI	USD	201.6	RICE 5KG	68	

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		5 KG					66.27
48	0103	PARLIAMENT RICE RUBY 5 KG	USD	4440	RICE 5KG	1700	61.71
49		PARLIAMENT RICE BIRYANI 5 KG	USD	5040	RICE 5KG	1700	66.27
50		GHEE TIN 1 LTR	USD	110796	GHEE TIN 1 LTR	6195	94.41
51		NOODLES 280 GM	USD	1949	NOODLES 280 GM	360	81.53

**8.1** Statement dated 21.01.2020 (**RUD- 20**) of Shri Vivek Aggarwal, Director of M/s Capital Ventures Pvt. Ltd., 1002, 10<sup>th</sup> Floor, Aggarwal Corporate Heights, Netaji Subhash Palace, New Delhi-34 wherein he inter alia stated that there were three firms namely- M/s. Capital Corporate Singapore Pty. Ltd. in Singapore, M/s Capital Ventures Europe Pvt. Ltd. in Europe and M/s Capital Ventures USA Inclusive in USA, wherein he is a director. On being asked, he further stated that the authorised signatory of M/s. CVPL for signing the export documents is Shri Rakesh Singh Manager (Logistics) and they used to send the export documents to the foreign buyers either through bank or directly by courier.

**8.1.1** Shri Vivek Aggarwal further admitted that:

- (i) Their team headed by Shri Rakesh Singh prepared all export documents as per the requirements and no export documents could be prepared without any of the director's consent.
- (ii) Invoices and packing list were sent to Shri Rakesh Dhamir or his employees mostly through e-mail and sometimes by hand delivery. He further clarified that his staff always provided signed invoices and packing list to Shri Rakesh Dhamir or his employees.
- (iii) Shri Rakesh Dhamir used to arrange agent for getting the documents issued; that the Certificates of origin with respect to the goods exported by M/s Capital Ventures Pvt. Ltd. were issued by Federation of Indian Micro and Small & Medium Enterprises (FISME).
- (v) He admitted that sometimes upon buyer request his staff used to prepare two invoices having same serial number with one of lower value upon buyer request and another having higher value their actual invoice;
- (iv) He also admitted that the certificate of origin was required by the foreign buyer, therefore, they provide the certificate of origin to the foreign buyer supporting lower

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value of the goods and another certificate of origin issued against the actual invoice of higher value which they had submitted having different values on different dates with FISME.

(v) He had also clarified that the difference in the value of the invoices is due to the fact that they made under valued invoice for the buyer for his use only upon his request. Further he stated that in some invoices they have declared higher value where they have availed more export incentives than otherwise eligible.

(vi) During the statement, it was specifically admitted by him that their staff used to get the country of origin certificates issued through some agents arranged by their forwarder Rakesh Dhamir.

**8.2** Statement dated 21.01.2020 (**RUD-21**) of Shri Vaneet Aggarwal, Director of M/s. Capital Ventures Pvt. Ltd., 1002, 10<sup>th</sup> floor, Aggarwal Corporate Heights, Netaji Subhash Place, New Delhi-110034 was recorded wherein he interalia reiterated the same facts as stated by Shri Vivek Aggarwal in his statement dated 21.01.2020 and also submitted that the following companies were also being operated in foreign countries as wholly owned subsidiary companies of M/s Capital Ventures Pvt. Ltd. –

- (i) M/s Capital Corporate Singapore Pte. Ltd., Singapore;
- (ii) M/s Capital Venture EUROPE Pvt.Ltd. UK;
- (iii) M/s Capital Venture USA Inc. USA

Shri Vaneet Aggarwal reiterated the submission of Shri Vivek Agarwal along with following that:

(i) Shri Rakesh Dhamir was dealing for export clearances and arranging for transportation of goods. Shri Rakesh Singh, Manager (Logistics) as well as Ms. Richa Chaddha, Assistant Manager(logistics) were authorised for signing the export documents, however in absence of Shri Rakesh Singh and Ms. Richa Chaddha, any sales head could sign the documents.

(ii) They used to provide export documents either through bank or directly to buyer through post/ courier along with Bill of Lading, Invoice, Packing List being compulsory documents for providing to the buyers. Further, in addition they provided health certificate, phyto certificate, certificate of origin etc., if required by the buyers also;

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(iii) They used to provide the documents to Shri Rakesh Dhamir or his staff/employees who further used to get the country of origin certificates issued from the issuing authority;

(iv) Certificates of origin with respect to the goods exported by M/s Capital Ventures Pvt. Ltd. were issued by Federation of Indian Micro and Small & Medium Enterprises (FISME) based on certain invoices which were submitted to them. Those invoices used to be submitted through Shri Rakesh Dhamir and its staff. M/s Capital Ventures Private limited used to provide those invoices (without signing) to Shri Rakesh Dhamir or his employees having. The said invoices bore the details of the goods which were actually being exported under the said invoices;

(vi) Shri Vaneet Aggarwal also accepted that as per buyer request sometimes they had to prepare two invoices having same serial number.

(v) He also submitted that since the certificate of origin was required by the foreign buyer, therefore, they provided the certificate of origin to the foreign buyer supporting lower value of the goods and another certificate of origin which was issued against the invoice having higher value. They had submitted the copies of invoices having different values on different dates with FISME and they had issued invoices having same numbers more than once in some cases.

(vi) Shri Vaneet Aggarwal further submitted that the goods (pan masala) were purchased from authorised dealers and since the goods so purchased had limited shelf life and domestic packs, they normally put the labels on the tins as per buyer requirement; that in some cases, they remove manufacturing date from tin and print new manufacturing date, as per buyer request.

(vii) Further, on being shown the copies of invoices/packing list and country of origin certificates received from Overseas enquiry submitted by the buyers of goods exported before their respective customs authorities, where invoice was much less in value than that submitted before Indian customs by exporter , **Shri Vaneet Aggarwal stated that the difference in the value of the invoices was due to the fact that they had re-issued parallel invoice with lower value as per the buyer request and declared high value at Customs Port in India where they had availed more export incentives than otherwise available to them;**

Further, Shri Vaneet Aggarwal, specifically admitted that they used to provide the invoices to the agent having details of the goods as requested by buyer. He further accepted that copies that were received from overseas enquiry were sent by them to their buyers overseas, also country of origin certificates were also arranged by their staff and the staff of Rakesh Dhamir on their behest through an agent. Further, he

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stated that as a token of goodwill gesture on the part of their company they will deposit voluntarily an amount of Rs. 4 Crore to be appropriated against the excessively availed export incentives and would refrain from any such mis-declaration in future and would forbid his buyers also from resorting to any such mis-declaration.

**8.3** Statement dated 17.02.2020 (**RUD-22**) of Ms. Richa Chadha, Assistant Manager (logistics), M/s. Capital Ventures Pvt. Ltd., 1002 was recorded under Section 108 of the Customs Act, 1962 on 17.02.2020 wherein she interalia stated that she used to provide update about the shipment status to overseas buyers and used to provide the post shipment documents i.e. Bill of lading, fumigation certificate, invoice & packing list, certificate of origin etc. to the respective overseas buyers. She also admitted that she was authorised signatory of M/s Capital Ventures Pvt. Ltd. to sign export documents i.e. invoice, packing list etc. and also that the export invoice and packing list were usually prepared by Shri Rakesh Singh, Manager(Logistics), Capital Ventures Pvt. Ltd. which were usually forwarded to her through email and thereafter she used to put her digital signature on the said documents. She also clarified that at times she used to prepare export invoice and packing list as per directions of Shri Vivek Aggarwal & Shri Rakesh Singh; Shri Rakesh Singh also used to sign on the export invoices and packing lists.

**8.4** Ms. Richa Chadha was also shown copies of some invoices and corresponding packing lists stated to be received from overseas enquiry wherein she identified her signatures and confirmed that the invoices issued were as per directions received from Shri Rakesh Singh and the same were brought to the knowledge of Shri Vivek Aggarwal. On further being asked about multiple invoices, having same number for different description and /or value of goods being prepared by M/s Capital Ventures Pvt. Ltd., she stated that she had limited capacity in the company and she just acted as per the directions of her superiors Shri Rakesh Singh and Shri Vivek Aggarwal. She further admitted that there had been instances when she was asked to issue more than one invoice bearing the same number but if at all any such invoices have been signed by her, the same had been done with full knowledge and consent of her superiors. She clarified that the reasons for issuing more than one invoice were not discussed with her and hence in her limited role in the company, she just issued invoices under her signatures and scanned copies of Invoices were normally sent by her to the buyer. She also submitted that some

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invoices were also provided to M/s Toshnek International Forwarders by Shri Rakesh Singh for getting Country of origin Certificate issued for further providing to the overseas buyers and the same were forwarded by her to the buyers along with the invoices as and when required; that she was shown a certificate of origin no. 113649 dated 09.03.2018 along with invoice no. CVPL/EXP/17-0334 dated 26.02.2018, stated to be submitted by FISME and she agreed that invoice appeared to be have been issued by her on buyer request.

