

	सीमा शुल्क (निवारक) के आयुक्त का कार्यालय, सीमा शुल्क भवन, जामनगर - राजकोट हाइवे, विक्टोरिया ब्रिज के पास, जामनगर (गुजरात) - 361 001
	Office of the Commissioner of Customs (Preventive), 'SEEMA SHULK BHAVAN', Jamnagar - Rajkot Highway, Near Victoria Bridge, Jamnagar (Gujarat) - 361 001
	Email: commr-custjmr@nic.in; adj-custjmr@nic.in

Document Identification Number (DIN): 20241171MM0000051498
SCN No.: ADC-05/2024-25
Date: 12.11.2024

SHOW CAUSE NOTICE

(Under Section 28 read with Section 124 of the Customs Act, 1962)

M/s. Regenta M Foods, Plot No. 2A & 2B, Survey No. 287, Panchratna Industrial Estate, Ahmedabad - 382210 (hereinafter referred to as "the Importer") having IEC No. ABGFR6390B, filed Bill of Entry No. 5168230 dated 21.08.2024 (hereinafter referred to as the "said Bill of Entry") under Section 46 of the Customs Act, 1962 (RUD - 1) for importing goods viz. (1) Red Lotus Flour - 325 Carton (1Kg X 10), (2) Chilli Sauce - 400 Carton (570 Grams X 12), (3) Aromat Seasoning Power Jar - 100 Carton (1Kg X 06), (4) Glass Noodle (Export PKT) - 75 Carton (500 Grams. X 20), (5) Pickled Ginger - 150 Carton (1500 Grams X 06), (6) Tempura Flour - 325 Carton (1Kg X 10), as per Invoice No. EPI-2408-002 dated 02.08.2024 issued by M/s. Orchid Plus Co. Ltd., 719, KPN Tower, 11th Floor, Raina 9 Road, Bangkapi, Huaykwang, Bangkok 10310, Thailand (RUD - 2) and Bill of Lading bearing No. NAM9404848 (RUD - 3), claiming the benefit of Notification No. 46/2011-Cus dated 01.06.2011, so as to avail the exemption from payment of Basic Customs duty on the strength of Country of Origin Certificate as envisaged under ASEAN-INDIAN FREE TRADE PREFERENTIAL TARIFF AGREEMENT for import of goods from Thailand. Details pertaining to the CTH, description, quantity, Unit price, value etc., of the said imported goods as declared by the Importer in the said Bill of Entry as well as declared in the Bill of Lading, Commercial Invoice, packing list etc. are as per Table-A follows:

TABLE-A

Sl. No.	Description of goods	Chapter Subheading No.	Quantity (Carton)	Unit price per Carton (in \$)	Assessable value (in Rs.) (1\$=Rs.84.85)
1	Red Lotus Flour - 325 Carton (1Kg X 10)	19012000	325	11.83	326227.04
2	Chilli Sauce - 400 Carton (570 Grams.X 12)	21039020	400	14.20	481947.91
3	Aromat Seasoning Power Jar - 100 Carton (1Kg X 06)	21039040	100	32.25	273641.25
4	Glass Noodle (Export PKT) - 75 Carton (500 Grams. X 20)	19023090	75	29.40	187094.25
5	Pickled Ginger - 150 Carton (1500 Grams X 06)	20019000	150	21.00	267277.46
6	Tempura Flour- 325 Carton (1Kg X 10)	19012000	325	11.59	319608.74
					1855796.65

2. During the examination of the said goods, it was noticed that, there is mismatch in description and quantity of the goods declared by the Importer at the time of filing the said Bill of Entry and that of physical quantity of goods actually found during the course of examination i.e. there was shortage of 125 Cartons of Red Lotus Flour and 75 Cartons of Tempura Flour while in place of these, 200 Cartons [150 Cartons of Glutinous Rice Flour (1Kg X 10) and 50

Cartons of Special Soft Flour (1Kg X 10)) were found concealed by the declared consignment, although same were neither declared in Invoice No. EPI-2408-002 dated 02.08.2024 nor in Bill of Entry No. 5168230 dated 21.08.2024.

