

	<p align="center">OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, NEAR BALAJI TEMPLE, KANDLA</p> <p>Phone: 02836-271468/9 Fax: 02836-271467 Email- commr-cuskandla@nic.in</p>
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Date:09-12-2025

SHOW CAUSE NOTICE

(ISSUED UNDER SECTION 124 OF THE CUSTOMS ACT, 1962)

Whereas, SEZ unit, M/s Exim Warehousing (**hereinafter referred to as "SEZ unit"**) operating at Shed No.400 (CIB Special Type), Ground & First Floor, Sector-II, Kandla Special Economic Zone, Gandhidham was granted Letter of Approval (LOA) No.35/2009-10 dated 22.03.2010 vide F.No. KASEZ/IA/35/2009-10 (**RUD-1**) by the office of the Development Commissioner, Kandla SEZ under Section 15(9) of the SEZ Act read with Rule 18 of the SEZ Rules, 2006 to operate as a SEZ unit and carry out authorized operations of "Warehousing and Service activity".

2. Further, the said SEZ unit was granted additional permission in LOA for "Manufacturing Services Activities" vide F.No. KASEZ/IA/35/2009-10 dated 21.12.2016 (**RUD-2**) by the office of the Development Commissioner, Kandla SEZ, which was further extended upto 05.01.2026 vide renewal letter issued in F.No. KASEZ/IA/35/2009-10/Vol.I-8408-11 dated 22.03.2021 (**RUD-3**). The condition no. 6 of the said LOA reads as :

"6) None of the items which are restricted or prohibited will be allowed to be traded and any restrictions on import/ export of any manufacturing items and its raw material will apply"

3. Whereas, during the scrutiny of the documents for the period 2019-2021, the Senior Audit Officer (CRA-I) noticed that the said SEZ unit has indulged in certain unauthorized imports. The said observations were communicated vide HM dated 01.10.2021 (**RUD-4**) and subsequently vide Para 3 of the LAR dated 03.11.2021 (**RUD-5**). During the course of test check of the records, it was noticed that the said SEZ unit had imported consignments of "Betel Nuts - CTH 08028020" into Kandla SEZ having CIF value lower than the mandated minimum import price i.e. Rs.251 per KG, resulting in unauthorized imports. A list of 5 such import BEs was provided by the Audit officer having the said contravention in relation to the said SEZ unit.

4. Whereas, based on the Audit objection raised by the CRA team, further analysis of import data downloaded from NSDL SEZ Online was carried out for the said SEZ unit. During the analysis of import data, it was observed that the said SEZ Unit indulged in unauthorized imports of Arecanuts/ Betelnuts falling CTH 080280 in contravention to MIP conditions stipulated in Import Policy conditions in relation to total 8 import BEs including 5 BEs as reported by CRA team. The details of all these 8 import BEs are present in the Table-A as mentioned below :-(attached as **RUD-06** to this Notice)

Table - A									

S. No.	Request Id	BE No.	BE date	CTH No.	Item Description	Quantity (MTs)	Unit Price (USD per MTs)	Assessable Value for the item in INR	Duty Forgone	Assessable Value Per Kg (in INR)
1	172002598843	1013179	17-12-2020	08028020	Betel Nuts Split	108.8	1,050.00	₹86,25,125.28	9,05,638.00	79.28
2	172002598515	1013181	17-12-2020	08028020	Betel Nuts Split	108.8	1,050.00	₹86,25,125.28	9,05,638.00	79.28
3	172100286330	1001691	03-02-2021	08028020	Unflavoured Supari (Betel Nut Products)	27.04	1,700.00	₹34,38,995.09	3,61,094.00	127.18
4	172100286783	1001692	03-02-2021	08028020	Unflavoured Supari (Betel Nut Products)	27.04	1,700.00	₹34,38,995.09	3,61,094.00	127.18
5	172100287564	1001693	03-02-2021	08028020	Unflavoured Supari (Betel Nut Products)	27.04	1,700.00	₹34,38,995.09	3,61,094.00	127.18
6	172100285770	1002018	10-02-2021	08028020	Betel Nuts Split	135.6	1,100.00	₹1,11,62,185.59	11,72,029.00	82.32
7	172100759386	1003758	19-03-2021	08028020	Arecanuts	80	1,050.00	₹62,61,053.25	6,57,411.00	78.26
8	172100759154	1003757	19-03-2021	08028020	Arecanuts	81	1,050.00	₹63,38,937.20	6,65,588.00	78.26
Total								5,13,29,412	53,89,586	

5. Whereas, as per the Table Agenda Item No. 163.4.1 of the Minutes of 163rd Unit Approval Committee of KASEZ, held on 27.10.2020 (relevant portion attached as **RUD-7**), the said SEZ unit was granted permission to warehouse Betel Nuts (Areca Nut Whole – 08028010, Areca Nut Split – 08028020, Areca Nut Ground – 08028030, Areca Nut other – 08028090) provided that import CIF value is Rs. 251/- per Kg or more.