**8.5** Statement dated 06.02.2020 (**RUD-23**) of Shri Rakesh Kumar Singh, Manager(Logistics), M/s. Capital Ventures Pvt. Ltd., was recorded wherein he interalia stated that that they had maintained two invoices having the same serial no. and provided the same to Shri Rakesh Dhamir wherein one invoice having the higher value was prepared for claiming more export incentives and maintaining books of accounts, while another invoice having the same invoice no. with much lower value was prepared for providing to the foreign buyer. **He clarified that the foreign buyers required certificate of origin, therefore they provided the certificate of origin to the foreign buyers supporting the actual value of the invoice of the goods and another certificate of origin, which was issued against the invoice having the higher value, for customs clearance before Indian Customs for claiming export incentives.** He admitted that M/s Capital Ventures Pvt. Ltd. had prepared parallel invoices adopting above-said modus operandi for claiming more export incentives than otherwise eligible and also clarified that parallel invoices were prepared on the direction of Shri Vivek Aggarwal.

**8.6** Statement dated 21.02.2020 (**RUD-24**) of Shri Kripa Nand Choudhary, Accounts head of M/s. Capital Ventures Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 wherein he interalia stated that he looked after the work of maintaining of books of accounts with respect to foreign inward remittances and other accounts related issues but had never communicated with foreign buyers with respect to payments of exported goods.

**8.7** Statement dated 21.02.2020 (**RUD-25**) of Shri Rakesh Kumar Singh Manager (logistics), M/s. Capital Ventures Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 wherein he interalia stated that he was shown his earlier statement dated 06.02.2020 recorded under Section 108 of the Customs

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Act, 1962 along with statement of Ms. Richa Chadha dated 17.02.2020 whereupon he perused the said statement and put his dated signature on all the pages in token of having seen and agreed with the veracity of the stated facts therein.

**8.8** Statement dated 03.03.2020 (**RUD-26**) of Shri Pankaj Kumar Ratra, General Manager (sales) of M/s. Capital Ventures Pvt. Ltd. was recorded wherein he interalia stated that he looked after total sales of Rice, confectionery, organic and FMCG products of M/s Capital ventures Pvt. Ltd. He also stated that he was the head of the sales team of M/s Capital Ventures Private Limited. He reported to Shri Vivek Aggarwal and they received requirement of overseas buyers through e-mail, WhatsApp or phone. He interacted with respective overseas buyers for providing rates of the products and negotiating the rates. He further stated that a copy of proforma invoices signed by him and the respective buyer, were usually filed in sales department and a copy of the same is also forwarded to purchase department. On being asked whether there is any possibility of sales being done by M/s Capital Ventures Private Limited without his knowledge, he stated that according to the organisational hierarchy all sales work is coordinated by him and his team, hence no sales without exception was being done without his knowledge.

**8.9** Statement dated 22.07.2020 (**RUD-27**) of Shri Rakesh Dhamir, proprietor of M/s Toshnek International Forwarders wherein he interalia stated that he was shown his earlier statement dated 11.09.2019; that he put his dated signature on it in token of having seen the same and its veracity; that a firm namely M/s Nektosh International Forwarders was also operated by him and his son Shri Nek Dhamir is the proprietor of M/s Nektosh International Forwarders; that his son was the proprietor of M/s Nektosh International Forwarders for namesake; that all day to day activities of the firm were being looked after by him only; that both the firms were engaged in the business of international freight forwarding; that both the firms M/s Toshnek International Forwarders and M/s Nektosh International Forwarders had dealt with M/s Capital Ventures Pvt. Ltd. with respect to whom Shri Rakesh Dhamir admitted that at times M/s Capital Ventures Pvt. Ltd. used to get more than one certificates of origin issued against single invoice number for which they used to make two similar invoices bearing same number but having different details/value; that he was aware that one copy of certificate of origin and the corresponding invoice bearing higher value was used to maintain books of accounts and claiming export incentives i.e. drawback, GST refund, MEIS etc.

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while the other set of certificate of origin as well as invoice, which bore the same invoice no. and much less value, was used for clearing the exported goods in the importing country. He also admitted that he was also engaged in facilitating the customs clearance in certain other countries i.e. Dubai, therefore, he could say with his experience that certificate of origins were required at the time of clearance of the goods in importing country having actual value of the goods, description etc. along with the fact that at the time of clearance in importing countries it is required to produce certificate of origin and invoice having actual value before the respective customs authorities as supporting documents. He also submitted that **M/s Capital Ventures Pvt. Ltd. had also adopted this modus for claiming of more export incentives than otherwise eligible. He stated that M/s Capital Ventures Pvt. Ltd. had overvalued the certain goods which attracted high GST and MEIS rates at the time of export.**

#### **Custom Broker Enquiry:**

**9.1** Statement dated 13.04.2021 of Shri Sanjay Kumar Singh(**RUD-28**), G-Card holder of M/s Mauli Worldwide Logistics was recorded under Section 108 of the Customs Act, 1962 wherein he interalia stated that M/s. Mauli Worldwide Logistics had done customs clearance of export consignments of M/s Capital Ventures Pvt. Ltd. under IGST shipping bills. He stated that he knows Shri Vivek Aggarwal who is the Director of M/s Capital Ventures Pvt. Ltd. and had verified the office as well as godown premises of M/s Capital Ventures Pvt. Ltd. wherein the said company existed. He stated that Shri Rakesh Dhamir owner of M/s Toshnek International which is a freight forwarding firm had contacted M/s Mauli Worldwide Logistics for customs clearance of M/s Capital Ventures Pvt. Ltd. He further stated that his company had received customs clearance charges of the M/s Capital Ventures Pvt. Ltd from Shri Rakesh Dhamir through cash or through cheque. He further stated that M/s Capital Ventures Pvt. Ltd was having self-sealing facility and his company used to receive the containers of the said M/s Capital Ventures Pvt. Ltd with RFID seal intact at the port from the godown situated at Alipur, Delhi.

**9.2** Statement of Shri Vivek Aggarwal dated 06.07.2021 **RUD-29**, Director of M/s Capital Ventures Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 wherein he interalia stated that the firm never maintained a correlation

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between the purchased goods and the finished goods being exported. He further stated that MEIS scrips/ Scrips for any other export incentive are credited on consolidated basis for more than one Shipping Bills at a time, therefore bifurcation of the scrips Shipping Bills wise is not maintained by them.

**10.** Vide letter dated 22.01.2020 (**RUD-30**), Shri Vivek Aggarwal, Director M/s Capital Ventures Pvt. Ltd. had submitted the following demand drafts for a total amount of Rs. 4 Crore against the partial discharge of duty liability arising out of excess availment of export incentives -

**Table-4**

Sr.No.	Demand Draft No.	Date of Issuance of Demand Draft	Amount in Cr. Rs.
1	864073	22.01.2020	1.00
2	864070	22.01.2020	0.50
3	864069	22.01.2020	0.50
4	864074	22.01.2020	1.00
5	864075	22.01.2020	1.00

**11.** Further, the above-said demand drafts were deposited in government exchequer vide TR-6 challan no. 74530 and 74531 both dated 22.01.2020 (**RUD-31**).

**12.** The following relevant provisions of law appear applicable in the instant case:

#### **RELEVANT LEGAL PROVISIONS**

##### ***(A) THE CUSTOMS ACT, 1962***

***Section 2(39):*** defines “Smuggling” as any act or omission in relation to any goods which will render such goods liable to confiscation under Section 111 or Section 113 of the Customs Act, 1962.

***Section 2(41):*** defines “value” in relation to any goods, means the value thereof determined in accordance with provisions of sub section (1) or sub section (2) of Section 14 of the Customs Act, 1962.

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**SECTION 14: Valuation of goods.** - (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

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

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

- (i) the circumstances in which the buyer and the seller shall be deemed to be related;
- (ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- (iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section.

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

**SECTION 28AAA. Recovery of duties in certain cases.** — (1) Where an instrument issued to a person has been obtained by him by means of—  
 (a) collusion; or  
 (b) wilful misstatement; or  
 (c) suppression of facts,

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*for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued :*

*Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.*

*Explanation 1— For the purposes of this sub-section, “instrument” means any scrip or authorisation or licence or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilised under the provisions of this Act or the rules made or notifications issued thereunder.*

*Explanation 2. — The provisions of this sub-section shall apply to any utilisation of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent.*

*(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty.*

*(3) For the purposes of recovery under sub-section (2), the proper officer shall serve notice on the person to whom the instrument was issued requiring him to show cause, within a period of thirty days from the date of receipt of the notice, as to why the amount specified in the notice (excluding the interest) should not be recovered from him, and after giving that person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty or interest or both to be recovered from such person, not being in excess of the amount specified in the notice, and pass order to recover the amount of duty or interest or both and the person to whom the instrument was issued shall repay the*

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amount so specified in the notice within a period of thirty days from the date of receipt of the said order, along with the interest due on such amount, whether or not the amount of interest is specified separately.

