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|  | सीमा शुल्क (निवारक) आयुक्त का कार्यालय, सीमा शुल्क भवन, जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास, जामनगर) गुजरात - 361001 |
| | 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 |

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कारण बताओ नोटिस/ SHOW CAUSE NOTICE
(Issued under the provisions of the Customs Act, 1962)

M/s Revolution Petrochem LLP, 212, Plot No. 13, Riddhi Siddhi Arcade-1, Nr. BM Petrol Pump, Opp. Hitesh Motors, Gandhidham [hereinafter referred to as "the Noticee No. 1" / "M/s. Revolution"] is a Limited Liability Partnership having Importer-Exporter Code (IEC) - AAWFR8624D and GSTIN - 24AAWFR8624D1ZV and engaged in collection of Slop/sludge Oil from the vessels arriving at ports like Sikka, Vadinar, Mundra etc. and subsequent sales thereof after processing at their factory/recycling plant at Plot No. 187, Mithirohar (GGDC) Village Mithirohar, Gandhidham-Kutch.

2. Intelligence was received regarding smuggling of the Fuel Oil by the foreign run vessels coming to Sikka Port to load / discharge the Petroleum Products. Acting on the Intelligence, to the effect that a Tanker Vessel namely MT Panda was to discharge 800 MTs of Fuel Oil into a bunker barge at Sikka anchorage in guise of discharging Slop / Sludge Oil, the said tanker vessel was visited and searched by the Customs Officers, on 02.02.2023 under search authorisation issued under Section 105 of the Customs Act, 1962 and the search proceedings were recorded under Panchnama dated 02.02.2023 (RUD-1).

3. Vessel MT Panda arrived at Sikka Port anchorage on 02.02.2023 to discharge 99288.826 MTs of Fuel Oil on account of M/s. Reliance Industries Ltd. During boarding of the said vessel by the Customs Officers, a Bunker Barge namely MV Sonal, was noticed alongside the vessel MT Panda purportedly to receive the Slop / Sludge Oil. During the search operation carried out by the Officers of Customs, foreign currency i.e. USD 60,000/- was recovered from the Captain's Day Room (hidden in a pillow cover), about which Master of the vessel Mr. Nguyen Van Hoan [hereinafter referred to Noticee No. 3] failed to produce any legal documents and admitted that it was in excess of the Ship's Currency declared by him on arrival at Sikka Port, amounting totally to USD 11,600/-. The Master of the vessel admitted that he did not have any documents regarding legal possession of the foreign currency of USD 60,000/-, recovered from Captain's Day Room. On being asked by the Customs Officer, Master Nguyen Van Hoan replied that he had received this amount in the morning on 02.02.2023 from a person namely Shri Pintu Batham, who was sent by Shri Haresh Harjani, who was in contact with him for discharge

of Slop / Sludge Oil; that Shri Pintu Batham came on board MT Panda from bunker barge MT Sonal which came alongside to receive Fuel Oil in guise of loading Slop / Sludge Oil; that the Fuel Oil to be discharged in the bunker Barge MV Sonal was not in the Import General Manifest (IGM) (RUD-2) filed on arrival at Sikka Port. On further being asked, the master of MT Panda confessed to have made a deal with Shri Haresh Harjani having Mobile No. 9824286952 to discharge smuggled Fuel Oil 800 MTs in guise of Slop / Sludge Oil in bunker barge MV Sonal against payment in USD directly as well as rest amount in his bank account No. 0911000047379 in Vietcom Bank; that Master was instructed by Shri Haresh Harjani to hide all such payments from Customs and discharge the smuggled Fuel Oil after Custom's clearance of the vessel MT Panda on arrival.

4. During the preliminary investigation by the officers of Customs, it was found that in addition to 99288.826 MTs of manifested cargo of Fuel Oil, 800 MTs of Fuel Oil was stored in the starboard side Slop Tank of the vessel MT Panda on arrival at Sikka Port which was illegally brought into India without any proper / legal documents and approximately 241 MTs of which had been discharged into barge MV Sonal on 02.02.2023. Remaining around 559 MTs of Fuel Oil was on board the vessel MT Panda, in starboard side Slop Tank. Thus 800 MTs of Fuel Oil brought illegally in Starboard Side Slop Tank per MT Panda was found not declared in IGM, without any Bill of Lading and no Bill of Entry filed for the same. Further foreign currency of USD 60,000/- was recovered from the Master's Room (Captain's Day Room) which was confessed by Master Mr. Nguyen Van Hoan to be Sales Proceeds he received in lieu of smuggling of 800 MTs of smuggled Fuel Oil through bunker barge MV Sonal. Above facts were also evidenced in view of the print outs of the WhatsApp-chat between Master of MT Panda and Shri Haresh N. Harjani (RUD-3), one of the partners of M/s Revolution Petrochem LLP, as retrieved during the search proceedings on 02.02.2023. In view of the above, it is apparent that:-

(a) vessel MT Panda was used as a means of transport in the smuggling of goods i.e., Fuel Oil and for which vessel MT Panda was liable for confiscation under Section 115 of the Customs Act, 1962.

(b) Further, 800 MTs of un-manifested Fuel Oil whereas found to have been smuggled into India was liable for Confiscation under Section 111(f) & 111 (l) of the Customs Act, 1962.

Therefore, vide Seizure Memo dated 02.02.2023 (RUD-4), vessel MT Panda valued at approx. USD 1,19,25,000/- (Rs. 98,00,00,000/-) as per Insurance Policy No. MHX/02121897 issued by Baominh Insurance Corporation, Vietnam was placed under seizure under the provisions of Section 110(1) of the Customs Act, 1962 under reasonable belief that the same is liable for confiscation under Section 115 of the Customs Act, 1962. Details of vessel are as under:-

| | |
|----------------|----------|
| Name of Vessel | MT Panda |
|----------------|----------|

| | |
|---------|---|
| IMO No. | 9284582 |
| Owner | SAO Viet Petrol Transportation Company Limited, Vietnam |
| Type | Oil Carrier |
| Flag | Vietnam |
| Master | Mr. Nguyen Van Hoan |

Further, 800 MTs of Fuel Oil, value of which was ascertained to be approximately INR 4,00,00,000/- was also placed under seizure vide Seizure Memo dated 02.02.2023 **(RUD-4)** under Section 110(1) of the Customs Act, 1962 under reasonable belief that the same is liable for confiscation under Section 111 of the Customs Act, 1962. The details of the goods are as under:-

| | |
|-------------------|------------------------------------|
| Name of Goods | Fuel Oil |
| Quantity (Approx) | 559 MT (Remaining on board vessel) |
| Value (Approx) | INR 2,79,50,000/- |

5. In continuation of investigation initiated through search proceedings on vessel MT Panda, further search was also conducted on bunker barge MV Sonal by Customs Officers on 02.02.2023 **(RUD-5)** wherein it was found that 241 MTs of Fuel Oil was discharged into the same from vessel MT Panda as confirmed by Shri Sarvan Kumar [hereinafter referred to as "the Noticee No. 5"] the Master of barge MV Sonal. Master of bunker barge MV Sonal informed to have no documents for cargo of 241 MTs of Fuel Oil; that one person namely Shri Pintu Batham was found present on board bunker barge MV Sonal, about whom Master of MV Sonal Shri Sarvan Kumar informed that he boarded the barge at Kandla Port and came with them to Sikka anchorage. Shri Pintu Batham, on being asked by Customs Officer about purpose of coming to Sikka anchorage on board MV Sonal, replied that he was sent by Shri Haresh Harjani with USD 60,000/- to be delivered to the Master of vessel MT Panda. Further whereas it was found in the preliminary investigation of Customs that:-

(i) bunker Barge MV Sonal was used in transportation of smuggled goods i.e. Fuel Oil, for which the barge MV Sonal was liable for confiscation under Section 115 of the Customs Act, 1962;

(ii) 241 MTs of Fuel Oil on board Barge MV Sonal was smuggled into India and thus liable for confiscation under Section 111(f) & 111(g) of the Customs Act, 1962.

Therefore, Barge MV Sonal valued at Rs. 2,00,00,000/- was placed under seizure vide Seizure Memo dated 02.02.2023 **(RUD-6)** under provisions of Section 110(1) of the Customs Act, 1962 under the reasonable belief that the same is liable for confiscation under Section 115 of the Customs Act, 1962. Details of the barge are as under:-

| | |
|---------------|----------|
| Name of Barge | MV Sonal |
|---------------|----------|

| | |
|--------|---|
| IMO No | 8786052 |
| Owner | M/s Bapu Shipping (as informed by the Master) |
| Type | Barge |
| Flag | Indian |
| Master | Sarvan Kumar |

Further, 241 MTs of Fuel Oil valued approximately at Rs. 1,20,00,000/- was also placed under seizure vide Seizure Memo dated 02.02.2023 (RUD-6), under provisions of Section 110 (1) of the Customs Act, 1962 under reasonable belief that the same is liable for confiscation under Section 111 of the Customs Act, 1962.

6. Statement of Mr. Nguyen Van Hoan, Master of the vessel MT Panda was recorded on board under Section 107 of the Customs Act, 1962 on date 02.02.2023, (RUD-7) wherein he, inter alia, stated that :-

- 99,288.826 MTs of Fuel Oil (2 Bills of Lading) as Cargo was loaded in the vessel at Offshore Suez through STS (Ship to Ship transfer) from vessel MT SIMOON;
- The whatsapp chat noticed by the Customs Officers on his mobile, was the chat, as per which he had brought 800 MTs of Fuel Oil in Starboard Side Slop Tank in guise of Slop / Sludge Oil, which was not manifested in the IGM;
- After getting information of arrival of Customs Officer, he asked the crews to disconnect the hose pipe connected to bunker barge MV Sonal as he was afraid of being caught discharging Fuel Oil in guise of Slop / Sludge oil;
- He illegally brought 800 MTs of Fuel Oil on his voyage to Sikka Port as per his deal with Shri Haresh Harjani who promised him to pay USD 1,60,000/- out of which USD 60,000/- was paid directly to him by Shri Pintu Batham and rest amount was to be deposited into his account NO. 0911000047379 in Vietcom Bank;
- He had not declared the above received Currency of USD 60,000/- in the IGM;
- Regarding source of 800 MTs of Fuel Oil, he replied that the said cargo of 800 MTs of Fuel Oil was purchased at Suez STS Area over and above the manifested Bill of Lading quantity of Fuel Oil 99288.826 MTs;
- Regarding the value of un-manifested cargo of Fuel Oil brought illegally in Starboard Side Slop Tank, Master Mr. Nguyen Van Hoan stated that he was not aware of the value, but he was promised a total payment of USD 1,60,000/- for delivering the illegally smuggled Fuel Oil at Sikka Port;
- Regarding any of the crew/officers/vessel operator/vessel owner other than him, were aware of this smuggling of 800 MTs of Fuel Oil, he stated that he was the only one who was aware about this and involved in the operation;
- Quantity of Fuel Oil was found to be 559 MTs in the sounding of Starboard Side Slop tank of vessel MT Panda by Customs Officer, so on being asked about the

remaining quantity of Fuel Oil, he stated that the remaining quantity of 241 MTs of Fuel Oil had already been discharged into barge MV Sonal.