3. Section 46(4) of Customs Act, 1962 stipulates, the importer is required to make a declaration as regard to the truth of the contents of the Bill of Entry submitted for assessment of Customs Duty, which is reproduced herein below *in verbatim* for the sake of clarity:

"Section 46(4) The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed."

3.1 In view of the above provisions, it is obligatory on the part of the Importer to have declared the CTH, quantity, description, etc. of imported goods in the correct manner; however, it appears that the importer has mis-declared the description and quantity of the imported goods in order to evade payment of correct amount of Customs duty leviable thereon. Thus, it appears that the importer has contravened the provisions of sub-section (4) of Section 46 of the Customs Act, 1962, inasmuch as they have mis-declared description and quantity of the imported goods in the Declaration of Bill of Entry filed under the provisions of Section 46(4) of Customs Act, 1962.

4. Since, the description and quantity of the imported goods found during the course of examination of imported goods were not as per declaration in the import documents i.e. Bill of Entry, Bill of Lading, Invoice, it appears that the importer has mis-declared the quantity and description of imported goods during the course of self-assessment of the said Bill of Entry as envisaged under Section 17(1) of the Customs Act, 1962. That on examination of imported goods by the Officers of Custom House - Pipavav the fact w.r.t. the mis-declaration of description and quantity of the subject goods came on record and thereby it appears that the said Importer has contravened the provisions of Customs Act, 1962 as discussed above and therefore, it appears that the said goods are liable to seizure under Section 110 of the Customs Act, 1962 under the reasonable belief to be liable to confiscation under Section 111(f), 111(i), 111(l) & Section 111 (m) of the Customs Act, 1962.

4.1 Whereas, Section 2(39) of the Customs Act, 1962 defines "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 and section 113. It is therefore, the goods mis-declared in the quantity with the intention to evade customs duty appears to have fallen in the category of "smuggled goods".

4.2 Whereas, Section 119 of the Customs Act, 1962 regarding Confiscation of goods used for concealing smuggled goods stipulates, *"Any goods used for concealing smuggled goods shall also be liable to confiscation."* It is therefore, the remaining goods which were declared at the time of filing of Bill of Entry No. 5168230 dated 21.08.2024 and which were used to conceal the smuggled goods alongwith the other imported goods are also appears to be liable to confiscation under Section 119 of the Customs Act, 1962 alongwith the mis-declared goods.

4.3 It is therefore the entire consignment having total value of Rs.20,46,569/- (Rupees twenty lakh, forty six thousand, five hundred and sixty nine only) of imported goods i.e. goods declared in Bill of Entry No. 5168230 dated 21.08.2024 viz. Red Lotus Flour, Chilli Sauce, Aromat Seasoning Power Jar, Glass Noodle (Export PKT), Pickled Ginger and Tempura Flour (mentioned at Sl. No. 1 to 6 of the Table-B below) and undeclared goods viz. Cartons [150 Cartons of Glutinous Rice Flour (1Kg X 10) and 50 Cartons of Special Soft Flour (1Kg X 10)] concealed by declared goods (mentioned at Sl. No. 7 & 8 of the Table-B below), both were placed under seizure in terms of Section 110 of the Customs Act, 1962 vide Panchnama dated 09.09.2024 (**RUD – 4**) under the reasonable belief that, the same were liable to be confiscated under Section 111(f), 111(i), 111(l) & Section 111 (m) of the Customs Act, 1962 read with Section 119 of the Customs Act, 1962. Details of the goods which were seized vide Panchnama dated 09.09.2024 is as under:

TABLE-B

Sl. No.	Product Description	Packing	Units	Quantity
1	Red Lotus Flour	1 Kg X 10	Carton	200
2	Chilli Sauce	570 Grams X 10	Carton	400
3	Aromat Seasoning Powder Jar	1 Kg X 6	Carton	100
4	Glass Noodle (Export-PKT)	500 Grams X 20	Carton	75
5	Pickled Ginger	1500 Grams X 6	Carton	150
6	Tempura Flour	1 Kg X 10	Carton	250
7	Special Soft Flour	1 Kg X 10	Carton	50
8	Glutinous Rice Flour	1 Kg X 10	Carton	150

5. Further, the representative sample of all imported goods were drawn and sent to the Assistant Chemical Examiner, C.Ex. & Customs Laboratory, Vadodara for Chemical Test who vide Test Report dated 09.10.2024 confirmed the goods are “fit for human consumption in respect to biological analyzed parameters”.