(4) Where an order determining the duty has been passed under section 28, no order to recover that duty shall be passed under this section.

(5) Where the person referred to in sub-section (3) fails to repay the amount within the period of thirty days specified therein, it shall be recovered in the manner laid down in sub-section (1) of section 142.]

**Section 28AA- Interest on delayed payment of duty.**

**Section 50(2):** Entry of goods for exportation -the exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

**Section 75A(2):** Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AB and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

**Section 76: Prohibition and regulation of drawback in certain cases. -**

(1) Notwithstanding anything herein before contained, no drawback shall be allowed

-

(a) Omitted

(b) in respect of any goods the market-price of which is less than the amount of drawback due thereon;

(c) where the drawback due in respect of any goods is less than fifty rupees.

**Section 113: Confiscation of goods attempted to be improperly exported, etc. -**

(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;

(i) of the Customs Act, 1962, stipulates that 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, shall be liable to confiscation;

(ii) of the Customs Act, 1962, inter-alia, stipulates that any goods entered for exportation under claim for drawback which do not correspond in any material particular with the entry made under this Act, shall be liable for confiscation.

**Section 114:** provides that any person who, in relation to any goods, does or omits to do any 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;

(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 121:** Confiscation of sale-proceeds of smuggled goods – Where any smuggled goods are sold by a person having knowledge or reason to believe that the goods are smuggled goods, the sale-proceeds thereof shall be liable to confiscation.

**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.

**(B) Customs, Central Excise Duties and Service Tax Drawback Rules 1995.**

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**Rule 3:** provides for payment of drawback on the export of goods at such amount, or at such rates, as may be determined by the Central Government.

**Rule 16:** provides that, where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and that if the claimant fails to repay the amount, it shall be recovered in the manner laid down under sub-section (1) of Section 142 of the Customs Act, 1962 (52 of 1962).

**Rule 16A. Recovery of amount of Drawback where export proceeds not realised. -**

(1) Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall be recovered in the manner specified below.

Provided that the time-limit referred to in this sub-rule shall not be applicable to the goods exported from the Domestic Tariff Area to a special economic zone.

(2) If the exporter fails to produce evidence in respect of realisation of export proceeds within the period allowed under the Foreign Exchange Management Act, 1999, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said order :

Provided that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of

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*drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.*

*(3) Where the exporter fails to repay the amount under sub-rule (2) within said period of thirty days referred to in sub-rule (2), it shall be recovered in the manner laid down in rule 16.*

*(4) Where the sale proceeds are realised by the exporter after the amount of drawback has been recovered from him under sub-rule (2) or sub-rule (3) and the exporter produces evidence about such realisation within one year from the date of such recovery of the amount of drawback, the amount of drawback so recovered shall be repaid by the Assistant Commissioner of Customs or Deputy Commissioner of Customs to the claimant.*

**(C) Customs Valuation (Determination of value of Export Goods) Rules, 2007**

**Rule 3:** Determination of the method of valuation. -(1) Subject to rule 8, the value of export goods shall be the transaction value.

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

(3) 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 rule 6.

**Rule 4: Determination of export value by comparison.** - (1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

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(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-

- (i) difference in the dates of exportation,
- (ii) difference in commercial levels and quantity levels,
- (iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
- (iv) difference in domestic freight and insurance charges depending on the place of exportation.

**Rule 5: Computed value method.** – If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-

- (a) cost of production, manufacture or processing of export goods;
- (b) charges, if any, for the design or brand;
- (c) an amount towards profit.

**Rule 6: Residual method.** – (1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rule provided that local market price of the export goods may not be the only basis for determining the value of export goods.

**Rule 7: Declaration by the exporter.** – The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.

**Rule 8: Rejection of declared value:-** (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

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(2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

*Explanation - (1) For the removal of doubts, it is hereby declared that-*

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said enquiry in consultation with the exporter.

(iii) The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include -

(a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.

(b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.

(c) the mis-declaration of goods in parameters such as description, quality, quantity, year of manufacture or production.

**(D) Foreign Trade (Development & Regulation) Act, 1992**

**Section 11:** Contravention of provisions of this Act, rules, orders and export and import policy.

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(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy, he shall be liable to a penalty not exceeding one thousand rupees or five times the value of the goods in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes of cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(4) A penalty imposed under this Act may, if it is not paid, be recovered as an arrear of land revenue and the Importer-exporter Code Number of the person concerned, may, on failure to pay the penalty by him, be suspended by the Adjudicating Authority till the penalty is paid.

(5) Where any contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy has been, is being, or is attempted to be, made, the goods together with any package, covering or receptacle and any conveyances shall, subject to such requirements and conditions as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(6) The goods or the conveyance confiscated under sub-Section (5) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.

**(E) Foreign Trade (Regulation) Rules, 1993**

**Rule 11:** On the importation into, or exportation out of, any Customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962

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(52 of 1962) state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of each Bill of entry or Shipping Bill or any other documents.

**Rule 14(2):** No persons shall employ any corrupt or fraudulent practice for the purposes of obtaining any license or importing or exporting any goods.

**(F) RBI/2013-14/364, A.P. (DIR Series) Circular No. 70 dated November 8, 2013 – Third Party payments for export/import transactions**

**Regulations of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015**

**Regulation:- 12. (Payment for the Export)** provides that:-

*In respect of export of any goods or software for which a declaration is required to be furnished under Regulation 3, no person shall except with the permission of the Reserve Bank or, subject to the directions of the Reserve Bank, permission of an authorised dealer, do or refrain from doing anything or take or refrain from taking any action which has the effect of securing –*

*(i) that the payment for the goods or software is made otherwise than in the specified manner; or*

*(ii) that the payment is delayed beyond the period specified under these Regulations; or*

*(iii) that the proceeds of sale of the goods or software exported do not represent the full export value of the goods or software subject to such deductions, if any, as may be allowed by the Reserve Bank or, subject to the directions of the Reserve Bank, by an authorised dealer;*

*Provided that no proceedings in respect of contravention of these provisions shall be instituted unless the specified period has expired and payment for the goods or software representing the full export value, or the value after deductions allowed*

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under clause (iii), has not been made in the specified manner within the specified period.

(iv) Export of services to which no Form specified in these Regulations apply, the exporter may export such services without furnishing any declaration, (i), (ii) & (iii) above shall apply.

**Regulation:- 14. (Delay in Receipt of Payment)** provides that:

Where in relation to goods or software export of which is required to be declared on the specified form and export of services, in respect of which no declaration forms has been made applicable, the specified period has expired and the payment therefor has not been made as aforesaid, the Reserve Bank may give to any person who has sold the goods or software or who is entitled to sell the goods or software or procure the sale thereof, such directions as appear to it to be expedient, for the purpose of securing,

- (a) the payment therefor if the goods or software has been sold and
- (b) the sale of goods and payment thereof, if goods or software has not been sold or reimport thereof into India as the circumstances permit, within such period as the Reserve Bank may specify in this behalf;

Provided that omission of the Reserve Bank to give directions shall not have the effect of absolving the person committing the contravention from the consequences thereof.

**Focus Market Scheme (FMS)** (Para 3.14 of Foreign Trade Policy, 2009-2014).

According to the **para 3.14.1** of FTP, 2009-14, the objective of FMS is to offset high freight cost and other externalities to select international markets with a view to enhance India's export competitiveness in these countries.

**Para 3.14.2** Exporters of all products to notified countries (as in Appendix 37C of HBPv1) shall be entitled for Duty Credit Scrip equivalent to 3% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards.

#### **Ineligible Exports**

**Para 3.14.3** The following categories of export products/sectors shall Categories / Sectors for be ineligible for Duty Credit Scrip, under FMS scheme: FMS a) Supplies made to SEZ units; b) Service Exports; c) Diamonds and other precious, semi precious stones; d) Gold, silver, platinum and other precious metals in any form, including plain and studded Jewellery; e) Ores and Concentrates, of all types and in all forms;

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f) Cereals, of all types; g) Sugar, of all types and in all forms; h) Crude / Petroleum Oil & Crude / Petroleum based Products covered under ITC HS codes 2709 to 2715, of all types and in all forms; and i) Export of Milk and Milk Products covered under ITC HS Codes 0401 to 0406, 19011001, 19011010, 2105 & 3501.