7. Whereas 241 MTs of smuggled Fuel Oil was found discharged into bunker barge MV Sonal in guise of discharge of Slop / Sludge Oil, statement of Shri Sarvan Kumar, Master of barge MV Sonal was recorded under Section 108 of the Customs Act, 1962, on board on date 02.02.2023 (**RUD-8**) wherein, he, inter alia, stated that:

- He had been asked by Mr. Uday Singh (Mob No. 9909944785) to load Slop / Sludge Oil from vessel MT Panda at Sikka anchorage point on 01.02.2023 at 9.00 PM, but quantity was not specified;
- Previously he was not aware but once the loading started he knew that vessel MT Panda was discharging Fuel Oil like liquid instead of Slop/Sludge Oil;
- Shri Pintu Batham (Adhaar No. 305982429767) boarded the barge MV Sonal at Kandla on 02.02.2023 and came along with him for assistance in illegal discharging of Fuel Oil;
- He had completed loading of approx. 241 MTs of Fuel Oil by the time Customs authority boarded the vessel MT Panda;
- On being asked about as to why he disconnected hose pipe from the vessel in midst the discharging operation of fuel oil, he replied that as soon as the Master of vessel MT Panda came to know that Customs authority was to board the vessel, he asked his crew to disconnect the hose pipe and asked the Barge Master to go away from the vessel till the Customs remain on board;
- On being asked about whether he had received any money / consideration from Mr Uday Singh or from any other person for the illegal discharge of fuel oil, Master Shri Sarvan Kumar replied in negative.

8. Shri Pintu Batham was the person who had delivered Foreign Currency of USD 60,000/- to Mr. Nguyen Van Hoan, Master of vessel MT Panda, and his statement was therefore recorded on 02.02.2023 (**RUD-9**) under Section 108 of the Customs Act, 1962 wherein he, inter alia, stated that he was an employee of M/s Revolution Petrochem LLP, and he supervise the discharge of Fuel Oil / Slop / Sludge oil from the vessels into bunker barge and Tanker Trucks;

- That he was reporting to Shri Haresh Harjani & Shri Jimmy Thacker who were Partners in firm M/s Revolution Petrochem LLP;

He was found on board vessel MT Panda and on being asked about which he stated that he boarded the vessel MT Panda at Sikka anchorage from barge MV Sonal, which he had boarded from Bandar area of Kandla Port on 02.02.2023 around 0030 Hrs.;

His purpose for boarding barge MV Sonal was for loading of Fuel Oil from vessel MT Panda at Sikka anchorage as per direction of Shri Haresh Harjani of M/s Revolution Petrochem LLP;

- Regarding any further direction whether he received about discharging of Fuel Oil, he stated that he was supposed to inform both the partners Shri Jimmy Thacker and

Shri Harsih Harjani, but he had informed only Shri Jimmy Thacker about leaving OTB (Kandla) which could also be confirmed from his whats-app chat on his mobile;

➤ On being asked about the USD 60,000/- Master of vessel MT Panda said to have received from him, Shri Pintu Batham stated that Shri Haresh Harjani gave him USD 60,000/- at the office of M/s Revolution Petrochem LLP at around 2000 Hrs. on 01.02.2023 in Gandhidham, with a direction to give to the Master of vessel MT Panda for delivering Fuel Oil to barge MV Sonal and also instructed him to update him on the quantity delivered to the barge MV Sonal;

➤ On being asked whether he was aware about the barge MV Sonal was coming for loading of Fuel Oil in guise of Slop / Sludge Oil, he stated that he was aware of this and for which permission was taken from Customs Sikka to unload Slop / Sludge Oil but illegally imported Fuel Oil was to be unloaded in the barge MV Sonal for which he was given USD 60,000/- which he had handed over to the Master of vessel MT Panda and the same was explained to him by Shri Haresh Harjani;

➤ On being asked about quantity of Fuel Oil to be unloaded in barge MV Sonal from vessel MT Panda, he stated that Shri Harsih Harjani directed Shri Pintu Batham to inform him after loading around 400 MTs in barge MV Sonal, so that he would give further direction for loading of remaining quantity of illegally imported Fuel Oil;

➤ That by the time Customs authority boarded the vessel MT Panda, barge MV Sonal had already received 241 MTs of Fuel Oil;

➤ On being asked about disconnecting hose pipe in midst of discharging of Fuel Oil, when he got to know that the Customs authority coming on board MT Panda to grant Customs clearance, he stated that Master of vessel MT Panda on knowing about Customs authority coming on board, asked his crew to disconnect the hose pipe and asked the barge to go away from the vessel till Customs Officers remain on board;

➤ He had given huge amount of Foreign Currency to Master of vessel in lieu of receipt of illegally imported Fuel Oil from MT Panda, so he was asked whether he himself received any amount from Master of the vessel or from Shri Haresh Harjani, or from any other person for illegal discharge of Fuel Oil, to what he denied to have received any amount from anybody.

9. In the follow up action, search proceedings were carried out at the Office premises and manufacturing plant of M/s Revolution Petrochem LLP vide panchnama on 07.02.2023 (RUD-10) and 08.02.2023 (RUD-11) respectively at the following addresses and documents and other evidences relevant to the investigation were resumed:-

(a) 212, Plot NO. 13, Riddhi Siddhi Arcade-1, Near BM Petrol Pump, Opp. Hitesh Motors, Gandhidham (Office Premises).

(b) Plot No. 187, Mithirohar, (GGDC), Gandhidham (Manufacturing Plant).

During the search operation at the office premises of M/s Revolution Petrochem LLP, Shri Karan Haresh Harjani, son of one of the Partners Shri Haresh Harjani remained present. On being asked by the Customs Officers, Shri Karan Harjani contacted his father

Shri Haresh Harjani, and asked him to attend the search proceedings to what Shri Haresh Harjani assured to return to office within 4-5 hours, but he did not come and evaded his presence during the search proceedings.

10. Statement of Shri Amol Rajaram Gadhigaokar, an employee of M/s Omega Marine Service & M/s Omega Offshore Services was recorded on 08.02.2023 (RUD-12) under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that:

➤ He was an employee of M/s Omega Offshore Services, a Partnership firm of Shri Jimmy Thakkar and Shri Karan Pandya; that these two persons are also Partners in M/s Revolution Petrochem LLP and he was asked by Shri Karan Pandya to also work for M/s Revolution Petrochem LLP on Customs and Port related works for Kandla and Mundra Ports;

➤ That he came to know about this incident of illegal import of Fuel Oil (Smuggled) at Sikka port on 04.02.2023 and on 07.02.2023 he got to know the full story when Shri Karan Pandya asked him to go to the office of M/s Revolution Petrochem LLP;

➤ That Shri Karan Pandya and Shri Haresh Harjani called him through Whats app call to go to office of M/s Revolution Petrochem LLP during the search proceedings;

➤ On being asked about process of sludge / slop oil from vessels and what quantity is generally discharged in one turn from each vessel, Shri Amol Rajaram replied that as he was earlier looking after the Customs clearance related work for M/s Revolution Petrochem LLP and he was aware of the process of sludge/slop oil discharge function; that generally one vessel would discharge 20 to 50 MTs in one time;

➤ That as a huge quantity of Fuel Oil (800 MTs) was seized for being imported illegally and so as per his understanding such big decision could not have been taken by a single partner of the firm; that Mr Haresh Harjani and Mr Karan Pandya were definitely involved in the said act as they sent him to find out what was going on in office of M/s Revolution Petrochem LLP during search proceedings of Customs.

11. Statement of Shri Issrani Sunil Naresh, a person who worked for M/s Revolution Petrochem LLP and was present during search proceedings at their office premises, was recorded on 08.02.2023 (RUD-13) under Section 108 of the Customs Act, 1962, wherein, he inter alia, stated that:

➤ he prepared documents for Customs related procedures for M/s Revolution Petrochem LLP for discharge of sludge / slop oil from the vessels arriving at Mundra Port and email the same to Port of Control, Mundra Port and Tuna Port;

He was shown the Panchnama dated 07/08.02.2023 drawn at the premises of M/s Revolution Petrochem LLP, Gandhidham and after reading the same he agreed to the correctness of the same;

On being asked about the operation of M/s Revolution Petrochem LLP, he stated that the said firm was in the operation of collecting sludge / slop oil from the vessels and sale thereof after processing in their factory/plant situated at Mithirohar, Gandhidham; that he came to know from Shri Haresh Harjani about the incident of illegal import of Fuel

Oil [smuggled] at Sikka Port on 06.02.2023; that he is not aware or involved in any manner in the illegal import of Fuel Oil at Sikka Port'

➤ On being asked about the Number of vessels discharging sludge oil which was purchased by M/s Revolution Petrochem LLP, he stated that approx 10 to 12 vessels arrived at Mundra port for which M/s Revolution Petrochem LLP performed sludge / slop discharge function; that generally one vessel would discharge 20 to 50 MTs at a time;

➤ That as huge quantity of Fuel Oil (800MT) was seized for being imported illegally and so as per his understanding such big decision could not have been taken by a single partner of the firm; that Mr Haresh Harjani and Mr Karan Pandya were definitely involved in the said act as they were having regular meeting in the office on 02.02.2023 which didn't often happen.

12. Statement dated 08.02.2023 of Shri Karan Haresh Harjani, the main person present at the office premises of M/s Revolution Petrochem LLP during search proceedings on 08.02.2023 (RUD-14) was recorded under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that he was the son of Shri Haresh Harjani, one of the Partners of M/s Revolution Petrochem LLP;

➤ On being asked about the operation of M/s Revolution Petrochem LLP, he stated that he knew about the operations of the said firm to be collection of sludge / slop oil from the vessels and sale thereof after processing at the factory / plant of M/s Revolution Petrochem LLP at Mithirohar Village, Gandhidham;

➤ That he came to know about the illegal import of Fuel Oil (Smuggled) at Sikka port on Saturday i.e. on 03.02.2023 from his father Shri Haresh Harjani;

➤ On being asked about his role in the said smuggling of Fuel Oil through vessel MT Panda, he stated that he sat in office of M/s Revolution Petrochem LLP at Riddhi Siddhi Arcade-1, Gandhidham (Kutch) and he was not involved in the smuggling of Fuel Oil;

➤ Further he was informed that his father Shri Haresh Harjani was not cooperating in investigation and neither appeared against Summons issued to him, to what he stated that Mr. Rakesh Barai, resident of Jamnagar & business associate of his father has assured that he would take care of all the departmental formalities and insisted his father not to join the investigation in person before Customs;

➤ Further on being asked about involvement of other partners of M /s Revolution Petrochem LLP, he stated that as huge quantity of 800MT of Fuel Oil was seized which was illegally imported / smuggled and such big decision as per his understanding was not to be taken by a single partner of the firm and so there was a strong possibility of involvement of other partners of the firm.