6. In order to ascertain the value of mis-declared goods, the importer was requested to produce the Tax Invoice, if any, available w.r.t. earlier import of Cartons Glutinous Rice Flour and Cartons of Special Soft Flour, who in turn has submitted copy of Tax Invoice No.23-24/F002764 dated 05.06.2023 (**RUD – 5**) and No.24-25/F005793 dated 13.07.2024 (**RUD – 6**) both issued by M/s. Faridi Impex Pvt. Ltd., Mumbai showing purchase of various goods including Glutinous Rice Flour (CTH – 11029022) and Hongkong Flour (also known Special Soft Flour CTH – 19049000) from local market. Therefore, the total assessable value of the goods was taken as Rs.20,46,569/- (Rupees twenty lakh, forty six thousand, five hundred and sixty nine only) on the basis of Assessable Value w.r.t. Red Lotus Flour, Chilli Sauce, Aromat Seasoning Power Jar, Glass Noodle (Export PKT), Pickled Ginger and Tempura Flour as declared by the Importer in the said Bill of Entry and on the basis of copy of Tax Invoice No.23-24/F002764 dated 05.06.2023 w.r.t. quantity of Hong Kong Flour (also known Special Soft Flour CTH – 19049000) and on the basis of Invoice No.24-25/F005793 dated 13.07.2024 w.r.t. quantity of Glutinous Rice Flour (CTH – 11029022), as produced by the Importer to determine assessable value in respect of mis-declared goods.

7. Whereas, in terms of Section 46 of the Customs Act, 1962, while presenting the Bills of Entry before the Customs authority for clearance of the imported goods, it is duty of the Importer to declare the accuracy and completeness of the information given therein. The law demands accuracy and completeness of the information to be declared by the Importer. As the Importer has been working under the era of self-assessment, where they have been given liberty to declare every aspect of an imported consignment from classification to declaration of

value of the goods or levying of duty at applicable rate, it was the responsibility of the Importer to place correct facts and figures before the Assessing Authority. The self-assessment of Customs duty has been introduced in Customs w.e.f. 08.04.2011 by Section 38 of the Finance Act, 2011 under which Importer shall self-assess the duty leviable on import of the goods. In the instant case, it appears that the Importer has failed to comply with the requirement of law and has wilfully mis-declared 150 Cartons Glutinous Rice Flour (1Kg X 10) and 50 Cartons of Special Soft Flour (1Kg X 10) that these goods were found concealed by the goods declared in the Bill of Entry. Therefore, it appears that the importer failed in presenting Bills of Entry in terms of its accuracy and completeness of the information given therein in contravention of Section 46 of the Customs Act, 1962. Thereby, it appears that this resulted into the violation of Section 46 of the Customs Act, 1962. For the ease of reference, the same is reproduced below:

Section 46 Entry of goods on importation. —

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:

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

Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) The importer shall present the bill of entry under sub-section (1) before the end of the day (including holidays) preceding the day on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:

Provided further that a bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided also that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

(4) The importer while presenting a bill of entry shall [* *] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

(4A) The importer who presents a bill of entry shall ensure the following, namely:-

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

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

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

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

8. Whereas, it appears that the Importer by resorting to the willful mis-declaration of 150 Cartons Glutinous Rice Floor (1Kg X 10) and 50 Cartons of Special Soft Flour (1Kg X 10) that concealing these goods by the goods declared in the Bill of Entry, has rendered the entire goods imported vide the said Bill of Entry liable for confiscation under Section 111(f), 111(i), 111(l) & Section 111 (m) of the Customs Act, 1962 read with Section 119 of the Customs Act, 1962. The relevant provisions are reproduced herein in *verbatim* as under:

Section 111 of the Customs Act, 1962 deals with the Confiscation of improperly imported goods, etc. The relevant provision is reproduced below:-

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

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

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

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-Section (1) of Section 54;

Section 119 of the Customs Act, 1962 regarding Confiscation of goods used for concealing smuggled goods stipulates, "Any goods used for concealing smuggled goods shall also be liable to confiscation."