**Focus Product Scheme (FPS):-** (Para 3.15 of Foreign Trade Policy, 2009-2014).

According to the **para 3.15.1** of the FTP, 2009-2014, the objective of FPS is to incentivise export of such products which have high export intensity / employment potential, so as to offset infrastructure inefficiencies and other associated costs involved in marketing of these products. Entitlement

**Para 3.15.2** Exports of notified products (as in Appendix 37D of HBPv1) to all countries (including SEZ units) shall be entitled for Duty Credit scrip equivalent to 2% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards. However, Special Focus Product(s) / sector(s), covered under Table 2 and Table 5 of Appendix 37D, shall be granted Duty Credit Scrip equivalent to 5% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards.

**Para 3.15.3** Market Linked Focus Products Scrip (MLFPS): Export of Products/Sectors of high export intensity/ employment potential (which are not covered under present FPS List) would be incentivized at 2% of FOB value of exports (in free foreign exchange) under FPS when exported to the Linked Markets (countries), which are not covered in the present FMS list, as notified in Appendix 37D of HBPv1, for exports made from 27.8.2009 onwards.

**Duty Entitlement Passbook Scheme (DEPB):-**

According to the **para 4.3** of the FTP-2009-2014, the objective of DEPB is to neutralise incidence of customs duty on import content of export product. Component of customs duty on fuel (appearing as consumable in the SION) shall also be factored in the DEPB rate. Component of Special Additional Duty shall also be allowed under DEPB (as brand rate) in case of non-availment of CENVAT credit. Neutralisation shall be provided by way of grant of duty credit against export product.

**Para 4.3.1** An exporter may apply for credit, at specified percentage of FOB value of exports, made in freely convertible currency. In case of supply by a DTA unit to a SEZ unit / SEZ Developer/Co-Developer, an exporter may apply for credit for exports made in freely convertible currency or payment made 52 from foreign currency

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account of SEZ Unit/ SEZ Developer/ Co-Developer. In addition, the exporter shall also be entitled for DEPB benefit in case payment is made in Indian Rupees by SEZ Developer/ Co-Developer for supplies received w.e.f 10.2.2006. Credit shall be available against such export products and at such rates as may be specified by DGFT by way of public notice. Credit may be utilized for payment of Customs Duty on freely importable items and/or restricted items. DEPB Scrips can also be utilized for payment of duty against imports under EPCG Scheme. Further, DEPB Scrips can also be used / debited towards payment of customs Duty in case of E.O. defaults for authorizations issued under chapters 4 And 5 of this policy. However, penalty / interest shall be required to be paid in cash. Prohibited items of exports mentioned in ITC(HS) Book (as amended from time to time) shall not be entitled for DEPB credit except for the exports effected under transitional facility, wherever allowed, in terms of paragraph 1.5 of FTP.

**Para 4.3.2** DEPB holder shall have option to pay additional customs duty in cash as well.

**Para 4.3.3 Validity-** Validity period of DEPB for import shall be as prescribed in HBP v1.

**Para 4.3.4 Transferability-** DEPB and / or items imported against it are freely transferable. Transfer of DEPB shall however be for import at specified port, which shall be the port from where exports have been made. Imports from a port other than the port of export shall be allowed under TRA facility as per terms and conditions of DOR notification.

**Para 4.3.5 Applicability of Drawback-** Additional customs duty / Excise Duty and Special Additional Duty paid in cash or through debit under DEPB may also be adjusted as CENVAT Credit or Duty Drawback as per DoR rules.

As per the **Para 1.2** of the Foreign Trade Policy, 2009-2014 (herein after referred as FTP, 2009-2014 was into force with effect from 27th August, 2009 to 31st March, 2014.

According to **Section 28AAA of the Customs Act, 1962**, “.....Explanation 2. The provisions of this sub-section shall apply to any utilisation of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent”. The Finance Bill, 2012 got the assent on 28.05.2012, In view of the section 28AAA of the Customs Act, 1962

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and [FTP 2009-2014](#) & 2015-20 the export benefits (MEIS/DEPB/FPS/MPS) given to M/s. Capital Ventures Pvt. Ltd. have been calculated for demand and recovery under this Show Cause Notice has been considered for the period from 28.05.2012.

### **Analysis and Observation**

**13.** During the course of investigation, live consignments of M/s Capital Ventures Private limited were examined and no mis-declaration was noticed in items description and quantity. However, further documents collected and statement recorded point towards violation of extant customs provisions. The same are being discussed and elaborated below:-

**13.1 Statements of Shri Vaneet Aggarwal & Shri Vivek Aggarwal, confirmed that:-**

(i) They used to provide the unsigned documents (copies of invoices and packing list) through email to the staff of Shri Rakesh Dhamir for issuance of Certificates of Origin through Shri Rakesh Dhamir, who in turn used to arrange an agent for getting the certificates of origin issued.

(ii) On the request of overseas buyers, their staff prepared two sets of invoices having the same serial number with one invoice having lower value and another one of higher value. As Certificate of Origin was required by the foreign buyer; therefore, they provided the certificate of origin to the foreign buyer along with invoice having lower value. Another certificate of origin was issued against the actual invoice of higher value. They had submitted copies of invoices to FISME on different dates for getting 2 different COO's against the same invoice serial number.

**13.2 Comparison of Invoices received from FISME & Overseas Formation with invoices submitted by M/s CVPL to Custom Authorities:**

(i) Observations revealed disparities between the values declared prior to Indian Customs clearance and the values declared during clearance in the receiving country. The directors of M/s CVPL, namely Shri Vaneet Aggarwal and Shri Vivek Aggarwal, acknowledged that the variance in invoice values stemmed from issuance of parallel invoices with reduced values at the buyers' request. Simultaneously, they declared higher values at the Indian Customs Port to capitalize on enhanced

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export incentives. To facilitate this, they generated and submitted parallel invoices within India at FISME, aimed at obtaining Country of Origin Certificates. The directors confirmed that the parallel invoices with lower values were sent to overseas buyers on their request. Additionally, their staff and the staff of Rakesh Dhamir, acting on their behalf through an agent, arranged for the country of origin certificates.

(ii) In a specific instance, the disparity in values was noted in relation to goods exported under invoice no. CVPL/EXP/17-0103 and shipping Bill Number 8921077 dated 26.09.2017. For instance, the value of a single carton of "GHEE TIN 1 LTR," containing 12 ghee packets, was declared as USD 158.28 before Indian Customs. However, the overseas inquiry unveiled a unit price of USD 8.85 for the same "GHEE TIN 1 LTR" carton containing 12 packets. Based on the prevailing exchange rate, the approximate unit price of a single 1-liter ghee pack equated to INR 47.

### **13.3 Acceptance of Director(s)**

(i) Shri Vivek Aggarwal and Shri Vaneet Aggarwal had full knowledge of all the activities being done under the aegis of M/s Capital Ventures Private Limited. They undertook to surrender the amount of excess drawback and other export incentives availed by M/s Capital Ventures Private Limited and submitted a Draft of Rs. 4 Crore towards partial discharge of excess drawback claimed/availed, if any, by M/s Capital Ventures Private Limited. They also accepted mis-declaration and overvaluation of the exported goods. They also admitted that they had consciously maintained two invoices having different values submitted before Indian Customs and overseas Customs authorities, respectively.

**13.4** Statement of Shri Rakesh Dhamir dated 22.07.2020(RUD-27), Owner and proprietor of Toshnek International Forwarders & M/s Nektosh International Forwarders, Freight Forwarders confirmed that He was in cognizance of the fact that parallel invoices were being issued and submitted by/on behalf of M/s Capital Ventures Private Limited to FISME for issuance of Certificates of Origin. Further, he Confirmed that the modus was carried out on the behest of Shri Vivek Aggarwal and Shri Vaneet Aggarwal.

**13.5** Statement of other concerned persons revealed the following:-

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- M/s CVPL had maintained two invoices having same Serial No. and further provided to Shri Rakesh Dhamir for issuance of COOs, whereas one invoice having the higher value was prepared for claiming more export incentives and maintaining books of accounts; that another invoice having the same no. was prepared with much lower value for providing to the foreign buyer.
- M/s CVPL provided the certificate of origin to the foreign buyers supporting the actual value of the invoice of the goods and another certificate of origin was issued against the invoice having the higher value, for customs clearance before Indian Customs and claiming more export incentives than otherwise eligible;
- Parallel invoices were prepared on the direction of Shri Vivek Aggarwal and duplicate invoices were issued and submitted to FISME for issuance of Country of Origin Certificates twice for the same consignment at the behest of the exporter.

**13.6** Several '*Country of Origin*' Certificates issued by FISME (Federation of Micro and Small Scale Enterprises) have also been received from the overseas enquiries of London and Dubai. Enquiries from the office of FISME, i.e. one of the Country of Origin Certification issuing authorities, confirmed the fact of issuance of parallel invoices with different values. The details of the relevant invoices/country of origin certificates received from FISME have been detailed in the **Table 2** of this Show Cause Notice.