13. Statement of Shri Jignesh Kumar Prajapati, employee of M/s Revolution Petrochem LLP was recorded on 13.02.2023 (RUD-15) under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that he worked in the factory of M/s Revolution Petrochem LLP at Mithirohar (GGDC), Gandhidham and he looked after the work of refining slop / sludge oil by the heating process;

➤ On being asked about the refining process he stated that there was a boiler (Thermic Fluid Heater) in the plant in which a fluid is heated and circulated to the chamber / vessels in which slop / sludge is stored for reprocessing and the moisture is removed from the slop / sludge in this process; that he maintained the inventory of input and output of the plant;

➤ He was shown three pages of the registers seized vide Panchnama drawn at the factory of M/s. Revolution Petrochem LLP on 07.02.2023 and was asked to explain the entries in the column "Description of Material", to which he replied that they often write the name of Slop Oil by the description of Cargo of the vessel from which slop / sludge was discharged, for example, if the vessel was carrying naphtha as cargo and discharge slop then they would write in the register as Naphtha Slop Oil;

➤ On being asked as to how did he know about the seizure of Barge MV Sonal and approx. 241 MT illegally imported (Smuggled) Fuel Oil through the vessel MT Panda at Sikka port, he replied that he was not aware of this incident but on 07.02.2023 he came to know about the complete incident from Mr. Karan Pandya on phone;

➤ On being asked about the delivery of the foreign currency USD 60000/- for smuggling of 800 MT Fuel Oil to the Master of Vessel MT Panda he stated that he met Mr. Jimmy Thacker on 08.02.2023, one of the partners of M/s. Revolution Petrochem LLP and discussed the delivery of USD 60000/- to the Master of the vessel MT Panda in lieu of delivery of smuggled fuel oil, then he got to know the complete picture of the case;

➤ On being asked whether he knew as to who delivered the above mentioned USD 60000/- to the master of the Vessel MT Panda, he stated affirmatively that it was told to him by Mr. Jimmy Thacker that Mr. Pintu Batham delivered the currency USD 60000/- to the master.

14. Statement of Shri Jimmy Shashikant Thacker, Partner of M/s Revolution Petrochem LLP, was recorded on 13.02.2023 (RUD-16) under Section 108 of the Customs Act, 1962 wherein he, inter alia stated that:-

➤ He was the Partner of M/s Omega Marine, whose function was to collect Solid Garbage, ship-generated waste scrap from vessels; that he was also one of the Partners in M/s. Revolution Petrochem LLP, whose function was to collect Slop / Sludge from the vessel and after processing at the factory of M/s. Revolution Petrochem LLP, they sell the final product i.e. Refined / Reprocessed Furnace Oil; that the work of selling Refined / Reprocessed Furnace Oil was looked after by other partner Mr. Karan Pandya; that he was also the partner of M/s. Omega Offshore, which owned a barge namely MT Mars & a Tug Zennie and they charter the barge & Tug to other companies/Firms;

➤ The main operation of M/s. Revolution Petrochem LLP, was to collect Slop / Sludge from the vessels and sale after processing the same in the factory / plant of M/s. Revolution Petrochem LLP, situated at Plot No.-187, Mithirohar (GGDC) Village Mithirohar, Gandhidham-Kutch;

➤ On being asked about the modus operandi adopted by M/s Revolution Petrochem LLP, he stated that they were engaged in the work of collecting Slop / Sludge

oil from the vessels at Kandla, Mundra, and Jamnagar Customs Commissionerate; that Mr. Haresh Harjani contacted the master of the Vessel MT Panda by communicating through E-mail for Slop / Sludge and then he exchanged his contact Nos. with the master of the vessel MT Panda and the Master of the vessel MT Panda later informed him that he had 800 MTs of fuel Oil concealed in the Slop Tanks of the Vessel and he would deliver this smuggled (Un-manifested) cargo at Sikka Port and charge USD 200/- per Metric Ton;

➤ On being asked about the delivery of the foreign currency USD 60000/- for smuggling of 800 MTs Fuel Oil to the Master of Vessel MT Panda, he stated that he had no idea about this earlier, but after the seizure of the Barge MV Sonal and after the statement of Mr. Pintu Batham, he was briefed on phone by Mr. Haresh Harjani about the delivery of USD 60000/- to the Master of the vessel MT Panda in lieu of delivery of smuggled fuel oil;

➤ On being asked about the person who delivered the above mentioned USD 60000/- to the master of the Vessel MT Panda, he replied that one of the employees of his firm M/s. Revolution Petrochem LLP, Mr. Pintu Batham delivered this currency to the master of the vessel on the vessel on board;

➤ On being asked as to from where did this huge amount of foreign currency of USD 60,000/- obtained, Shri Jimmy Shashikant Thacker stated that this currency was arranged by Mr. Haresh Harjani from the supply of water to the vessels and received the payments in USD from the vessels; that the above mentioned USD 60,000/- was the amount that he received from the vessels;

➤ Further on being asked whether other partners of M/s. Revolution Petrochem LLP or any other person involved in the smuggling of Fuel Oil, he replied that his partner Mr. Haresh Harjani was involved in this matter with him and they had planned this by taking decisions jointly;

➤ As mentioned above, he along with his partner had illegally imported 800 MTs of Fuel Oil at Sikka, so he was asked whether any other such illegal import was performed by him through M/s. Revolution Petrochem LLP in the guise of Slop / Sludge Oil, to what he replied that he had never smuggled Fuel oil in the guise of Slop / Sludge Oil from the vessels before this incident at Sikka.

15. A statement of Shri Karan Rajesh Pandya, Partner of M/s Omega Marine was recorded on 13.02.2023 (RUD-17) under Section 108 of the Customs Act, 1962 wherein, he, inter-alia, that:-

➤ He was the Partner of M/s Omega Marine, whose function was to collect Solid Garbage, ship-generated waste scrap from vessels; that he was also one of the Partners in M/s. Revolution Petrochem LLP, whose function was to collect Slop / Sludge from the vessel and after processing at the factory of M/s. Revolution Petrochem LLP, they sell the final product i.e. Refined / Reprocessed Furnace Oil; that the work of selling Refined / Reprocessed Furnace Oil was looked after by him; that he was also the partner of M/s.

Omega Offshore, which owned a barge namely MT Mars & a Tug Zennie and they charter the barge & Tug to other companies/Firms;

➤ The main operation of M/s. Revolution Petrochem LLP, was to collect Slop / Sludge from the vessels and sale after processing the same in the factory/plant of M/s. Revolution Petrochem LLP, situated at Plot No. 187, Mithirohar (GGDC) Village Mithirohar, Gandhidham-Kutch;

➤ On being asked about the modus operandi adopted by M/s Revolution Petrochem LLP, he stated that they were engaged in the work of collecting Slop / Sludge oil from the vessels at Kandla, Mundra, and Jamnagar Customs Commissionerate; that he looked after the work of sale of Refined / Reprocessed Furnace Oil, and the planning for illegal import (Smuggling) of Fuel Oil (800 MTs) at Sikka Port by Vessel MT Panda and discharge to barge MV Sonal was done by his partner Mr. Haresh Harjani and Mr. Jimmy Thacker;

➤ On being asked about the delivery of the foreign currency USD 60000/- for smuggling of 800 MTs Fuel Oil to the Master of Vessel MT Panda, he stated that he had no idea about this earlier, but after the seizure of the Barge MV Sonal, he was briefed on phone by Mr. Jimmy Thacker about the delivery of USD 60000/- to the Master of the vessel MT Panda in lieu of delivery of smuggled fuel oil;

➤ On being asked about the person who delivered the above mentioned USD 60000/- to the master of the Vessel MT Panda, he replied that one of the employees of firm M/s. Revolution Petrochem LLP Mr. Pintu Batham delivered this currency to the master of the vessel on the vessel on board;

➤ On being asked about the source from where this amount of USD 60,000/- was arranged he stated that he was not aware of the same;

➤ On being asked whether other partners of M/s. Revolution Petrochem LLP or any other person involved in the smuggling of Fuel Oil at Sikka, he stated that vessel MT Panda was being handled by his partner Mr. Jimmy Thacker and Mr. Haresh Harjani, so as per his knowledge, no other persons were involved in this matter; that he never smuggled fuel oil in the guise of slop / sludge oil from the vessels before this incident at Sikka.

16. Statement of Shri Haresh Nathumal Harjani, one of the Partners in M/s Revolution Petrochem LLP, was recorded on 13.02.2023 (RUD-18) under Section 108 of the Customs Act, 1962 wherein he, inter alia, stated that:-

He is the proprietor of M/s. H H Water Supply, which is engaged in supplying fresh water to vessels and he is also one of the partners in M/s. Revolution Petrochem LLP, function of which is to collect Slop / Sludge from the vessel and after processing at the factory of M/s. Revolution Petrochem LLP, they sell the final product i.e. Refined / Reprocessed Furnace Oil and the work of selling Refined / Reprocessed Furnace Oil is looked after by his partner Mr. Karan Pandya; that he is also one of the partners in M/s. Nilkanth Offshore, which owns a barge namely Success Dignity and they charter the barge to other companies/Firms;

- On being asked about the main operation of M/s Revolution Petrochem LLP he stated that main operation of M/s. Revolution Petrochem LLP is to collect Slop / Sludge from the vessels and sale after processing in the factory / plant of M/s. Revolution Petrochem LLP, situated at Plot No.-187, Mithirohar (GGDC) Village Mithirohar, Gandhidham-Kutch;
- On being asked as to how did he come to know about the seizure of Barge MV Sonal and approx. 241 MTs illegally imported (Smuggled) Fuel Oil through the vessel MT Panda at Sikka port, he replied that he came to know from Mr. Sarvan Kumar, Master of the Barge MV Sonal about this incident of illegal import of Fuel Oil (Smuggled) at Sikka port on Saturday i.e. 03.02.2023;
- On being asked to explain the modus-operandi/reasons for the illegal import (Smuggling) of Fuel Oil (800 MTs) at Sikka Port by vessel MT Panda and discharge to barge MV Sonal, he stated that they were engaged in the work of collecting Slop / Sludge oil from the vessels at Kandla, Mundra and Jamnagar Customs Commissionerate; that he contacted the master of the vessel MT Panda by communicating through E-mail for Slop / Sludge and after that they exchanged their contact Nos. and Master of the vessel MT Panda later informed him that he had 800 MTs fuel Oil concealed in the Slop Tanks of the Vessel and he would deliver that smuggled (Un-manifested) cargo at Sikka Port and charge USD 200/- per Metric Ton;
- On further being asked as to when and how had he agreed to deliver the currency for smuggling of 800 MTs Fuel Oil and how much he delivered to the Master of vessel MT Panda, to what Shri Haresh Harjani replied that he was in contact with the Master of Vessel MT Panda who informed him that vessel would anchor at Sikka on 01.02.2023 and so they agreed that after customs clearance of the vessel MT Panda, the vessel would discharge smuggled Fuel Oil into barge MV Sonal and the total amount of USD 1,60,000/- would be delivered on-board the vessel to Master of the Vessel but due to non-availability of Barge of bigger capacity, only USD 60,000/- was delivered to Master because the capacity of Barge MV Sonal is only around 400 MT;
- On being asked about the person who delivered USD 60,000/- to the Master of the vessel MT Panda, Shri Haresh Harjani replied that one of the employees of firm M/s. Revolution Petrochem LLP Mr. Pintu Batham delivered this currency to the Master on the vessel on-board;
- On being asked to explain as wherefrom he obtained that USD 60,000/- to which he replied that as he had stated earlier in this statement, he supplied water to the vessels and received the payments in USD from the vessels through his proprietorship firm M/s. HH Water Supply, so the above mentioned USD 60,000/- was the amount that he had received from the vessels. In regard to above Shri Haresh Harjani further submitted the Invoice and delivery certificate acknowledged by the Master of the Vessels;
- On being asked whether other partners of M/s. Revolution Petrochem LLP or any other person involved in the smuggling of Fuel Oil, he stated that he along with his

partner Mr. Jimmy Thacker was involved in this matter and they had planned this by taking decisions jointly;

➤ On being further asked whether any other such illegal import was performed by him through M/s. Revolution Petrochem LLP in the guise of Slop / Sludge Oil, to which he replied that he had never smuggled Fuel oil in the guise of Slop / Sludge Oil from the vessels before this incident at Sikka.