5.1 Furthermore, the condition no. (i) of the said minutes reads as:

“i) None of the items which are restricted or prohibited will be allowed to be warehoused and any restrictions on import/export of any items will apply unless specifically permitted by the UAC. This clause will have overriding effect for any approval granted in LoA now or before”

5.2 Furthermore, DGFT vide notification no. 20/2015-20 dated 25.07.2018 (**RUD-8**) has amended the import policy for goods falling under Chapter sub-heading 080208 from “Free” to “Prohibited” and the Policy condition is revised to “However, import is free if CIF value is Rs.251/- and above per Kilogram”. Whereas, by virtue of above said notifications the import of goods falling under Chapter sub-heading 080208 stands “Prohibited” unless the policy condition mentioned therein(i.e. import CIF value should be Rs.251/- and above per Kilogram) is complied with.

5.3 In the present case, the Bill of Entries as mentioned in Table - A, pertaining to the import of arecanut in KASEZ, falls within the period when the provisions of Notification No. 20/2015-20 dated 25.07.2018 were in effect. Under the said Notification, the import policy for goods covered under Chapter sub-heading 080208 were classified as “Prohibited”, subject to the policy condition that “However, import

is free if CIF value is Rs.251/- and above per Kilogram”.

5.4 However, based on the facts, the said import of arecanut under CTH 08028010 vide the Bill of Entries mentioned in Table – A were made at the rate which is below the Minimum Import Price of Rs. 251/- per kilogram, and therefore, it stands classified as “Prohibited” in terms of the aforesaid notification.

5.5 Based on the above, it appears that the import of subject goods under CTH: 08028020 vide the said BEs by the said SEZ unit having CIF value lower than the mandated minimum import price i.e. Rs.251 per KG is in violation of the terms and conditions prescribed in the Letter of Approval (LoA) granted to the SEZ unit as well as contrary to the conditions for its import as prescribed in the ITC (HS), 2022 Schedule 1 Import Policy for the said CTH.

6. Accordingly, the audit observations were communicated to the SEZ Unit vide letter dated 13.10.2021 (**R U D - 0 9**) issued from F.No. KASEZA/CUS/D&R/Audit/13/21-22 and requested the unit to pay the entire outstanding amount along with applicable interest or submit a reply. However, no response was received from the said SEZ unit. Further, this office vide letters dated 22.04.2025, 01.05.2025 and 22.05.2025 (**RUD-10**) vide F.No. KASEZ-PnI/2/2024-SEZ-KANDLA, sent reminders to the said SEZ unit to send the compliance . However, no response to the same was received from their side.

7. Legal Provisions:

Whereas, the activities of admission and clearance of goods by SEZ units, having approval granted under Section 15 of the SEZ Act, 2005 and Rule 18 of the SEZ Rules, 2006, are regulated as per the provisions & procedures contained in the SEZ Act, 2005 and Rules made there-under. The following are the legal provisions, which are in general applicable in the present case. The list given herein is indicative and not exhaustive, as the context of legal provisions may otherwise require reference of other legal provisions, reference of which are also to be invited, as and when required:

7.1. The Customs Act, 1962

- 7.1.1. Section 46 of the Customs Act, 1962
- 7.1.2. Section 2(33) of the Customs Act, 1962
- 7.1.3. Section 2(39) of the Customs Act, 1962
- 7.1.4. Section 111(d) of the Customs Act, 1962.
- 7.1.5. Section 111(m) of the Customs Act, 1962.
- 7.1.6. Section 111(o) of the Customs Act, 1962.
- 7.1.7. Section 112 of the Customs Act, 1962
- 7.1.8. Section 114AA of the Customs Act, 1962
- 7.1.9. Section 117 of the Customs Act, 1962

7.2. SEZ Act, 2005

- 7.2.1 Section 15(9) of the SEZ Act, 2005
- 7.2.2 Rule 18 of the SEZ Rules, 2006.
- 7.2.4 Rule 26 of the SEZ Rules, 2006.
- 7.2.4 Rule 27 of the SEZ Rules, 2006.

7.3. Foreign Trade (Development and Regulation) Act, 1992

- 7.3.1. Section 3(2) and (3) of the FTDR Act, 1992
- 7.3.2. Section 5 of the FTDR Act, 1992
- 7.3.3. Section 11 (1), (2), (3), (8) of the FTDR Act, 1992
- 7.3.4. Section 12 of the FTDR Act, 1992

7.4. Foreign Trade (Regulation) Rules, 1993

- 7.4.1. Rule 11 of the FTR, 1993
- 7.4.2. Rule 14 of the FTR, 1993
- 7.4.3. Rule 15(3)(a) of the FTR, 1993
- 7.4.4. Rule 17 of the FTR, 1993

8. Whereas, Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Under self-assessment the importer or exporter has to ensure correct classification, applicable rate of duty, value and exemption notifications, if any, in respect of imported /export goods while presenting a bill of entry or shipping bill. Further, Rule 75 of the SEZ Rules, 2006 also provides that unless and otherwise specified in these rules all inward or outward movements of the goods into or from SEZ by the Unit/Developer shall be based on self-declaration made by the Unit/Developer. While importing the subject goods, the said SEZ unit was bound for true and correct declaration and assessment which include importability of the subject goods. As the said SEZ unit was engaged in business activities related to subject goods, they were fully aware of specifications, characteristics, nature, importability and approvals and other regulatory compliances in respect goods dealt by them in the SEZ area. From the above, it is evident that the said SEZ unit willfully suppressed the fact that the goods are falling under prohibited category and imported the same in contravention to the conditions stipulated in their LoA.