**13.7** Overseas enquiries also indicated that parallel invoices with respect to certain export consignments of the exporter have been prepared which clearly points towards overvaluation on account of the exporter. The said invoices stand as eligible pieces of evidence in terms of investigation under the Customs Act, 1952 (hereinafter to be referred to as the Act) in view of Section 151B of the Customs Act. The recovered parallel invoices indicate that the exporters had resorted to overvaluation at the time of export of their consignments from India. The details of the invoices so received from the overseas customs formations have been detailed in Table 3 of this Show Cause Notice.

**14.** As discussed above, Shri Vivek Aggarwal and Shri Vaneet Aggarwal both Directors of M/s Capital Ventures Private Limited have admitted during the investigation that they have availed undue drawback/other export incentives by

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way of overvaluing/misdeclaring the export goods and voluntarily deposited Rs.1,50,00,000/- towards ineligible drawback and Rs. 2,50,00,000/- against other export incentives on behalf of M/s. Capital Ventures Private Limited.

**Valuation:**

**15. Rejection of the declared value of the export goods:-** According to the Rule 8 of the Customs Valuation (Determination of value of Export Goods) Rules, 2007, when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of Rule 3. During the investigation, several evidences have come on record and as discussed above, from which it appears that the value declared in respective shipping bills is not the correct value and the same is liable to be rejected and re-determined as per law.

**16. Re-Determination of Value of Export Goods:**

As discussed above, various evidences such as invoices/country of origin certificates received respectively from the FISME office & overseas customs formations mentioning the value of the goods, admission of the facts in the voluntary statements tendered by the directors Shri Vivek Aggarwal, Shri Vaneet Aggarwal, employees, CHAs etc., have come on record, which prove that the value and description of certain exported goods declared before the Indian Customs was not the actual transaction value of the goods in certain cases. The exporter was asked to provide the information/documents or evidences, such as copies of purchase invoices etc. to justify the transaction value of the export goods, however despite giving time and opportunity, the exporter could not provide actual details that correlated the actual goods sent and the goods purchased by the exporter. Therefore, it appears that the values of the exported goods declared before the Indian Customs do not represent the true and actual value of the goods. Therefore, the value of the export goods has been re-determined by proceeding sequentially in accordance with rules 4 to 6 of Customs (Determination of Value of Export Goods) Rules, 2007.

**17. The re-determination of value has to be done sequentially through Rules 4 to 6 as specified in Rule 3(3) Customs (Determination of Value of Export Goods) Rules, 2007**

**17.1 In terms of Rule 4 ibid**, the value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2). As such, the transaction value as declared by the exporters appears to be not correct and needs to be rejected based on the following evidences;

- i. Presence of parallel invoices resumed from FISME and overseas customs formations.
- ii. Admission in the voluntary statement of the directors regarding parallel invoices being issued by the exporter.

**17.2 In terms of Rule 5 of the Customs (Determination of Value of Export Goods) Rules, 2007**, if the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the (a) cost of production, manufacture or processing of export goods;(b) charges, if any, for the design or brand; (c) an amount towards profit. As such the value of the goods can also not be determined in terms of Rule 5 of the Customs (Determination of Value of Export Goods) Rules, 2007. During the investigation of the case, efforts were made to determine such details however Shri Vivek Aggarwal and Shri Vaneet Aggarwal have refused citing reasons of their inability to correlate purchased/manufactured goods and have also specified that their prices are also case specific and the same products may be sold to different buyers at different prices based on change in capacities, volume, location and negotiation abilities. Enquiry was also caused from the suppliers of goods to M/s Capital Ventures Private Limited, who though provided the cost of the goods, could not provide relevant details that could be related one on one with the goods exported in the export consignments.

**17.3** Since the value of the goods exported by M/s. Capital Ventures Private Limited Pvt. Ltd. cannot be determined accordingly to Rule 4 and Rule 5 of the

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valuation rules, **the recourse has to be taken to Rule 6** of the Customs (Determination of Value of Export Goods) Rules, 2007, which provides for determining the value of the exported goods using reasonable means consistent with the principles and general provisions of these rule provided that local market price of the export goods may not be the only basis for determining the value of export goods. As per this rule, the local market price should not be the sole basis. This condition is fulfilled inasmuch as reliance is not proposed to be placed on any local market price. Further, documentary evidence surfaced during the investigation appear quite adequate for arriving at the value of the exported goods and fulfil the condition with regard to reasonable means consistent with the principles and general provisions of Rule 6.

#### **18. Valuation on the basis of the Invoices recovered from FISME:-**

During the investigation with respect to the goods exported by M/s Capital Ventures Private Limited, it has come to fore that that M/s Capital Venture Private Limited usually got certificates of origin issued from FISME office. The staff of M/s Toshnek International Forwarders used to deal with FISME for submission of duly filled proforma of certificates of origin, invoices and packing lists and the directors of M/s CVPL were looking after all activities carried out by his staff and all their activities were in their full knowledge and control. M/s CVPL used to get the COO's issued from FISME with the help of Shri Rakesh Dhamir who in turn used to take the help of one Shri Sanjay Gandhi of M/s SAP Global Agency. The copies of invoices used to be sent to Shri Sanjay Gandhi of M/s SAP Global Agency for getting certificate of origins issued. Shri Sanjay Gandhi used to assist M/s CVPL in getting certificates of origin through FISME. It has been admitted by Shri Sanjay Gandhi as well as Shri Rakesh Dhamir in their voluntary statements that the invoices having correct value and description were required to be produced at the time of clearance of the goods in importing countries and that at times M/s Capital Ventures Pvt. Ltd. used to get more than one certificates of origin issued against single invoice number for which they used to make two similar invoices bearing same number but having different details/value. They (Rakesh Dhamir and Sanjay Gandhi) also admitted to being aware that one copy of the certificate of origin and the corresponding invoice bearing higher value was used to maintain books of accounts and claim export incentives. While the other set of certificates of origin as well as the invoice, which bore the same no. and much less value was used for

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clearing in importing countries. Based on such revelations by Shri Sanjay Gandhi and Shri Rakesh Dhamir enquiries were caused by FISME and from the documents received on such enquiry, it appears to have been established that indeed in some cases more than one invoice bearing the same number but having different description was submitted to FISME for issuance of Country of Origin certificate. The details of all such invoices have been mentioned in table 2. Based on such circumstantial evidence, it thus appears logical that one copy of the certificate of origin and the corresponding invoice bearing higher value was being generated by M/s CVPL and was used for maintaining their books of accounts and also for claiming higher export incentives i.e. drawback, GST refund, MEIS etc. while the other set of certificates of origin as along with corresponding invoices, which bore the same no. and much less value were sent to their buyers for clearing in importing countries.

**19. Valuation on the basis of Invoices/details received by respective COIN offices situated abroad having jurisdiction over the respective destination ports**

**19.1** During the course of the investigation, overseas enquiries were conducted from the customs authorities of the importing countries to which M/s CVPL had exported goods. The reports received in lieu of such enquiries established that Parallel invoices with respect to some of the export consignments of the exporter had been generated which had clearly specified overvaluation on account of the exporter. The said invoices stand as eligible evidences in terms of investigation under the Customs Act, 1952 in view of the Section 151B of the Customs Act. The recovered parallel invoices indicate that the exporters had resorted to overvaluation at the time of export of their consignments from India. One copy of certificate of origin and the corresponding invoice bearing higher value was used to maintain books of accounts and claiming export incentives i.e. drawback, GST refund, MEIS etc. while the other set of certificate of origin as well as invoice, which bore the same no. and much less value, was used for clearing in importing country. The details of the invoices so received from the overseas customs formations have been detailed in **Table 3**. Based on such circumstantial evidence, it thus appears logical that invoice bearing higher value was being generated by M/s CVPL and was used for claiming higher export incentives i.e. drawback, GST refund, MEIS etc. while the other set of certificates of origin as along with corresponding invoices, which

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bore the same no. and much less value were sent to their buyers for clearing in importing countries.

**19.2** Upon examination of the declared value presented to customs authorities, alongside the values stated in the parallel invoices acquired from FISME or overseas customs authorities, it was observed that certain items have been inaccurately reported in terms of their declared values. The information regarding these specific items, along with the corresponding ratios depicting the extent of overvaluation for each item, in relation to the values declared before Indian customs authorities as opposed to the values provided to FISME or present in invoices received from overseas customs formations, has been succinctly summarized in Annexure C.