17. Statement of Mr. Nguyen Quoc ANH, Operation Manager of M/s Sao Viet Petrol Transportation Co. Ltd., was recorded on 24.02.2023 (RUD-19) under Section 108 of the Customs Act, 1962 wherein he, inter alia, stated that:-

➤ Owner of seized Vessel MT Panda was M/s Sao Viet Petrol Transportation Co. Ltd. having address at Floor 3, Viet Tower, No. 1, Thai Ha Street, Trung Liet Ward, Dong Da District, Hanoi, Vietnam; that their company owned 10-Crude Oil /Chemical tankers and they were renting vessels on Time Charter to other Shipping Companies;

➤ That being a vessel owner they were responsible for technical management like all deck stores, engine stores, provisions, any repair, maintenance, dry docking, compliance/renewal of all required Vessel Certificates and crew management etc;

➤ That Vessel MT Panda was given to M/s Solid Energy Solutions DMCC, Dubai on time charter basis for one year starting from July 2022;

➤ That the vessel was under Time Charter and all the cargo operations i.e. type of cargo, loading-discharging of the cargo at load port/discharge port was instructed and arranged by the Time Charterer M/s. Solid Energy Solutions DMCC, Dubai (UAE); that being owner they were always informed about the next voyage by the Time Charterer through e-mail; that for any communication between the Charterers and the Master of the vessel, vessel owner always remained in CC of the e-mail; that particularly for that voyage to Sikka, 99288.826 MTs of Fuel Oil was loaded from Offshore Suez, Egypt through STS operation on 20.01.2023 and was to be discharged at Reliance Port, Sikka on 05.02.2023;

➤ Mr. Nguyen Quoc ANH was shown the permission filed by M/s Revolution Petrochem LLP for filing manual bill of Entry for discharging 800 MT of Sludge / slop from Vessel MT Panda at Sikka Port on 31.01.2023. He was further asked whether being vessel owner he had any idea about this to which he replied that he did not have any knowledge about the said permission; that ideally the Master of the vessel had to first report to owners about any discharge of sludge / slop at any port and afterwards owners would arrange everything by contacting concerned agent for the sludge / slop discharge, but in this case no such thing happened;

On being asked whether he was aware of the fact being vessel owner, that MT Panda was carrying un-manifested cargo of 800 MTs of Fuel Oil in guise of sludge / slop oil in her starboard side Slop Tank along with the manifested cargo i.e. 99288.826 MT of Fuel Oil and out of 800 MTs, 241 MTs of Fuel Oil was discharged by the vessel in the barge MV Sonal to which he replied that they were not aware about this un-manifested 800 MTs of Fuel Oil and any consequent discharge into the barge MV Sonal;

➤ He was further shown the ullage report made by M/s Rochem Inspectors Cargo Surveying, Egypt at load port i.e. Suez. In the ullage report, the star board side Slope Tank was shown empty but at the discharge port i.e. Sikka port approx. 559 MTs of Fuel Oil was found during the inspection by Customs authorities. He was asked about the above, to which he replied that they have received the ullage report but they did not know anything about the cargo which was stored in the vessel's star board side Slope Tank;

➤ Mr. Nguyen Quoc ANH was further shown Para 4(f) of the Affidavit filed by his advocate in the Hon'ble High Court of Gujarat wherein it was stated that, "you were informed by the Master about 800 MTs of fuel oil that it was collected by ship's crew from tripping, slug and cleaning of cargo and not bought from anywhere nor meant for smuggling." He was further shown answer of Master of MT Panda to Q. No. 6 in statement dated 02.02.2023, wherein he stated that "a person named Hareesh Harjani having contact No. 9824286942 contacted him and asked him to illegally bring 800 MTs of Fuel Oil on his voyage to Sikka and on receipt of the same, he was agreed to be paid USD 1,60,000/-. So there were two contradictory statements by Master and on being asked about the same he replied that he agreed that Master had given two different statements at two different instances about 800 MTs Fuel Oil, however he was sure that fuel oil could not be generated by from tripping, slug and cleaning of cargo;

➤ Further being vessel owner of MT Panda and as he stated earlier also that he provided crew to his vessel and his crews were indulged in smuggling of goods, so he was asked as to why not he be held responsible for this smuggling, to what he replied that, as per their employment contract, the crews were aware about the fact that they were not allowed to do illegal things and if they were found involved in any illegal activity, they would be responsible themselves and owner were not responsible for such illegal activity. He further assured to provide the employment contract.

18. Further, statement of Mr. Nguyen Van Hoan, Master of vessel MT Panda was recorded on 07.03.2023 (**RUD-20**) under Section 108 of the Customs Act, 1962 wherein he, inter alia, stated that as the Master of vessel MT Panda he was overall in-charge of the vessel, all operations of the vessel were performed under his directions and supervision;

➤ On being asked about the place from where he loaded 800 MTs of Fuel Oil to smuggle into India at Sikka Port through vessel MT Panda, he stated that in the previous voyage of the vessel, the cargo was Fuel Oil which was loaded from UST Luga and discharged at Tanjung Pelepas-Malaysia; that he had stolen 150 MTs Fuel Oil from manifested cargo and concealed in Slop Tank; that in the current voyage cargo was Fuel Oil which was loaded from Suez STS Area for discharge at Reliance Sikka; that in this voyage he had stolen 650 MTs of Fuel Oil from manifested cargo and concealed in Slop Tank; that as per contract there was a relaxation of 0.3% in quantity at the load port as well as at discharge port between buyer and seller therefore shortage was not noticed and in all he had stolen 800 MTs fuel oil and smuggled into India. He further submitted his last two voyage details;

- On being asked whether he had paid any amount to anyone for subject 800 MTs of Fuel Oil which was smuggled into India by his vessel MT Panda, to what he replied that he had not paid any amount for the said 800 MTs fuel oil; that the said fuel oil was stolen by him from manifested cargo and concealed in slop tank of the vessel MT Panda;
- On being asked about USD 60,000/- recovered from his possession on board MT Panda, he replied that he was in touch with Shri Haresh Harjani, Partner of M/s Revolution Petrochem LLP, and he agreed to pay him USD 200 per MT of Fuel Oil which he would deliver to him at Sikka Port; that these USD 60,000/- was delivered to him by Shri Pintu Batham who was sent by Shri Haresh Harjani; that the said foreign currency amounting to USD 60,000/- was his quid pro quo for the act of smuggling of Fuel Oil;
- Regarding his complete communication with Shri Haresh Harjani he replied that Shri Harjani asked him about cargo which he would bring to India and also assured him that if he brought Crude Oil, Shri Harjani would pay him USD 230/- per MT and for Fuel Oil he would be paid USD 200/- per MT; that as he smuggled Fuel Oil Shri Harjani agreed to pay him USD 200/- per MT;
- On being asked whether he had also carried this type of smuggling of Fuel Oil in India earlier to what he replied that he had not done this before and would never do again;
- Mr. Nguyen Van Hoan was shown the list which consisted of details of denominations and serial nos. of currency in US Dollar seized under Panchnama dated 02.02.2023 and was asked to verify the same, to what after going through details of denominations and Serial nos. of the currency (USD) he verified and found the same matching with the notes of USD as per Panchnama dated 02.02.2023.

19. M/s Sao Viet Petrol Transportation Co. Ltd., Vietnam [hereinafter referred to **Noticee No. 2**] has filed Special Civil Application (SCA) No. 2559/2023 before the Hon'ble High Court of Gujarat for release of the vessel MT Panda seized under Seizure Memo dated 02.02.2023 by the Customs authority. They also requested the Customs vide letter dated 08.02.2023 sent through the Standing Counsel with the SCA No. 2559/2023 for release of the vessel MT Panda. Vessel MT Panda was ordered to be released provisionally to the vessel owner through M/s Jamnadas Ramji, Chartered Agent of the vessel in terms of provisions of Section 110A of the Customs Act, 1962 vide Provisional Release Order No. CUS-SIIB-INT/64/2023 dated 20.02.2023 issued by the Additional Commissioner of Customs, Customs (Preventive) Jamnagar on the following condition :-

- a. Executing Bond for total value of Rs. 98,00,00,000/- (Rupees Ninety Eight Crore Only) being approximate value of Vessel MT Panda; that the Bond would contain an undertaking that the applicant shall pay the fine and/or penalty as may be adjudged by the adjudicating authority;
- b. Furnishing Bank Guarantee or security deposit of an amount of Rs. 4,00,00,000/- (Rupees Four Crore only) with clause of binding the issuing bank to keep it renewed till final adjudication of the case;

Owner company of vessel MT Panda, M/s Sao Viet Petrol Transportation Company Limited, executed Bond for full value of Rs. 98,00,00,000/- on 27.02.2023 and deposited Rs. 4,00,00,000/- vide DD No. 057534 dated 01.03.2023 (in SBI) as per Provisional Release Order No. CUS-SIIB-INT/64/2023 dated 20.02.2023 and in view whereof the seized Vessel MT Panda stood released provisionally (**Provisional Release Order with Bond and Deposit documents at RUD-21**).

20. Out of total 800 MTs of Fuel Oil, 559 MTs was stored in vessel MT Panda and 241 MTs of Fuel Oil was transferred and stored in Barge MV Sonal. M/s Revolution Petrochem LLP vide letter dated 28.02.2023 requested for release of Fuel Oil 800 MTs, seized under Seizure Memo dated 02.02.2023 and the same was Ordered to be released provisionally vide Provisional Release Order No. CUS-SIIB-INT/64/2023 dated 28.02.2023 issued by the Principal Commissioner of Customs, Customs (Prev.) Jamnagar (**Provisional Release Order at RUD-22**) subject to fulfilment of following condition by them:-

- a. Executing Bond for total value of Rs. 4,37,83,600/- (Rupees Four Crore Thirty Seven Lakh Eighty Three Thousand and Six Hundred Only) being value of 800 MTs of Fuel Oil; that the Bond would contain an undertaking that the applicant shall pay the fine and/or penalty as may be adjudged by the adjudicating authority;
- b. Making cash deposit of duty, interest, Penalty etc. amounting to Rs. 1,08,04,134/- (Rupees One Crore Eight Lakh Four Thousand One Hundred and Thirty Four Only)
- c. Furnishing Bank Guarantee or cash deposit of an amount of Rs. 40,00,000/- (Rupees Forty Lakhs only) containing self-renewal clause binding the issuing bank to keep it renewed till final adjudication of the case.