9. Further, the Importer has claimed the benefit of Notification No. 46/2011-Cus dated 01.06.2011, by producing the Country of Origin Certificate No. AI2024-0046556 in respect of the imported goods as envisaged under ASEAN-INDIAN FREE TRADE PREFERENTIAL TARIFF AGREEMENT for import of goods from Thailand. However, description, details and quantity of goods as per Country Of Origin (COO) does not match with the actual details of goods. Hence benefit of the exemption Notification No. 46/2011-Cus dated 01.06.2011 does not appear to be available to the importer and liable to be denied to the Importer in respect of entire goods, as the entire goods are seized under Section 110 of the Customs Act, 1962 with reasonable belief of liable to confiscation under provisions of Section 111 (i) of the Customs Act, 1962 read with Section 119 of the Customs Act, 1962 as discussed herein above and accordingly, the Customs duty payable by the Importer appears to be as per Table-C & D follows

TABLE-C

Duty calculation in respect of declared imported goods:
(Detailed calculation is as per Annexure – A enclosed herewith)

Sl. No.	Description of goods	Chapter Subheading No.	Quantity (Carton)	Unit price per Carton (in \$)	Assessable value (in Rs.) (1\$=Rs.84.85)	Total Customs duty
1	Red Lotus Flour – 325 Carton (1Kg X 10)	19012000	200	11.83	200755.10	79599

2	Chilli Sauce – 400 Carton (570 Grams.X 12)	21039020	400	14.2	481948.00	235962
3	Aromat Seasoning Power Jar - 100 Carton (1Kg X 06)	21039040	100	32.25	273641.25	133975
4	Glass Noodle (Export PKT) – 75 Carton (500 Grams. X 20)	19023090	75	29.4	187094.25	91601
5	Pickled Ginger – 150 Carton (1500 Grams X 06)	20019000	150	21	267277.50	130859
6	Tempura Flour– 325 Carton (1Kg X 10)	19012000	250	11.59	245852.88	97481
					1656569	769477

TABLE-D

Duty calculation in respect of mis-declared goods (Detailed calculation is as per Annexure – B enclosed herewith)

Sl. No.	Description of goods	Chapter Subheading No.	Quantity (Carton)	Unit price per kg (in Rs.)	Assessable value (in Rs.)	Total Customs duty
1	Special Soft Flour (1Kg X 10)	19049000	50	225	112500	64058
2	Glutinous Rice Flour (1Kg X 10)	11029022	150	185	277500	91575
					390000	155633

In view of above, it appears that the Importer is liable to pay total Customs duty amounting to Rs.9,25,110/- [Rs.7,69,477/- + Rs.1,55,633/-] alongwith interest as applicable in terms of Section 28AA of the Customs Act, 1962 and consequential penalty as applicable under the Customs Act, 1962.

10. Whereas, with the introduction of self-assessment & Risk Management System (RMS) under the Customs Act, faith is bestowed upon the Importer and therefore the Importer has been assigned with the responsibility of self-assessing goods under Section 17(1) of the Customs Act, 1962. It was therefore incumbent upon the Importer to properly declare the goods to be imported and self-assess the duty leviable thereupon in appropriate manner. However, it appears that, in the instant case, the Importer has failed to do so by resorting to the mis-declaration by willful mis-statement of imported goods w.r.t. description & quantity i.e. 150 Cartons Glutinous Rice Floor (1Kg X 10) and 50 Cartons of Special Soft Flour (1Kg X 10) with an intention to evade payment of duties of Customs i.e. concealing mis-declared goods by the declared imported goods and therefore, it appears that they have violated the provisions as laid down under Section 17(1) of the Customs Act, 1962. The Importer has also appears to have willfully violated the provisions of Sub-Section (4) and 4(A) of Section 46 of the Custom Act, 1962. Accordingly, it appears that the Importer is liable to pay Customs duty of Rs.9,25,110/- [Rs.7,69,477/- + Rs.1,55,633/-] under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

11. The relevant legal provisions in the subject case are as follows:

Section 17. Assessment of duty. -

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

(2) The proper officer may verify the the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

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

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter [***] and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

6 [***]

Explanation. - For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of section 17 as it stood immediately before the date on which such assent is received.