**19.3.** On analysis of items detailed in Annexure C, it was also observed that primarily items such as Ghee, Noodles, Malted Drinks etc where export incentives were higher were misdeclared in terms of value or manipulation were carried out by the M/s CVPL for such items only with sole intent of availing extra incentives. For example, it was found that foods items mentioned above, whose value were found misdeclared, have had high propensity to be mis-declared due to its range of being pure and premium products to low-value and substandard item. Investigation carried out also proved that M/s CVPL was engaged in tampering of labels on the certain packaged items being exported for manipulation of their details which further strengthened the notion that some manipulation is being carried out by them. For the purpose of gauging the extent of overvaluation, the percentage overvaluation was calculated based on the declared value before Indian customs and the values as received through sources like parallel invoices recovered during investigation from FISME as well as those received from overseas customs formations. The comparison of the values declared before Indian Customs and Values declared before Customs authorities of Recipient country resulted in a certain percentage of overvaluation in each particular case. In this regard, kind reference is invited to Table 2 & 3 at pre-page, where item wise value comparison was carried out between the values declared by the exporter in the shipping bills to Indian Customs authorities and value of such items mentioned in invoices (bearing same serial number, as submitted with shipping bills) obtained from overseas customs formation and through FISME enquiry. Above comparison of values of

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same items from such invoices revealed that items were overvalued in the ranges of 0.11% to 98.6%. Formula for calculation is reproduced below.

$$\text{Percentage Overvaluation} = \left( \frac{\text{Value Declared before Indian Customs} - \text{Value present in the invoice received}}{\text{Value Declared before Indian Customs}} \right) \times 100$$

**19.4.** Accordingly, all such items found in such invoices goods and mentioned in Table 2 & 3 above where the overvaluation was observed were further categorized based on the type of commodity. Further, the lowest percentage of overvaluation for each category was identified (as shown in table 5 below) for ascertaining the overvaluation and subsequent redetermination of value declared by M/s CVPL in respect of all such goods being exported by M/s CVPL. Accordingly, all the export consignments/SBs filed by M/s CVPL for the period 01.01.2015 to 10.09.2019 were identified where the items belonging to the category mentioned in table-6 were exported and the value of all such items are being re-determined using the percentage overvaluation as mentioned in Table -5 (lowest percentage in each category).

**Table-5 (Lowest Percentage of Overvaluation for each category)**

<b>S.No</b>	<b>Category</b>	<b>Percentage of Overvaluation observed from Table 2 &amp; 3</b>	<b>Minimum percentage from Column 3</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1	Blade	86.51%	86.51%
2	Chips	0.11%	0.11%
3	Chocolate	22.53% to 85.07%	22.53%
4	Chyawanprash	80.82%	80.82%
5	Ever Crunch	14.34% - 27.46%	14.34%
6	Ghee	44.13% - 94.41%	44.13%
7	Hair Oil	80.85% - 83.23%	80.85%
8	Hair Serum	76.17% - 80.04%	76.17%
9	Hajmola	50%	50.00%
10	Malted	50.12% -	50.12%

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		87.23%	
11	Mamra	0.69%	0.69%
12	Noodles	44.16% – 86.60%	44.16%
13	Proteinex	98.60%	98.60%
14	Pulses	64.60%	64.60%
15	Refreshment Drink	10.77%	10.77%
16	Utensils	11.76% – 43.22%	11.76%
17	Wadi	50%	50.00%
18	Wooden	47.83%	47.83%

**19.5.** Upon analysis of the aforementioned items, it became evident that certain products like Ghee, Noodles, and Malted Drinks were consistently overvalued by M/s CVPL. This deliberate overvaluation was aimed at maximizing export incentives for such items as the export incentives for such items was on the higher side. It was discovered that the mentioned food items, which had their values intentionally misrepresented, presented a higher likelihood of being undervalued due to their wide spectrum, ranging from premium, high-quality products to lower-value and substandard items.

## **20. Details of Drawback & Other Export Incentives:-**

**20.1** Based on the above redetermination of value of identified exported consignments, a total of 890 consignments were identified wherein the items mentioned in table 5 were exported from the period 01.01.2015 to 10.09.2019. Summary of the consignments along with details of excess Drawback availed is shown in the table-6 below. A chart containing the details of description of goods & FOB value declared before the Indian Customs at time of export vis-à-vis the actual value of the export goods (re-determined on pro-rata basis for drawback availed, on the basis of the evidences surfaced during the investigation) is enclosed as **Annexure- D.**

**Table-6: Summary of the Exports by M/s CVPL and the Tentative demand of Drawback**

(Amount in Rs.)

<b>Custo</b>	<b>Cou</b>	<b>Sum of FOB</b>	<b>Sum of</b>	<b>Sum of</b>	<b>Sum of</b>	<b>Sum of</b>
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<b>ms Port</b>	<b>nt of SBs</b>	<b>Value in Rs</b>	<b>Redetermin ed Value</b>	<b>Drawbac k Amount</b>	<b>Admissib le Drawbac k</b>	<b>Excess Drawbac k</b>
<i>INCPL6</i>	93	7,35,40,638	3,53,37,597	1,47,955	61,863	86,092
<i>INDEL4</i>	7	14,74,691	11,55,991	3,049	2,331	718
<i>INTKD6</i>	790	87,56,02,25 4	45,85,95,80 1	55,42,27 1	27,43,400	27,98,87 1
<b>Grand Total</b>	<b>890</b>	<b>95,06,17,5</b>	<b>49,50,89,3</b>	<b>56,93,2</b>	<b>28,07,59</b>	<b>28,85,6</b>
		<b>84</b>	<b>89</b>	<b>75</b>	<b>4</b>	<b>81</b>

**21.** Thus, from the facts and circumstances of the case, evidence collected during investigation and the applicable legal provisions, discussed hereinbefore, it appears that:

- i. M/s. Capital Ventures Private Limited Pvt. Ltd. is a company engaged in export of various items are operated & controlled through their director(s) namely Shri Vivek Aggarwal and Shri Vaneet Aggarwal.
- ii. Shri Vivek Aggarwal and Shri Vaneet Aggarwal in collusion with Shri Rakesh Dhamir used to manage the export consignments, their billing, issuance of COOs and facilitating the export. In this scheme of things, they used to manipulate the documents and mis-declare the description/value of exported goods to avail higher export incentive including duty drawback.
- iii. They used to provide the signed/unsigned documents (copies of invoices and packing list) through e-mail/physically to Shri Rakesh Dhamir or his employees for issuance of Country of Origin Certificates.
- iv. Certificates of origin with respect to the goods exported by M/s Capital Ventures Pvt. Ltd. were issued by Federation of Indian Micro and Small & Medium Enterprises (FISME). Both the directors were fully aware of the invoices and packing list being prepared & handed over by their staff for issuance of certificates.
- v. It emerged out that in certain cases M/s CVPL used to prepare parallel invoices having same serial number, one with the lower value for overseas buyer and another with higher value with same serial number for submission at the time of export before Indian authorities. The certificate of

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origin required by the foreign buyer were provided supporting lower value of the goods and another certificate of origin was arranged to be issued against the invoice of higher value. For the same, they had submitted the copies of invoices of same serial no having different values on different dates with FISME.

- vi. On analysis of the copies of invoices/packing list and country of origin certificates received from Overseas enquiry (submitted by their overseas buyers of goods), it is found that amounts mentioned in the invoices received, varied greatly and were much less in value compared to the respective invoices submitted by M/s Capital Ventures Private Limited at port in India before the customs authorities. On being asked about the same, they explained the same that the difference in the value of the invoices was due to the fact that they had re-issued parallel invoice with lower value as per the buyer request and declared high value at Customs Port in India.
- vii. Further relevant person statement revealed that such high value invoices were purposefully created to maintain book of accounts & to avail higher export incentives.
- viii. Documents resumed from FISME and overseas enquire revealed that exported consignments were misdeclared in terms of description and value.
- ix. M/s CVPL also agreed that the copies as received from overseas enquiry were sent by them only to their overseas buyers and the country of origin certificates were also arranged by their staff through Shri Rakesh Dhamir. They also resorted to tampering of labels of certain packaged items in order to hide/mis-represent the details.
- x. As per documentary evidence surfaced during the investigation, goods having collective declared FOB value of Rs. 95,06,17,584 /- have been overvalued (as per details in the Table and Annexure D). As per the statements and invoices gathered from FISME & unearthed during overseas enquiries (i.e. the prices declared by the overseas buyers of the said export goods at overseas customs destinations) indicated that the value of
- xi. the certain goods declared in the shipping bills have been mis-declared and were highly overvalued.
- xii. The declarations subscribed under each Shipping Bill, in terms of Section 50(2) of the Customs Act, 1962 read with Rule 11 and 14(2) of the Foreign Trade (Regulation) Rules, 1993, were also not true. Therefore, the declared FOB value of these goods is liable to be rejected (as per calculation in

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Annexure-D) and the collective correct value of these goods is re-determined as Rs. 49,50,89,389 /-. Consequently, the goods exported by M/s Capital Ventures Private Limited Pvt. Ltd., having FOB value of Rs 95,06,17,584/- are liable for confiscation under sections 113(i) and 113(ia) of CA, 1962 on account of mis-declaration with respect to value/description of goods.