In respect to the condition imposed as above for provisional release of 559 MTs of Fuel Oil lying in vessel MT Panda and 241 MTs of Fuel Oil lying in barge MV Sonal, M/s Revolution Petrochem LLP, deposited Customs Duty along with Interest and Penalty amounting to Rs. 75,49,389/- vide Challan No. 02/Revolution/2023 dated 01.03.2023 for 559 MTs of Fuel Oil and Rs. 32,54,745/- vide Challan No. 01/Revolution/2023 dated 01.03.2023 for 241 MTs of Fuel Oil aggregating totally to Rs. 1,08,04,134/-. Above facts were intimated through their letters both dated 01.03.2023. M/s Revolution Petrochem LLP further executed Bond for amount of Rs. 4,37,83,600/- on 01.03.2023 and furnished Bank Guarantee No. 216GT01230620001 dated 02.03.2023 of Rs. 40,00,000/- on 02.03.2023 issued by HDFC Bank, Gandhidham. In view of the above compliance, 800 MTs of Fuel Oil stood released provisionally and vide letter dated 02.03.2023, M/s Revolution Petrochem LLP, requested for permission to discharge 559 MTs of Fuel Oil from vessel MT Panda through barge MV Sonal. (**Provisional Release Order with Bond, BG and Deposit documents for duty, Interest & Penalty at RUD-22**)

20.1. During the search proceedings on vessel MT Panda on 02.02.2023, sample of Fuel Oil was drawn from the Slop Oil Tank holding around 541 MT of Fuel Oil,

and sent to Central Revenues Control Laboratory (CRCL), Vadodara for testing vide Test Memo No. IMP/473/2022-23/02.02.2023. Test Report No. RCL/Sikka/IMP/3951/09.02.2023 received from CRCL, Vadodara confirmed the sample to be Fuel Oil. Similarly sample of Fuel Oil was also drawn from tank of bunker Barge MV Sonal during search proceedings on 02.02.2023, and sent to CRCL, Vadodara vide Test Memo No. IMP/474/2022-23/02.02.2023. Test Report No. RCL/Sikka/IMP/ 3952/ 09.02.2023 received from CRCL, Vadodara confirmed the sample to be Fuel Oil (RUD-25).

21. M/s Shree Krishna Quarry Private Limited, Mumbai [hereinafter referred to Noticee No. 4] vide letter dated 03.02.2023 requested for release of Barge MV Sonal seized under Seizure Memo dated 02.02.2023. The above request was addressed through the Provisional Release Order dated 28.02.2023 (Provisional Release Order at RUD-23) subject to fulfilment of the following condition:-

- a. Executing Bond for full value of Rs. 2,00,00,000/- (Rupees Two Crores Only) of the seized barge containing an undertaking that the importer would pay the duty, fine and/or penalty as may be adjudged by the adjudicating authority.
- b. Furnishing Bank Guarantee or Cash deposit of Rs. 20,00,000/- (Rupees twenty Lakhs Only) containing self-renewal clause binding the issuing bank to keep it renewed till final adjudication of the case.
- c. The barge owner shall properly hand over the seized 241 MT of Fuel Oil to the M/s Revolutionary Petrochem LLP, Gandhidham.

M/s Shree Krishna Quarry Private Limited, fulfilled the condition as explained above and executed the Bond for full value of barge and furnished Bank Guarantee No. 216GT01230650002 dated 06.03.2023 issued by HDFC Bank, Gandhidham in terms of order as above and handed the same to the department vide letter dated 07.03.2023 and accordingly seized barge MV Sonal stood released provisionally to them (Provisional Release Order with Bond and BG at RUD-23).

22. Foreign Currency viz. USD 60,000/- recovered from possession of Master of vessel MT Panda during search proceedings under Panchanama dated 02.02.2023 on vessel MT Panda was further deposited into the Government Account in SBI, Lal Bungalow Branch, Jamnagar through Principal Commissioner of Customs, CCP, Jamnagar on date 13.03.2023 (RUD-24).

23. **Statutory Provisions under the Customs Act, 1962:**

Relevant statutory provisions are as under:

23.1. **Section 2. Definitions**

- (23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;
- (24) "arrival manifest or import manifest" or "import report" means the manifest or report required to be delivered under Section 30;
- (25) "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;
- (26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes 22 [any owner, beneficial owner] or any person holding himself out to be the importer;
- (39) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under Section 111 or Section 113;

23.2. Section 12. Dutiable Goods

(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, on goods imported into, or exported from, India.

23.3. Recovery of duties not levied or not paid or short-levied or short-paid] or erroneously refunded:-

Section 28 (4) of the Customs Act, 1962 :-

" Where any duty has not been 10[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 wilful 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 11[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."

23.3.1. 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.

23.4. Delivery of arrival manifest or import manifest] or import report.

* Section 30 of the Customs Act, 1962 :-

Sec. 30 (1) The person-in-charge of—

- (i) a vessel; or
- (ii) an aircraft; or
- (iii) a vehicle,

carrying imported goods [or export goods] or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer [an arrival manifest or import manifest] by presenting electronically prior to the arrival of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in such form and manner as may be prescribed and if the arrival manifest or import manifest] or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees;

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to deliver arrival manifest or import manifest] by presenting electronically, allow the same to be delivered in any other manner.

(2) The person delivering the arrival manifest or import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents."

23.5. Imported goods not to be unloaded unless mentioned in arrival manifest or import manifest or import report.

Section 32 of the Customs Act, 1962 :-

No imported goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station.

23.6. Clearance of Imported goods :

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 1 [electronically] 2 [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing 3 [in such form and manner as may be prescribed];

23.7. SECTION 111 (d), 111 (f), 111 (l) & 111 (m) OF THE CUSTOMS ACT, 1962 :

111. Confiscation of improperly imported goods etc.

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

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

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

(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.

23.8 Penalty for improper importation of goods, etc.

Section 112. 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 17[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 19[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 20[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 21[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.

23.9. Penalty for short-levy or non-levy of duty in certain cases.

Section 114A of the Customs Act, 1962 .

* 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 further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso.

23.10. Section 115. Confiscation of conveyances.-

(1) The following conveyances shall be liable to confiscation :-

(a) any vessel which is or has been within the Indian customs waters, any aircraft which is or has been in India, or any vehicle which is or has been in a customs area, while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;

(b) any conveyance from which the whole or any part of the goods is thrown overboard, staved or destroyed so as to prevent seizure by an officer of customs;

(c) any conveyance which having been required to stop or land under Section 106 fails to do so, except for good and sufficient cause;

(d) any conveyance from which any warehoused goods cleared for exportation, or any other goods cleared for exportation under a claim for drawback, are unloaded, without the permission of the proper officer,

(e) any conveyance carrying imported goods which has entered India and is afterwards found with the whole or substantial portion of such goods missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the goods.

(2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal 1 [***].

Provided that where any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods, as the case may be.

Explanation - In this section, "market price" means market price at the date when the goods are seized.

23.11. Confiscation of sale-proceeds of smuggled goods.

Section 121 of the Customs Act, 1962:

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.

Discussion on investigation Findings

24. In view of the facts and circumstances as discussed in the foregoing paras and the statutory provisions of the Customs Act, 1962 explained herein above, it appears that M/s Revolution Petrochem LLP has conspired to smuggle 800 MTs of Fuel Oil through vessel MT Panda, in collusion with the Master of the vessel MT Panda through the Barge MV Sonal in consideration of illicit payment of USD 1,60,000/- to the Master of MT Panda Mr. Nguyen Van Hoan. Barge MV Sonal had been arranged by M/s Revolution Petrochem LLP purportedly for receiving Slop / Sludge Oil from vessel MT Panda, however which was used unlawfully into clandestinely clearing smuggled 800 MTs of Fuel Oil from the vessel MT Panda which arrived at Sikka Port on 02.02.2023 to discharge 99288.826 MTs of manifested Fuel Oil. At the time when Fuel Oil was illicitly being transferred from vessel MT Panda into barge MV Sonal, Customs Officers from Customs (Prev.) Commissionerate, Jamnagar arrived on board the vessel MT Panda and conducted the search on board, under Panchnama dated 02.02.2023. An amount of USD 60,000/- was recovered by the Customs Officers during search on 02.02.2023 from the possession of the Master of the vessel MT Panda, Mr. Nguyen Van Hoan, which he admitted to have received on board as part payment for 800 MTs of Fuel Oil, from Shri Pintu Batham, an employee of M/s Revolution Petrochem LLP. Master of the vessel MT

Panda further informed that Shri Pintu Batham was sent by Shri Haresh Harjani, Partner of M/s Revolution Petrochem LLP with USD 60000/- to hand him on board the vessel. By the time Customs arrived on board MT Panda, 241 MTs of Fuel Oil had been transferred out of stock of 800 MTs from the Slop Tank of vessel MT Panda to barge MV Sonal as revealed in search proceedings carried on board.

Discussion of Evidences

25. Based on the available facts at the material time, investigation was conducted by the Customs Officers and statements of the concerned were recorded under provisions of Section 108 of the Customs Act, 1962 and search operations were conducted to recover the documents and evidences about smuggling of 800 MTs of Fuel Oil through vessel MT Panda which have been duly explained in the Paras above. The evidences obtained / retrieved during the investigation confirming the smuggling of 800 MTs of Fuel Oil and the role of the various persons crucial in the smuggling are as under:-

(i). Foreign Currency of USD 60,000/- recovered from possession of Master of vessel MT Panda during search proceedings carried out on board, under Panchnama dated 02.02.2023, which was neither declared in the Ship's Currency Declaration nor in any documents of IGM. The Master of vessel MT Panda admitted to have received USD 60000/- from Shri Pintu Batham as part payment for smuggling of 800 MTs Fuel Oil. Also the Print-outs of Whats App chat between Master of vessel MT Panda and Shri Haresh Harjani, Partner of M/s Revolution Petrochem LLP retrieved under Panchnama dated 02.02.2023 clearly showed how 800 MTs of Fuel Oil was negotiated to be discharged into barge MV Sonal from the vessel MT Panda in guise of transfer of Slop Oil against payment of USD 1,60,000/- to Master. WhatsApp chat also had picture of Shri Pintu Batham with message that he would hand over USD 60,000/- to Master on board. Master kept updating Shri Haresh Harjani about the latest position of the vessel MT Panda. During the search operation conducted on board MT Panda, it was also found that Master of vessel MT Panda had illicitly stored 800 MTs of Fuel Oil in the Starboard Side Slop Tank of vessel separately for transfer to barge MV Sonal which was un-manifested and out of which 241 MTs was transferred by the time Customs Officers arrived on board for search operation.

(ii). During the search operation conducted on barge MV Sonal floating near MT Panda, under Panchnama dated 02.02.2023, Shri Pintu Batham was present on board who had handed over USD 60,000/- to Master of MT Panda just a while ago. Barge MV Sonal was found with 241 MTs of Fuel Oil which Shri Sarvan Kumar, Master of barge MV Sonal confirmed to have received from vessel MT Panda. Barge MV Sonal has arrived at Sikka anchorage purportedly for receiving Slop/ Sludge Oil from vessel MT Panda and in relation to which they had requested the competent authority vide their letter dated 31.01.2023 for permission to file manual Bill of Entry. However, during search proceedings by Customs Officers on 02.02.2023 on barge MV Sonal, barge MV Sonal was found to have received 241 MT of Fuel Oil in guise of transfer of Slop/ Sludge Oil.



(iii). Statement of Master of vessel MT Panda dated 02.02.2023, wherein he confessed to have illegally brought 800 MTs of Fuel Oil in Starboard Side of Slop Tank, which was not manifested and intended for illegal transfer to barge MV Sonal on receipt of consideration of USD 1,60,000/- from Shri Haresh Harjani, Partner of M/s Revolution Petrochem LLP with whom he negotiated the deal. He also confirmed in his statement about USD 60,000/- recovered from his possession to be part payment of the same. He also admitted to have transferred 241 MTs of Fuel Oil out of stock of 800 MTs of Fuel Oil in Slop Tank to barge MV Sonal by the time Customs Officers reached the vessel on 02.02.2023. In his statement dated 02.02.2023, Master of vessel MT Panda also admitted to have brought 800 MTs of Fuel Oil and above the manifested B/L quantity of Fuel Oil 99288.826 MTs.