Section 28 (Recovery of (duties not levied or not paid or short levied or short paid) or erroneously refunded-

(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—

(a) collusion; or

(b) any willful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

Section 28AA. Interest on delayed payment of duty—

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section

(2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,—

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

12. Whereas, it appears that the subject Bill of Entry was self-assessed resorting to willful mis-declaration of quantity of imported goods viz. 150 Cartons Glutinous Rice Floor (1Kg X 10) and 50 Cartons of Special Soft Flour (1Kg X 10), concealing the same by the goods declared in the Bill of Entry, hence, it appears that the Importer has rendered the said goods valued at Rs.20,46,569/- (R.16,56,569/- + Rs.3,90,000/-) liable to confiscation under Section 111(f), 111(i), 111(l) & Section 111 (m) of the Customs Act, 1962 read with Section 119 of the Customs Act, 1962. Therefore, it appears that, the Importer has rendered themselves liable for penalty under Section 112 of the Customs Act, 1962, which stipulates,

"Section 112 Penalty for improper importation of goods, etc.-

Any person, -

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -

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

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;]

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 4 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;]

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 5 [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty 6 [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]”

13. Whereas, Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods while filing a Bill of Entry or Shipping Bill, as the case may be, in the electronic form (Section 46 or 50 of the Customs Act, 1962, as amended). The Importer or Exporter at the time of self-assessment shall ensure that he declares the correct classification, applicable duty leviable on such goods, value and benefit of exemption notifications claimed, if any, in respect of the imported/ export goods while presenting Bill of Entry or Shipping Bill. However, in the instant case, it appears that the Importer while self-assessment of Bill of Entry has resorted to willful mis-declaration of quantity of imported goods with intention to evade the duty of customs leviable thereupon. It, therefore appears that, the Importer has rendered themselves liable for penalty under Section 114A of the Customs Act, 1962, which stipulates,

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

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

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided that where such.....”

14. Now, therefore, M/s. Regenta M Foods, Plot No. 2A & 2B, Survey No. 287, Panchratna Industrial Estate, Ahmedabad – 382210, is hereby called upon to Show Cause in writing to the Additional Commissioner of Customs, Customs (Preventive) Commissionerate, Jamnagar, having his office at Room No. 301, Seema Shulk Bhavan, Jamnagar-Rajkot Highway, Near Victoria Bridge, Jamnagar - 361001, as to why:

- (i) customs duty of Rs.9,25,110/- [Rs.7,69,477/- + Rs.1,55,633/-] (Rupees nine lakh, twenty five thousand, one hundred and ten only) should not be demanded and recovered under Section 28(4) of the Customs Act, 1962;
- (ii) interest on duties of customs should not be recovered under Section 28AA of the Customs Act, 1962;
- (iii) penalty should not be imposed under Section 112 of the Customs Act, 1962;
- (iv) penalty should not be imposed under Section 114A of the Customs Act, 1962; and
- (v) the goods of value of Rs.20,46,569/- (R.16,56,569/- + Rs.3,90,000/-) (Rupees twenty lakh, forty six thousand, five hundred and sixty nine only) should not be held liable to confiscation under Section 111(f), 111(i), 111(l) & Section 111 (m) of the Customs Act, 1962 read with Section 119 of the Customs Act, 1962 and why fine in lieu of confiscation should not be imposed under Section 125 of the Customs Act, 1962.

15. The noticee is hereby directed to produce all evidences upon which they intend to rely

in support of their defense at the time of showing cause.

16. The above noticee is further required to state specifically in their written replies as to whether they wish to be heard in person before the case is adjudicated. If no specific mention is made about this in their written submissions, it shall be presumed that they do not wish to be heard in person.

17. Their reply should reach within 30 (thirty) days or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of this SCN or if they do not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidence available on record.

18. The show cause Notice is issued without prejudice to any other action that may be taken against them or against any other persons, under provision of the Customs Act, 1962 and/or the Rules framed there under or under any other law for the time being in force.