- xiii. The drawback amount of Rs 28,85,681/- claimed and availed by M/s Capital Ventures Private Limited Pvt. Ltd. is liable to be denied/held inadmissible and recoverable on the account of mis-declarations made in the shipping bills in respect of the exports, as mentioned above.
- xiv. **Role of Shri Vivek Aggarwal & Shri Vaneet Aggarwal:** In view of the facts discussed in the foregoing para and material evidence on record it appears that the M/s CVPL and in association with their Directors namely Shri Vivek Aggarwal & Shri Vaneet Aggarwal have contravened the provisions of section 50(2) of the Customs Act, 1962 read with section 11 of the Foreign Trade (Development and Regulation), Act, 1992 and Rule 11 & 14 of the Foreign Trade (Regulation) Rules, 1993 in as much as they had intentionally exported the goods by mis-declaring the value and the actual description. The export goods were found to be overvalued as against the declared value as detailed in the Annexure D to this Investigation Report. The export of these consignments also appears to have been caused by adopting corrupt and fraudulent practices by manipulating documents. The value of the export goods are not in conformity with the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Exported goods) Rules, 2007. It therefore, appears that Shri Vivek Aggarwal & Shri Vaneet Aggarwal through M/s CVPL controlled by them had derived and attempted to derive illegal & inadmissible Duty Drawback, MEIS and other export incentives in contravention of the provisions of the Customs Act, 1962 and Foreign Trade (Development & Regulation) Act, 1992 read with the Foreign Trade (Regulation) Rules, 1993. Therefore, the afore-mentioned actions of these exporter and their exports under the aegis of the said company by way of mis-declaring the description and actual value appears to be appropriately covered within the definition of "Smuggling" as provided in Section 2(39) of the Customs Act, 1962. Further the collective action of the said company have rendered the exported goods liable to confiscation under Sections 113(i) & 113(ia) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11 and

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14 of the Foreign Trade (Regulation) Rules, 1993. M/s CVPL and their directors Shri Vivek Aggarwal and Shri Vaneet Aggarwal are liable to penalty under section 114(iii) and 114AA of the Customs Act, 1962, in view of the acts of omissions and commissions as detailed above;

- xv. **Role of Shri Rishabh Saggar:** Shri Rishabh Saggar being director of the company and responsible for the company's affairs is liable to penalty under Section 114(iii) and 114AA of the Customs Act, 1962, in view of the acts of omissions and commissions as detailed above.
- xvi. **Role of Shri Rakesh Dhamir Forwarders and Shri Sanjay Gandhi:** Shri Rakesh Dhamir, with the assistance of Shri Sanjay Gandhi from M/s SAP Global Agency, facilitated the issuance of COOs by FISME for M/s CVPL. Both Sanjay Gandhi and Rakesh Dhamir admitted that accurate invoices with proper value and description were necessary for customs clearance in the importing countries. Further, Shri Rakesh Dhamir admitted that M/s Capital Ventures Pvt. Ltd. used to get more than one certificates of origin issued against single invoice number for which they used to make two similar invoices bearing same number but having different details/value and that he was aware that one copy of certificate of origin and the corresponding invoice bearing higher value was used to maintain books of accounts and claiming export incentives i.e. drawback, GST refund, MEIS etc. while the other set of certificate of origin as well as invoice, which bore the same invoice no. and much less value, was used for clearing the exported goods in the importing country. They were aware that M/s Capital Ventures Pvt. Ltd. had overvalued certain goods which attracted high GST and MEIS rates at the time of export. Therefore by their acts and omissions, participated, assisted and abetted Shri Vivek Aggarwal and Shri Vaneet Aggarwal in fraudulent export of the overvalued goods completely knowing that the said goods are liable for confiscation u/s 113(i) & 113(ia) of the Customs Act, 1962 have also rendered themselves liable to penalty under Section 114(iii) and 114AA of the Customs Act, 1962, in view of the acts of omissions and commissions as detailed above.
- xvii. **Role of Shri Rakesh Kumar Singh, Manager (Logistics) & Ms. Richa Chadda, Assistant Manager (logistics):** Ms. Richa Chadda confirmed that there had been instances when she was asked to issue more than one invoice bearing the same number by the buyer and the same was done with full knowledge and consent of her superiors. Shri Rakesh Kumar Singh,

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Manager (Logistics), M/s. Capital Ventures Pvt. Ltd., had confirmed that that they had maintained two invoices having the same serial no. and provided the same to Shri Rakesh Dhamir wherein one invoice having the higher value was prepared for claiming more export incentives and maintaining books of accounts, while another invoice having the same invoice no. was prepared having a much lower value was prepared for providing to the foreign buyer. Shri Rakesh Kumar Singh also admitted that M/s Capital Ventures Pvt. Ltd. had prepared parallel invoices adopting above-said modus operandi for claiming more export incentives than otherwise eligible and also clarified that parallel invoices were prepared on the direction of Shri Vivek Aggarwal. Therefore Ms Richa Chadha and Shri Rakesh Kumar Singh are also liable to penalty under Section 114(iii) and 114AA of the Customs Act, 1962, in view of the acts of omissions and commissions as detailed above.

**xviii. Role of M/s Shri Ram Cargo Movers and M/s Mauli Worldwide Logistics:**

The Customs Brokers namely M/s Shri Ram Cargo Movers and M/s Mauli Worldwide Logistics have knowingly and deliberately facilitated the customs clearance of the mis-declared and overvalued export in furtherance of their conspiracies. Therefore, they knowingly handled the goods which they knew or had reasons to believe that they were liable for confiscation under the provisions of Section 113(i) & 113(ia) of the Customs Act, 1962 and thereby rendered themselves liable for penal action under Section 114(iii) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992 and the Foreign Trade (Regulation) Rules, 1993, in relation to the said goods exported under claim of Duty Drawback.

**22.** Accordingly, it appears that declared FOB value of **Rs 95,06,17,584/-** is required to be rejected and re-determined as **Rs. 49,50,89,389 /-** on the basis of evidences surfaced during the investigation (as discussed above in detail) and the admissible duty drawback is required to re-determined on the basis of re-determined FOB value on pro-rata basis. Therefore, the drawback amounting to **Rs. 56,93,275 /-** availed against Shipping Bills filed ICD Tughlakabad (Export), Delhi Air Cargo Complex, ICD Dadri (INCPL6) becomes stands inadmissible. The admissible duty drawback of **Rs. 28,07,594 /-** has been re-determined and the

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excess duty drawback of **Rs. 28,85,681 /-** is required to be recovered under rule 16 of drawback rules 1995 read with Section 75 of Customs Act, 1962.

### **23. In-admissible benefits in the form of MEIS scrips:**

**23.1** Furthermore, information was obtained from the system regarding all the licenses/scrips issued to M/s CVPL, along with how these licenses were used by different importers for payment of duty. Out of the 890 shipments mentioned earlier and listed in Annexure D, 439 shipments were identified wherein M/s CVPL obtained 55 licenses by providing higher values for the items when making declaration before the customs authorities. These particular shipments are detailed in Annexure E. The total amount of MEIS/Scrips availed by M/s CVPL in the above mentioned 55 scrips/licenses by was Rs 9,52,80,926/-. The said scrips were further sold to various import firms and the same were utilized to pay import duty amounting to Rs 9,24,28,132.

**23.2** For the items that were subject to revised valuations, the corresponding value of licenses utilized to offset duty was found to be Rs 2,71,49,301. Additionally, some instances have been noticed where licenses issued to M/s CVPL were utilized at multiple ports. As a result, the duty needs to be demanded proportionally from each port, based on the ratio of the license value used at each of these ports. In light of the above, M/s CVPL manipulated the value of certain exported goods to improperly benefit from drawback and other export incentives on items like Ghee, Noodles, and Malted drinks. Consequently, these wrongly acquired export benefits, derived from overstated export values, are not valid. The taxes paid through these licenses, along with applicable interest, need to be demanded from M/s CVPL under the provisions of Sections 28AAA & 28AA of the Customs Act, 1962, due to the misdeclaration made in the shipping documents. Accordingly, License details of shipping bills where item value were misdeclared were identified and calculation of scrips amount liable to be recovered has been calculated and detailed in Annexure E. Further, the details of utilization of above mentioned 55 licenses for payment of duty was also verified and the detailed calculation in respect of scrips availed by declaring inaccurate values before the customs authorities is detailed in Annexure F.