(iv). Statement of Master of Bunker Barge MV Sonal, namely Shri Sarvan Kumar dated 02.02.2023 wherein he admitted to have received 241 MTs of Fuel Oil from vessel MT Panda by the time Customs authority boarded the vessel MT Panda. He also stated that he had arrived for receiving Slop/sludge Oil from vessel MT Panda on 01.02.2023, but Shri Pintu Batham accompanied him on board barge MV Sonal to assist him in illegal discharging of un-manifested Fuel Oil.

(v). Statement of Shri Pintu Batham, an employee of M/s Revolution Petrochem LLP, dated 02.02.2023 wherein he stated that he had come to Sikka Port through Barge MV Sonal and boarded vessel MT Panda at Sikka anchorage to manage the discharge of 800 MTs of Fuel Oil from MT Panda into MV Sonal. He admitted to have received USD 60,000/- from Shri Haresh N. Harjani, Partner of M/s Revolution Petrochem LLP, which he handed over to the Master of vessel MT Panda as per instruction of Shri Haresh N. Harjani as consideration against illegal receipt of Fuel Oil. He also admitted to the fact of full knowledge of commission of illegal smuggling of 800 MTs of Fuel in guise of receipt of Slop/Sludge Oil from vessel MT Panda in barge MV Sonal.

(vi). Statement of Shri Haresh Nathumal Harjani, partner of M/s Revolution Petrochem LLP dated 13.02.2023 wherein he confessed to have received an offer of 800 MT of Fuel Oil, brought illegally by Master of vessel MT Panda in Slop Tank of vessel at Sikka Port against consideration of USD 1,60,000/- at the rate of USD 200/- PMT and to which he agreed. He admitted to the adopted modus operandi of receiving Fuel Oil illegally in guise of receipt of Slop / Sludge Oil from vessel MT Panda. He admitted to have been in regular contact with Master Mr. Nguyen Van Hoan of vessel MT Panda to receive 800 MTs of Fuel Oil at Sikka Port anchorage and to deliver USD 1,60,000/- to the Master, but due to the reason that barge MV Sonal could have received maximum 400 MTs of Fuel Oil at a time, he deputed his employee Shri Pintu Batham with USD 60,000/- to be delivered to the Master of vessel MT Panda. Further, regarding source of the said USD 60,000/- he stated that he received USD 60,000/- from the income he earned in USD through water supply he made to the vessels through his proprietorship firm namely M/s H.H.Water Supply.

(vii) Statement of Shri Jimmy Shashikant Thacker, Partner of M/s Revolution Petrochem LLP dated 13.02.2023 wherein he admitted to the modus operandi of receiving Fuel Oil illegally in guise of discharge of Slop / Sludge Oil from the vessel MT Panda and he confirmed that Shri Haresh N. Harjani contacted Master of vessel MT Panda through e-mail for Slop / Sludge Oil and then he exchanged contact number with Master. He also confirmed that Master of vessel MT Panda has illegally brought 800 MTs of Fuel Oil concealed in Slop Tank of vessel which he offered to deliver to them at Sikka Port on charging USD 200/- per MT. He also confirmed that Shri Pintu Batham was instructed by Shri Haresh Harjani to deliver USD 60,000/- to Master of the vessel MT Panda which was earned by Shri Haresh Harjani through water supply to vessels. He confirmed that the said smuggling of 800 MTs of Fuel Oil from vessel MT Panda was jointly planned by him with Shri Haresh N. Harjani.

(viii) Further, statement of Mr. Nguyen Van Hoan, Master of vessel MT Panda, dated 07.03.2023, wherein he stated that in the previous voyage when vessel MT Panda was to discharge Fuel Oil at Tanjung Pelepas- Malaysia, he stole 150 MTs of Fuel Oil from manifested cargo in the Slop Tank and remaining 650 MTs of Fuel Oil was stolen and stored in Slop Tank by him from the current voyage cargo when Fuel Oil was to be discharged at Sikka Port; that as per the contract 0.3% variation was allowed at load and discharge port and so his above act was not noticed. He reiterated that he was regularly in contact with Shri Haresh N. Harjani for executing plan of smuggling of 800 MTs of Fuel Oil @ USD 200/- per MT and USD 60,000/- which he received from Shri Pintu Batham was his quid pro quo for the act of smuggling of Fuel Oil.

(ix) Statement dated 24.02.2023 of Mr. Nguyen Quoc ANH, Operation Manager of M/s Sao Viet Petrol Transportation Co. Ltd., owner company of the vessel MT Panda, wherein he identified the Master of vessel MT Panda to be Mr. Nguyen Van Hoan and stated that he received 99288.826 MTs of Fuel Oil from Offshore Suez, Egypt through STS operation for discharge at Reliance Port, Sikka. He also stated that Master of vessel MT Panda had not informed the owners about any intended discharge of Slop / Sludge Oil at Sikka Port, which he was bound to intimate in advance to the owner and it was the owner who would arrange everything for discharge of Slop / Sludge Oil. Regarding un-manifested 800 MTs of Fuel Oil concealed in Slop Oil Tank as Slop / Sludge Oil, he stated that Owner Company was not aware of any such un-manifested Fuel Oil stocked in Slop Tank.

(x) Printouts of WhatsApp-Chat between Master of MT Panda and Shri Haresh N. Harjani, retrieved during search proceedings on board MT Panda on 02.02.2023 revealed the fact relating to planning of illegally importing 800 MTs of Fuel Oil through vessel MT Panda concealed in Slop Tank and subsequent delivery of which through barge MV Sonal at Sikka Port in guise of Slop / Sludge Oil discharge against illicit consideration of USD 1,60,000/-. This was duly admitted by the Master of vessel MT Panda and Shri

Haresh N. Harjani in their respective statements recorded under Section 108 of the Customs Act, 1962.

(xi) An Ullage Report made by M/s Rochem Inspectors Cargo Surveying, Egypt which reported the star board side Slop Tank to be empty at Load Port, but the same tank showed stocking 559 MTs of Fuel Oil at discharge port Sikka, after discharging 241 MTs into barge MV Sonal on 02.02.2023 in search proceedings by the Customs authority.

Result of Investigation:-

26. In view of the documentary evidences and the corroborative statements of the concerned as discussed in the above para, it appears that:-

(i) Shri Haresh N. Harjani, Partner of M/s Revolution Petrochem LLP and Master of vessel MT Panda entered into a deal to smuggle 800 MTs of Fuel Oil against consideration of USD 1,60,000/- to be paid in cash to the Master of vessel MT Panda on board on receipt of full quantity of Fuel Oil by M/s Revolution Petrochem LLP at Sikka Port.

(ii) To execute the above plan, Mr. Nguyen Van Hoan, Master of vessel MT Panda smuggled 800 MTs of Fuel Oil through vessel MT Panda, concealed in its Slop Tank which he intended to clandestinely discharge into barge MV Sonal in guise of discharge of Slop / Sludge Oil.

(iii) 800 MTs of Fuel Oil was brought illegally by Master of vessel MT Panda, Mr. Nguyen Van Hoan through vessel MT Panda at Sikka Port which was un-manifested and concealed in star board side Slop Tank as Slop / sludge Oil. Vessel MT Panda had arrived at Sikka Port to discharge manifested import cargo of 99288.826 MTs of Fuel Oil.

(iv) By the time Customs Officers boarded the vessel MT Panda, 241 MTs of Fuel Oil had illegally been discharged in barge MV Sonal and 559 MTs of Fuel Oil remained in Slop Tank of MT Panda. Master of the vessel MT Panda was found in possession of USD 60,000/- which he confessed to be the part payment of USD 1,60,000/- which he had received from Shri Pintu Batham, an employee of M/s Revolution Petrochem LLP. Master of the vessel MT Panda confessed to have smuggled 800 MTs of Fuel Oil out of which he had illegally transferred 241 MTs of smuggled Fuel Oil into barge MV Sonal which purportedly came alongside to receive Slop / sludge Oil.

(v) Above facts were evidenced in the search operations conducted by Customs Officers on 02.02.2023, on board the vessel MT Panda and barge MV Sonal and subsequent statements of the concerned recorded under Section 108 of the Customs Act, 1962 and as explained herein above.

Contravention of the Provisions of the Customs Act, 1962

27. In view of the above, it, therefore, appears that M/s Revolution Petrochem LLP first caused smuggling of 800 MTs of Fuel Oil through vessel MT Panda in collusion with Master of the Vessel MT Panda and then tried to clandestinely clear the same through the barge MV Sonal in guise of discharge of Slop / Sludge Oil. It, therefore, appears that:-

a. 800 MTs of Fuel Oil valued at Rs. 4,37,83,601/-, which was seized under Seizure memo dated 02.02.2023 was brought illegally by Master of vessel MT Panda and was not manifested, neither Bill of Entry filed in respect of the said goods nor the Customs Duty paid thereon, was illegally being discharged (241 MTs) in barge MV Sonal in contravention of the provisions of Section 12, 30, 32 and 46 of the Customs Act, 1962 and therefore, in view of the same, the said goods appears to be liable for confiscation under Section 111(d), 111 (f), 111 (l) and 111 (m) of the Customs Act, 1962.

b. Vessel MT Panda seized under Seizure memo dated 02.02.2023 was used for transportation in smuggling of 800 MTs of Fuel Oil to Sikka Port resulting into contravention of the provisions of Section 12, 30, 32 and 46 of the Customs Act, 1962 and therefore, the said vessel appears to be liable for confiscation under Section 115 (2) of the Customs Act, 1962. Further, for the acts and omission rendering the goods viz. 800 MTs smuggled Fuel Oil liable for confiscation under Section 111 of the Customs Act, 1962, M/s. Sao Viet Petrol Transportation Co. Ltd. appears to have rendered themselves liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

c. Barge MV Sonal seized under Seizure memo dated 02.02.2023 was used in transportation of smuggled Fuel Oil at Sikka Port in contravention of the provisions of Section 12, 30, 32 and 46 of the Customs Act, 1962 and therefore, the said barge appears to be liable for Confiscation under Section 115 (2) of the Customs Act, 1962. Further, for the acts and omission rendering the goods viz. 800 MTs smuggled Fuel Oil liable for confiscation under Section 111 of the Customs Act, 1962, M/s. Shree Krishna Quarry Pvt. Ltd. appears to have rendered themselves liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

27.1. Admitting illicit import of un-manifested **800 MTs Fuel Oil valued at Rs. 4,37,83,601/- (Rupees Four Crore Thirty Seven Lakhs Eighty Three Thousand Six Hundred One Only)** through Vessel MT Panda and discharge thereof through Bunker Barge MV Sonal, M/s Revolution Petrochem LLP, Gandhidham requested for provisional release of the goods viz. 800 MTs of smuggled Fuel Oil. As per the Test Report of CRCL, Vadodara, smuggled Fuel Oil was confirmed to be meeting specification of Fuel Oil as per IS: 1593:2018 and classifiable under CTH 271019 chargeable to Customs Duty in terms of Sr. No. 147B of the Notification No. 50/2017-Customs dated 30.06.2017 as amended vide Notification No. 02/2022-Customs dated 01.02.2022 (**Duty Calculation Sheet as per Annexure-1 to this SCN**).