19. This show cause notice is being issued on the basis of the evidence available on record and relied upon documents as enclosed herewith in Annexure-C.

20. The department reserves the right to add, alter, amend, modify, or supplement this notice at any time on the basis of any evidence, material facts related to the import of goods under investigation, which may come to the notice of the department after issuance of this notice and prior to the adjudication of the case.

Encl.: As above


(Amit Kumar Singh)
Additional Commissioner
Date: 12.11.2024

F.No. Cus/5851/2024-Adjn.

To
M/s. Regenta M Foods,
Plot No. 2A & 2B, Survey No. 287,
Panchratna Industrial Estate,
Ahmedabad – 382 210

Copy to:

1. The Assistant Commissioner, Customs House – Pipavav.
2. Guard File.

Annexure - A
Duty calculation in respect of goods properly declared

Duty calculation in respect of goods properly declared											
Sl. No.	Description of goods	Chapter Subheading No.	Quantity		Unit price per Carton (in \$)	Assessable value (in Rs.)		BCD at 30%	SWS (10% of BCD)	IGST	Total duty
			(in Cartons)			(Exchange Rate of 1\$=Rs.84.85)	amount				
1	Red Lotus Flour – 325 Carton (1Kg X 10)	19012000	200		11.83	200755.10	60226.53	6022.65	5	13350	79599
2	Chilli Sauce – 400 Carton (570 Gms.X 12)	21039020	400		14.2	481948.00	144584.40	14458.44	12	76919	235962
3	Aromat Seasoning Power Jar - 100 Carton (1Kg X 06)	21039040	100		32.25	273641.25	82092.38	8209.24	12	43673	133975
4	Glass Noodle (Export PKT) – 75 Carton (500 Gms. X 20)	19023090	75		29.4	187094.25	56128.28	5612.83	12	29860	91601
5	Pickled Ginger – 150 Carton (1500 Gms X 06)	20019000	150		21	267277.50	80183.25	8018.33	12	42657	130859
6	Tempura Flour– 325 Carton (1Kg X 10)	19012000	250		11.59	245852.88	73755.86	7375.59	5	16349	97481
						1656569	496970.69	49697.07	58	222809.2059	769477

Duty calculation in respect of mis-declared goods

Duty calculation in respect of mis-declared goods											
Sl. No.	Description of goods	Chapter Subheading No.	Quantity (Carton)	Unit price per Carton (in \$)	Assessable value (in Rs.) (1\$=Rs.84.85)	BCD		SWS (10% of BCD)	IGST		Total duty
						@	30%		Rate (in %)	amount	
1	Special Soft Flour (1Kg X 10)	19049000	50	225	112500	33750	3375	3375	18	26933	64058
2	Glutinous Rice Flour (1Kg X 10)	11029022	150	185	277500	83250	8325	8325	0	0	91575
					390000	0	0	0		26933	155633


 निरीक्षक / Inspector
 सीमा शुल्क सदन, पीपवाड
 Customs House, Pipavav


 अधीक्षक / Superintendent
 सीमा शुल्क, पीपवाड / Customs House, Pipavav

ANNEXURE-C

List of documents relied upon for issuing of the Show Cause Notice dated _____ to M/s. Regenta M Foods, Plot No. 2A & 2B, Survey No. 287, Panchratna Industrial Estate, Ahmedabad (Gujarat) – 382 210.

Sl. No.	Description	Status
1	Bill of Entry No. 5168230 dated 21.08.2024	Already available with the Importer
2	Invoice No. EPI-2408-002 dated 02.08.2024 issued by M/s. Orchid Plus Co. Ltd., 719, KPN Tower, 11 th Floor, Raina 9 Road, Bangkapi, Huaykwang, Bangkok 10310, Thailand	
3	Bill of Lading bearing No. NAM9404848	
4	Panchnama dated 09.09.2024	
5	Tax Invoice No.23-24/F002764 dated 05.06.2023	
6	Tax Invoice No.24-25/F005793 dated 13.07.2024	
7	Country of Origin Certificate No. AI2024-0046556 dated 20.08.2024 (COO)	

 11-11-2024

अधीक्षक / Superintendent
सीमा शुल्क, पीपावाव / Customs House, Pipavav