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**23.3** The port wise bifurcation of MEIS recoverable from M/s CVPL as detailed in Annexure F is shown in the table below:

Table-7

<b>S.No</b>	<b>Port of Utilization</b>	<b>Sum of FOB Impugned Goods in SB</b>	<b>Sum of MEIS Claimed against Impugned Goods</b>
1	INIXY1	19,45,90,908	1,13,67,206
2	INNSA1	6,73,47,789	39,22,256
3	INDEL4	7,39,99,351	39,21,626
4	INBOM1	3,38,70,908	21,90,008
5	INTKD6	3,07,37,663	19,78,818
6	INMUN1	2,93,45,178	19,46,076
7	INKRI1	1,30,31,552	7,50,787
8	INCCU1	1,43,39,589	6,82,938
9	INDER6	37,35,118	2,50,744
10	INAMD4	38,50,828	1,38,841
11	Grand Total	46,48,48,886	2,71,49,301

**Reference to DGFT:**

**23.4** During the course of investigation the DGFT has been requested, vide letter F.No. DRI/HQ-CI/A-Cell/50D/Enq-30(Int-15)/2019 dated 27.12.2023, to cancel the MEIS Scrips issued to M/s. Capital Ventures Pvt. Ltd to the extent as mentioned in this show cause notice i.e. Rs. 2,71,49,301/- in contravention of the relevant provisions of Foreign Trade policy and the Customs Act, 1962.

**Charging Provisions**

**24. Demand**

**24.1** Now, therefore, M/s Capital Ventures Private Limited Pvt. Ltd., through its Directors Shri Vivek Aggarwal and Shri Vaneet Aggarwal are hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why:

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- (a) the inadmissible use of instruments/ scrips (MEIS) issued by DGFT totally amounting to **Rs. 2,71,49,301/-** issued against exported goods having their declared FOB value Rs 46,48,48,886/- out of the total goods with combined FOB value declared as **Rs. 95,06,17,584.26/-** which was **re-determined as Rs. 49,50,89,389 /- as mentioned in para no 22, and detailed in the Annexure- E & F** should not be demanded and recovered from them under the provisions of Section 28AAA of the Customs Act, 1962 along with applicable interest as per the provisions of Section 28 AA of the Customs Act,1962 ;
- (b) the penalty under Section 114(iii) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992 should not be imposed on them for their acts of omissions and commissions in relation to the aforesaid goods, rendering the said goods liable to confiscation, as aforesaid; and
- (c) the penalty under Section 114AA should not be levied upon them for use of false and incorrect material in transaction of business under this Act;
- (d) the penalty under Section 114AB should not be levied upon them for obtaining instrument/scrips by fraud, collusion, wilful misstatement or suppression of facts under this Act;

**24.1.2** Shri Vivek Aggarwal Director of M/s Capital Ventures Private limited having his address as R/o D-95, Puspanjali Enclave, Pitampura, New Delhi-110034 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) & 114AA of the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.3** Shri Vaneet Aggarwal Director of M/s Capital Ventures Private limited having his address as R/o D-95, Puspanjali Enclave, Pitampura, New Delhi-110034 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) & 114AA of the Customs Act, 1962 should not be imposed

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upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.4** Shri Rishab Saggar Director of M/s Capital Ventures Private limited having his address as A-1, Indraprastha Apartments, Sector-14, Rohini, New Delhi-110085 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) & 114AAof the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.5** Shri Rakesh Dhamir partner M/s Toshnek International Forwarders having his address as A/137, Lajpat Nagar-I, New Delhi-110024 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) & 114AAof the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.6** Shri Rakesh Kumar Singh, Manager (logistics), M/s Capital Ventures Private Limited having his address as H.No. 77, Pocket-4, Sector-2, Rohini, Raja Pur Kalan, Rohini, Sector-7, North West Delhi-110085 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) & 114AAof the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.7** Ms. Richa Chadda, Assistant Manager(logistics), M/s Capital Ventures Private Limited having her address as 78, 8 marla, Nr. Dainik Jagran Office, Sonipat, Haryana-131001 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this

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Show Cause Notice as to why penalty under Section 114(iii) & 114AA of the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.8** Shri Sanjay Gandhi Prop. M/s SAP Global Agency having his address as 150/15, LGF Amritpuri-B, Garhi, East of Kailash, New Delhi 110065 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) & 114AA of the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.9** M/s Shri Ram Cargo Movers having its registered address as 271, Dhakka Village, Mukherjee Nagar, Delhi 110009 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) of the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**24.1.10** M/s Mauli Worldwide Logistics having its registered address as J-2/107-B, DDA Flats, Kalkaji, New Delhi-110019 is hereby called upon to show cause to the Commissioner of Customs, Kandla Customs Commissionerate, Custom House, Near Balaji Temple, Kandla within 30 (thirty) days from the date of receipt of this Show Cause Notice as to why penalty under Section 114(iii) of the Customs Act, 1962 should not be imposed upon them for acts of omission and commission conducted by M/s Capital Ventures Private Limited Private Limited and abetment thereof.

**25.** This show cause notice is being issued under the provisions of the Customs Act, 1962 without prejudice to any other action that may be taken against the noticees to this show cause notice or any other person(s) whether mentioned herein above or not under the Customs Act, 1962 or any other law for the time

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being in force in India. The department is also free to issue addenda/corrigenda to this Show Cause Notice if any further fact/ documents come to notice of the department after issuance of this notice and prior to the adjudication of this case.

**26.** The aforesaid noticees are directed to submit their written replies within the stipulated time. In their replies they should clearly state whether they wish to be heard in person or not. If no cause is shown within the stipulated time or within such other time as may be provided by the adjudicating authority on a request being made in that regard, or, if they do not appear when the case is posted for hearing, the case will be decided ex-parte on the basis of evidence available on record without making any further reference to them.

**27.** The documents relied upon as per list are enclosed herewith as **Annexure- 'RUDs'**.

Commissioner of Customs  
Kandla Customs

**F.No. GEN/ADJ/COMM/728/2023-Adjn-O/o Commr-Cus-Kandla**

**DIN- 20240171ML00007757AA**

To,

1. M/s Capital Ventures Pvt. Ltd., 1002, 10th floor, Aggarwal Corporate Heights, Netaji Subhash Place, Pitampura, Delhi-110034(IEC -0500050309)
2. Shri Vivek Aggarwal, Director of M/s. Capital Ventures Private Limited Pvt. Ltd., D-95, Pushpanjali Enclave, Pitampura, New Delhi.
3. Shri Vaneet Aggarwal, Director of M/s. Capital Ventures Private Limited Pvt. Ltd., D-95, Pushpanjali Enclave, Pitampura, New Delhi.
4. Shri Rishab Saggar, Director of M/s. Capital Ventures Private Limited Pvt. Ltd., A-1, Indraprashth Apartments, Sector-14, Rohini.
5. Shri Rakesh Dhamir partner M/s Toshnek international Forwarders, 432, Ground floor, Sant Nagar, East of Kailash, New Delhi-110065

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6. Shri Rakesh Kumar Singh, , Manager(logistics), M/s Capital Ventures Private Limited, H.NO-77, Pocket-4, Sector-2, Rohini, Rajapur Kalan, Rohini Sector 7, North West Delhi -110085.
7. Ms. Richa Chadda, Assistant Manager (logistics), M/s Capital Ventures Private Limited, 78, 8 marla, Near Dainik Jagran Office, Sonipat, Haryana 131001.
8. Shri Sanjay Gandhi, Prop. SAP Global Agency, 150/15, LGF Amritpuri-B, Garhi, East of Kailash, New Delhi 110065
9. M/s Shri Ram Cargo Movers, 271, Dhakka Village, Mukherjee Nagar, Delhi 110009
10. M/s Mauli Worldwide Logistics, J-2/107-B, DDA Flats, Kalkaji, New Delhi 1100019
11. Pr. Additional Director General, DRI(Hqrs), New Delhi
12. The ADG, CEIB, New Delhi. Notice Board of ICD, Tughlakabad (Export), New Delhi.
13. Guard File

**Copy to**

- 1) The Pr. Commissioner/ Commissioner of Customs, NOIDA Customs (INCPL6) & (INDER6)
- 2) The Pr. Commissioner/ Commissioner of Customs, Inland Container Depot (Export), Tughlakabad, New Delhi
- 3) The Pr. Commissioner/ Commissioner of Customs, Nhava Sheva, JNCH (INNSA1)
- 4) The Pr. Commissioner/ Commissioner of Customs, Import Commissionerate, Mumbai (INBOM1)
- 5) The Pr. Commissioner/ Commissioner of Customs, Mundra Port, Delhi (INMUN1)
- 6) The Pr. Commissioner/ Commissioner of Customs, Vijaywada Preventive Commissionerate Port, VIjaywada (INKRI1 )
- 7) The Pr. Commissioner/ Commissioner of Customs, Kolkata Port, Kolkata (INCCU1)
- 8) The Pr. Commissioner/ Commissioner of Customs, Air Cargo Complex, Ahmedabad (INAMD4).