27.1.1. Whereas M/s Revolution Petrochem LLP appears to have intently smuggled the **800 MTs Fuel Oil valued at Rs. 4,37,83,601/- (Rupees Four Crore Thirty Seven Lakhs**

Eighty Three Thousand Six Hundred One Only) through Vessel MT Panda which was un-manifested and was illegally being transferred to bunker barge MV Sonal by mis-declaring the same as Slop/sludge Oil as revealed in investigation and as a result of which, it appears that the said smuggled goods i.e., **800 MTs Fuel Oil** valued at **Rs. 4,37,83,601/-** is liable for confiscation under Section 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962. It further appears that for the above acts and omission rendering the above goods liable for confiscation under Section 111 of the Customs Act, 1962, M/s Revolution Petrochem LLP is also liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

27.2. Whereas 800 MTs of Fuel Oil valued at Rs. 4,37,83,601/- imported illicitly through vessel MT Panda at Sikka Port, and being cleared clandestinely by M/s. Revolution Petrochem LLP, Gandhidham through bunker barge MV Sonal without payment of **Customs Duty amounting to Rs. 93,01,826/- (Rupees Ninety Three Lakhs One Thousand and Eight Hundred and Twenty Six Only) (Duty Calculation Sheet as per Annexure-1 to this SCN)**. It, therefore, appears that the said amount of Customs Duty, not levied and not paid by M/s. Revolution Petrochem LLP, Gandhidham by reason of willful mis-statement and suppression of facts with an intent to evade payment of Duty, is liable to be recovered from M/s Revolution Petrochem LLP, Gandhidham, under the provisions of Section 28(4) of the Customs Act, 1962 along with appropriate interest under Section 28AA of the Customs Act, 1962.

27.3. Whereas it further appears from the above that M/s Revolution Petrochem LLP has illegally imported 800 MTs of Fuel Oil through vessel MT Panda at Sikka Port, which was un-manifested, without any valid documents and tried to illicitly clear the same, without discharging Customs Duty by clandestinely discharging into bunker barge MV Sonal, disguising as Slop / Sludge Oil. It, therefore, appears that this act of illicit import of 800 MTs of Fuel Oil without payment of Customs Duty by willfully declaring the same as Slop / Sludge Oil, rendered M/s Revolution Petrochem LLP liable for penalty under Section 114A of the Customs Act, 1962.

27.4. M/s Revolution Petrochem LLP, Gandhidham seeking provisional release of seized Fuel Oil to them, in addition to execution of Bond for full value and furnishing BG of Rs. 40 Lakhs, also discharged the Customs Duty on 800 MTs of Fuel Oil, with interest and penalty against Provisional Release Order No. CUS/SIIB-INT/64/2023 dated 28.02.2023 totally amounting to Rs. 1,08,04,135/-. Therefore, the said amount paid towards duty/ interest/ penalty appears to be liable for appropriation. The details of amount paid towards duty/ interest/ penalty are as under:

| Sr. No. | Particular | Amount | Paid Vide |
|---------|--|------------------------|---------------------------------------|
| 01. | Customs Duty [BCD @ 2.5% of Value] | Rs. 93,01,826/- | TR-6 Challan No. 01/Revolution/2023 & |

| | | | |
|-----|---|--|---|
| | + [SW Cess @ 10% of BCD] + IGST @ 18% of (Value + BCD + SW Cess)] | [BCD= Rs. 10,94,590/-] [SW Cess = 1,09,459/-] (IGST-Rs. 80,97,777/-) | 02/Revolution/2023 both dated 01.03.2023 |
| 02. | Interest [Calculated @ 15% per annum] | Rs. 1,07,035/- | TR-6 Challan No. 01/Revolution/2023 & 02/Revolution/2023 both dated 01.03.2023 |
| 03. | Penalty [Calculated @ 15% of total Duty] | Rs. 13,95,274/- | TR-6 Challan No. 01/Revolution/2023 & 02/Revolution/2023 both dated 01.03.2023 |

28. Mr. Nguyen Van Hoan, Master of the Vessel MT Panda was instrumental and he appears to have:-

- (i) acquired possession and smuggled 800 MTs of Fuel Oil carrying through the vessel MT Panda by concealing the same in Slop Tank of vessel and wilfully not declared the same in IGM filed at Sikka Port and thereby contravened provisions of Section 30 of the Customs Act, 1962.
- (ii) illegally transferred 241 MTs of Fuel Oil from vessel MT Panda to barge MV Sonal in the guise of discharging Slop / Sludge Oil by the time Customs Officers arrived on board the vessel MT Panda with remaining 559 MTs Fuel Oil in Slop Tank in violation of provisions of Section 32 of the Customs Act, 1962.
- (iii) received illegal consideration of USD 60,000/- on board the vessel MT Panda as part payment of total USD 1,60,000/- , for handing over smuggled 800 MTs Fuel Oil to M/s Revolution Petrochem LLP.
- (iv) acted in smuggling of 800 MTs of Fuel Oil through Vessel MT Panda by way of concealing in the Slop / Sludge Oil Tank, which rendered both the vessel MT Panda and 800 MTs Fuel Oil liable for confiscation under the provisions of Section 115(2) and Section 111 of the Customs act, 1962, respectively.

28.1. Mr. Nguyen Van Hoan, Master of the Vessel MT Panda, confessed to the above acts of smuggling of 800 MTs of Fuel Oil and receipt of USD 60,000/- in his statements dated 02.02.2023 and 07.03.2023 and in view thereof, he appears to have rendered himself liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

29. USD 60000/- recovered from possession of Master of vessel MT Panda under Panchnama dated 02.02.2023 was over and above the amount declared Ship's Currency Declaration of USD 11,600/- and was not found declared under IGM No.2334045 dated

30.01.2023 filed for vessel MT Panda, either under head of Ship's Currency Declaration or Crew Currency Declaration or in any other documents of IGM. This was admittedly part payment for smuggling of 800 MTs Fuel Oil received from M/s Revolution Petrochem LLP. Therefore, USD 60,000/- found in possession of Master of vessel MT Panda on board, which did not correspond in respect of value or in other particular with the IGM of vessel MT Panda and which was admitted by Master of vessel MT Panda to be part payment of sales proceeds of smuggled Fuel Oil and therefore, the same appears to be liable for confiscation under the provisions of Section 121 of the Customs Act, 1962.

30. Shri Sharvan Kumar, Master of barge MV Sonal was found to have received 241 MTs of Fuel Oil illegally in the barge MV Sonal from vessel MT Panda on 02.02.2023 out of un-manifested stock of 800 MTs Fuel Oil. The above act of illegal transfer of 241 MTs of un-manifested Fuel Oil from vessel MT Panda was evidenced under Panchanama dated 02.02.2023, which was later confessed by the Master of barge Shri Sharvan Kumar in his statement dated 02.02.2023. In his statement dated 02.02.2023 recorded on board the barge, he admitted to have full knowledge of receiving illegally imported Fuel Oil from vessel MT Panda in guise of Slop / Sludge Oil. It, therefore, appears from the above that Shri Sharvan Kumar acquired possession of smuggled Fuel Oil and concerned himself in carrying, depositing, keeping and concealing the smuggled Fuel Oil which he knew or had reason to believe was liable for confiscation under Section 111 of the Customs Act, 1962 and thereby rendered himself liable to penalty under the provisions of Section 112 of the Customs Act, 1962.

31. M/s Shree Krishna Quarry Private Limited, Mumbai, owner company of barge MV Sonal provided / leased out their barge to M/s Revolution Petrochem LLP for clandestinely clearing 800 MTs of Fuel Oil smuggled by vessel MT Panda, in guise of Slop / Sludge Oil. They had reasons to believe that 800 MTs of Fuel Oil on board the vessel MT Panda was un-manifested and was liable for confiscation under Section 111 of the Customs Act, 1962. Barge MV Sonal was found with 241 MTs of un-manifested Fuel Oil discharged from vessel MT Panda in violation of Section 32 of the Customs Act, 1962. Therefore M/s Shree Krishna Quarry Private Limited, Mumbai appears to have abetted in smuggling of 800 MTs of Fuel Oil by way of leasing out their barge MV Sonal for smuggling of Fuel Oil and thereby rendering the same liable for confiscation under provisions of Section 111 of the Customs Act, 1962 and therefore, appears to have rendered themselves liable to penalty under the provisions of Section 112 of the Customs Act, 1962.

32. Now, therefore, the Noticee No. 1 i.e., M/s. Revolution Petrochem LLP, 212, Plot No. 13, Riddhi Siddhi Arcade-1, Nr. BM Petrol Pump, Opp. Hitesh Motors, Gandhidham, Gujarat-361345 is hereby called upon to show cause to the Principal Commissioner / Commissioner of Customs (Preventive), Jamnagar having his Office at "Seema Shulk Bhavan", Rajkot-Jamnagar Highway, Near Victoria Bridge, Jamnagar - 361 001, Gujarat (India) within thirty days from the receipt of this notice as to why:-

(i) The goods viz. 800 MTs of smuggled Fuel Oil valued at Rs. 4,37,83,601/- (Rupees Four Crore Thirty Seven Lakhs Eighty Three Thousand Six Hundred One Only) seized vide Seizure Memo dated 02.02.2023, released provisionally on payment of duty, interest and penalty and on execution of Bond for full value and on furnishing surety as BG for value of Rs. 40,00,000/-, should not be confiscated under Section 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962.

(ii) Customs Duty not levied and not paid amounting to **Rs. 93,01,826/- (Rupees Ninety Three Lakhs One Thousand Eight Hundred and Twenty Six Only)** payable on the 800 MTs of smuggled Fuel Oil should not be charged and recovered from them under Section 28(4) of the Customs Act, 1962 (Duty calculation sheet as per Annexure-1 to this SCN) and an amount of Rs. 93,01,826/- deposited by them vide Challan No. 01/Revolution /2023 & 02/Revolution/2023 both dated 01.03.2023 towards duty on un-manifested 800 MTs of Fuel Oil, should not be appropriated.

(iii) Interest payable on the amount of Customs Duty mentioned at (ii) above should not be charged and recovered from them under Section 28AA of the Customs Act, 1962 and an amount of Rs. 1,07,035/- (Rupees One Lakh Seven Thousand Thirty Five Only) deposited by them vide Challan No. 01/Revolution /2023 & 02/Revolution/2023 both dated 01.03.2023 towards interest should not be appropriated.

(iv) Penalty should not be imposed on them under Section 112 and/ or Section 114A of the Customs Act, 1962 and an amount of Rs. 13,95,274/- (Thirteen Lakhs Ninety Five Thousand Two Hundred and Seventy Four Only) deposited by them vide Challan No. 01/Revolution /2023 & 02/Revolution/2023 both dated 01.03.2023 towards penalty should not be appropriated.

33. Now, therefore, the Noticee No. 2 i.e., M/s Sao Viet Petrol Transportation Co. Ltd., having their office located at 3, Viet Tower, No. 1, Thai Ha Street, Trung Liet Ward, Dong Da District, Hanoi, Vietnam is hereby called upon through their Chartered Agent M/s Jamnadas Ramji, 101, Milestone, P.N.Marg, Panchvati Society, Jamnagar-361002 to show cause to the Principal Commissioner / Commissioner of Customs (Preventive), Jamnagar having his Office at "Seema Shulk Bhavan", Rajkot-Jamnagar Highway, Near Victoria Bridge, Jamnagar - 361 001, Gujarat (India) within thirty days from the receipt of this notice as to why:-

(i). Vessel MT Panda valued at Rs. 98,00,00,000/- (Rupees Ninety Eight Crore Only) seized vide Seizure Memo dated 02.02.2023 and provisionally released on execution of Bond for full value and furnishing Security Deposit of Rs. 4,00,00,000/- in SBI vide DD No. 057534 dated 01.03.2023 should not be confiscated under Section 115(2) of the Customs Act, 1962.

- (ii) Penalty should not be imposed on them under Section 112 of the Customs Act, 1962.

34. Now, therefore, the Noticee No. 3 i.e., Master of the vessel MT Panda, Mr. Nguyen Van Hoan, resident Vietnam is hereby called upon through his Chartered Agent M/s Jamnadas Ramji, 101, Milestone, P.N.Marg, Panchvati Society, Jamnagar-361002 to show cause to the Principal Commissioner / Commissioner of Customs (Preventive), Jamnagar having his Office at "Seema Shulk Bhavan", Rajkot-Jamnagar Highway, Near Victoria Bridge, Jamnagar - 361 001, Gujarat (India) within thirty days from the receipt of this notice as to why:-

- (i) Sales proceeds of smuggled Fuel Oil in Foreign Currency of USD 60,000/- (US Dollars Sixty Thousand only) seized from his possession during search proceedings on 02.02.2023 on vessel MT Panda should not be confiscated under provisions of Section 121 of the Customs Act, 1962.
- (ii) Penalty should not be imposed on him under Section 112 of the Customs Act, 1962.

35. Now, therefore, Noticee No. 4 i.e., M/s Shree Krishna Quarry Private Limited, Shop No. 7 (Rear Side), Sitaram Building, F-VLock, Gorund Floor, Market Road, Fort, Mumbai- 400001, owner company of barge MV Sonal is hereby called upon to show cause to the Principal Commissioner / Commissioner of Customs (Preventive), Jamnagar having his Office at "Seema Shulk Bhavan", Rajkot-Jamnagar Highway, Near Victoria Bridge, Jamnagar - 361 001, Gujarat (India) within thirty days from the receipt of this notice as to why:-

- (i) The Barge MV Sonal valued at Rs. 2,00,00,000/- (Rupees Two Crores only), seized vide Seizure Memo dated 02.02.2023, released provisionally to them on execution of Bond for full value and furnishing Bank Guarantee No. 216GT01230650002 dated 06.03.2023 issued by HDFC Bank, Gandhidham for Rs. 20,00,000/- (Rupees Twenty Lakhs Only), should not be confiscated under Section 115(2) of the Customs Act, 1962.

- (ii) Penalty should not be imposed upon them under Section 112 of the Customs Act, 1962.

36. Now, therefore, Noticee No. 5 i.e., Shri Sarvan Kumar, resident of Belhar, Post-Darihara, Sonapur, District-Saran, Bihar-841101, Master of barge MV Sonal, is hereby called upon to show cause to the Principal Commissioner / Commissioner of Customs (Preventive), Jamnagar having his Office at "Seema Shulk Bhavan", Rajkot-Jamnagar Highway, Near Victoria Bridge, Jamnagar - 361 001, Gujarat (India) within thirty days from the receipt of this notice as to why penalty should not be imposed on him under Section 112 of the Customs Act, 1962.

37. The above Noticees are further required to note that their written submissions, if any, should reach this Office within 30 (thirty) days from the date of receipt of this Notice. If no cause is shown by them against the action proposed above within 30 days from the date of receipt of this Show Cause Notice 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 evidences available on record.

38. The documents relied upon in the present Notice are listed at **Annexure-R** to this Show Cause Notice and are enclosed with this Show Cause Notice.

39. The Noticees also have an option under Section 127B of the Customs Act, 1962 to settle the case through Settlement Commission by filing an application, if eligible.

40. This Show Cause Notice is issued without prejudice to any other action that may be taken against the Noticees or any other persons concerned in respect of the aforesaid goods under the Customs Act, 1962 and / or any other law for the time being in force.

41. The documents which are non-relied upon to this Show Cause Notice may be collected during the working hours within 30 days from the receipt of this notice.

42. Department reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.

Encl: - Annexure 1 and R as detailed in SCN



[Dharendra Lal]
Commissioner

F. No. CUS/607/2024-Adjn-O/o-Commr-Cus-Prev-Jamnagar

Date: 02.09.2024

By Hand Delivery / Speed Post A.D. / E-Mail

To (Noticees):

- 
1. M/s. Revolution Petrochem LLP,
212, Plot No. 13,
Riddhi Siddhi Arcade-1,
Nr. BM Petrol Pump,
Opp. Hitesh Motors,
Gandhidham (Kutch) - 370201
 2. M/s Sao Viet Petrol Transportation Co. Ltd.,
Floor-3, Viet Tower, No. 1, Thai Ha Street,
TrungLiet Ward, Dong Da District, Hanoi,
Vietnam
Through chartered agent
M/s Jamnadas Ramji 101,
Milestone, P.N.Marg,
Panchvati Society,
Jamnagar-361002

3. Master of the Vessel MT Panda,
Mr. Nguyen Van Hoan,
Passport No. K0367107 (Vietnamese)
Through chartered agent
M/s Jamnadas Ramji 101,
Milestone, P.N.Marg,
Panchvati Society,
Jamnagar-361002
4. M/s Shree Krishna Quarry Private Limited,
Shop No. 7 (Rear Side), Sitaram Building,
F-VLock, Ground Floor, Market Road,
Fort, Mumbai- 400001
5. Shri Sarvan Kumar Master of barge MV Sonal,
M/s Shree Krishna Quarry Private Limited,
Shop No. 7 (Rear Side), Sitaram Building,
F-VLock, Ground Floor, Market Road,
Fort, Mumbai- 400001

Copy to:

1. The Additional Commissioner of Customs, Customs (Prev) Commissionerate,
Jamnagar
2. The Assistant Commissioner, Custom House, Sikka.
3. Guard File.



**ANNEXURE-1 TO THE SHOW CAUSE NOTICE NO. COMMR-03/2024-25 ISSUED TO
M/S REVOLUTION PETROCHEM LLP AND OTHERS**

**Calculation of the Customs Duty payable on 800 MTs of Fuel Oil illegally imported
through vessel MT Panda**

| Sr. No. | Particular | Amount | Paid Vide |
|---------|--|--|--|
| 01. | Assessable Value | Rs. 4,37,83,601/- Arrived by taking rate based on IOCL rate at material time @ USD 665/MT and Exchange Rate Rs. 82.3/USD as per Not. No. 05/2023-Customs (N.T.). | - |
| 01. | Customs Duty [BCD @ 2.5% of Value] + [SW Cess @ 10% of BCD] + IGST @ 18% of (Value + BCD + SW Cess)] | Rs. 93,01,826/- [BCD= Rs. 10,94,590/-] [SW Cess = 1,09,459/-] (IGST-Rs. 80,97,777/-) | TR-6 Challan No. 01/Revolution/2023 & 02/Revolution/2023 both dated 01.03.2023 |
| 02. | Interest [Calculated @ 15% per annum] | Rs. 1,07,035/- | TR-6 Challan No. 01/Revolution/2023 & 02/Revolution/2023 both dated 01.03.2023 |
| 03. | Penalty [Calculated @ 15% of total Duty] | Rs. 13,95,274/- | TR-6 Challan No. 01/Revolution/2023 & 02/Revolution/2023 both dated 01.03.2023 |



ANNEXURE- R

LIST OF THE RELIED UPON DOCUMENTS [RUDs] TO THE SHOW CAUSE NOTICE NO. COMMR-03/2024-25 ISSUED TO M/S REVOLUTION PETROCHEM LLP AND OTHERS

| Sr. No. | Description of Documents | Remarks |
|---------|--|-----------------|
| 01. | Panchanama dated 02.02.2023 drawn on vessel MT Panda | Copy enclosed |
| 02. | Import General Manifest No. 2334045 dated 30.01.2023 of vessel MT Panda | Copy enclosed |
| 03. | Prints-out of Whatsapp-Chat between Master of vessel MT Panda and Shri Haresh N. Harjani Partner of M/s Revolution Petrochem LLP | Copy enclosed |
| 04. | Seizure Memo dated 02.02.2023 for vessel MT Panda & Fuel Oil | Copy enclosed |
| 05. | Panchanama dated 02.02.2023 drawn on barge MV Sonal. | Copy enclosed |
| 06. | Seizure Memo dated 02.02.2023 for barge MV Sonal & Fuel Oil. | Copy enclosed |
| 07. | Statement dated 02.02.2023 of Mr. Nguyen Van Hoan, Master of the vessel MT Panda | Copy enclosed |
| 08. | Statement dated 02.02.2023 of Shri Sarvan Kumar, Master of barge MV Sonal. | Copy enclosed |
| 09. | Statement dated 02.02.2023 of Shri Pintu Batham, an employee of M/s Revolution Petrochem LLP. | Copy enclosed |
| 10. | Panchanama dated 07.02.2023 drawn at the Office premises of M/s Revolution Petrochem LLP at Gandhidham. | Copy enclosed |
| 11. | Panchanama dated 08.02.2023 drawn at the Processing Plant of M/s Revolution Petrochem LLP at Mithirohar, Gandhidham. | Copy enclosed |
| 12. | Statement dated 08.02.2023 Shri Amol Rajaram Gadhigaokar, an employee of M/s Omega Marine Service & M/s Omega Offshore Services. | Copy enclosed |
| 13. | Statement dated 08.02.2023 of Shri Issrani Sunil Naresh, a person who worked for M/s Revolution Petrochem LLP. | Copy enclosed |
| 14. | Statement dated 08.02.2023 of Shri Karan Haresh Harjani, son of Shri Haresh Harjani, Partner of M/s Revolution Petrochem LLP. | Copy enclosed |
| 15. | Statement dated 13.02.2023 of Shri Jignesh Kumar Prajapati, employee of M/s Revolution Petrochem LLP. | Copy enclosed |
| 16. | Statement dated 13.02.2023 of Shri Jimmi Shashikant Thacker, Partner of M/s Revolution Petrochem LLP. | Copy enclosed |
| 17. | Statement dated 13.02.2023 of Shri Karan Rajesh Pandya, Partner of M/s Omega Marine. | Copy enclosed |
| 18. | Statement dated 13.02.2023 of Shri Haresh Nathumal Harjani one of the Partners in M/s Revolution Petrochem LLP | Copy enclosed |
| 19. | Statement dated 24.02.2023 of Mr. Nguyen Quoc ANH, Operation Manager of M/s Sao Viet Petrol Transportation Co. Ltd. owner company of vessel MT Panda. | Copy enclosed |
| 20. | Further statement dated 07.03.2023 of Mr. Nguyen Van Hoan, Master of vessel MT Panda. | Copy enclosed |
| 21. | Provisional Release Order No. CUS-SIIB-INT/ 64/ 2023 dated 20.02.2023 for vessel MT Panda along with Bond & Deposit documents. | Copy enclosed |
| 22. | Provisional Release Order No. CUS-SIIB-INT/64/2023 dated 28.02.2023 for 800 MT of Fuel Oil with Bond, BG and payment documents for duty, Interest & Penalty. | Copy enclosed |
| 23. | Provisional Release Order dated 28.02.2023 for barge MV Sonal along with Bond & BG. | Copy enclosed |
| 24. | Deposit Voucher for USD 60,000/- seized on date 02.02.2023 on vessel MT Panda. | Copy enclosed |
| 25. | Sample Test Memo and Test Report No. RCL/Sikka/IMP/3951/09.02.2023 & RCL/Sikka/IMP/3952/09.02.2023 as received from CRCL, Vadodara | Copies enclosed |