9. Whereas, Section 2(33) of the Customs Act, 1962, the prohibited goods include the goods, import of which is subject to any prohibition under the Customs Act, 1962 or any other law for the time being in force. However, it does not include the goods, in respect of which the conditions subject to which the goods are permitted to be imported have been complied with. In the instant case, the goods imported by the said SEZ unit are under "Prohibited" category and the said SEZ Unit has not complied with the conditions for its import as prescribed in the Import policy thereby violating the terms and conditions prescribed in Letter of Approval (LoA) granted to them. Thus, the goods imported by the said SEZ unit are to be treated as "Prohibited goods" as per Customs Act, 1962 read with DGFT Notification No.20/2015-20 dated 25.07.2018. It is evident that the said SEZ unit had imported subject goods in contravention to the conditions of the LoA. Since, the goods so imported by the said SEZ unit are contrary to the prohibition imposed under the Customs Act, 1962 read with SEZ Act, 2005. Therefore, the said goods imported by the said SEZ unit are liable to confiscation under the provisions of Section 111(d) & 111(o) of the Customs Act, 1962 and the said SEZ unit and its partners Shri Javed Ashraf and Shri Imtiyaz Alam are liable for penalty under Section 112 of the Customs Act, 1962.

9.1. Whereas, Section 46(4A) of the Customs Act, 1962, the importer, who is presenting the bill of entry should ensure the accuracy and completeness of the information given therein viz. description, value etc., the authenticity and validity of any document supporting it; and compliance with the restriction or prohibition, if

any, relating to the goods under the Customs Act, 1962 or under any other law for the time being in force. Apparently, it appears the said SEZ unit have violated the provisions of section 46(4A) by way of importing the said goods, falling under Prohibited category, in contravention to conditions stipulated in their LoA. Such indulgence and endeavor on the part of their part are in violation of the provisions of Section 46 of the Customs Act, 1962 makes the impugned goods liable for confiscation in terms of Section 111(d) and 111(o) of the Customs Act, 1962 and the said SEZ unit is liable for penalty under Section 112 & 114AA of the Customs Act, 1962.

9.2. Whereas, Section 114AA mandates penalty for use of false and incorrect material wherein if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods. In the subject matter, it appears that Shri Javed Ashraf and Shri Imtiyaz Alam, being the partners of M/s Exim Warehousing, were responsible for filing and processing the customs related documents, knowingly used and allowed the use of incorrect declaration/documents in respect of the aforementioned import consignment. Accordingly, it appears that Shri Javed Ashraf and Shri Imtiyaz Alam are liable for penalty under section 114AA of the Customs Act, 1962.

10. Whereas, Para 9.41 of the FTP, "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted. In the instant case, as per the DGFT Import policy the import of subject goods is Prohibited and is not permitted by the LoA issued to them. Whereas, Section 3 (2) of the FTDR Act, 1992 empowers the Central Government to issue order, making provisions for prohibiting, restricting or otherwise regulating, the import of goods. As per Section 3(3) of the FTDR Act, 1992, all goods to which the order under Section 3(2) applies shall be deemed to be goods the imports of which has been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly. Whereas, Section 5 of the FTDR Act, 1992 empowers the Central Government to formulate and announce by notification the foreign trade policy and also empowered to amend the policy in like manner. Whereas, Section 8 of the FTDR Act, 1992, the DGFT or any other officer authorized by him empowered to pass order for suspension or cancellation of the IEC Number of a person, who has contravened any of the provisions of the FTDR Act, 1992 or any rules or orders made thereunder or the FTP or any other law for the time being in force relating to Customs or has committed any other economic offence under any other law for the time being in force. Whereas, Section 11(1) of the FTDR Act, 1992 provides that no import shall be made by any person except in accordance with the provisions of the FTDR Act, 1992, the rules and orders made thereunder and in accordance with the FTP for the time being in force. Penal provisions are also prescribed vide Section 11(2) of the FTDR Act, 1992. As per Section 11(8) of the FTDR Act, 1992, the offending goods are liable to confiscation. Whereas, Section 12 of the FTDR Act, 1992 prescribes that the penalty imposed or confiscation made under the FTDR Act, 1992 shall not prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force. Whereas, Rule 11 of the FTDR, 1993 provides that on importation of any goods, the owner of the goods has to file Bill of Entry as prescribed under the Customs Act, 1962, stating the value, quantity, quality and description of such goods to be best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry. Whereas, Rule 14 of the FTR, 1993 prohibits making, signing, using or cause to be

made, signed or used any declaration, statement or documents for importing any goods, knowing or having reason to believe that such declaration, statement or document is false in any material particular. Employing any corrupt or fraudulent practice in importing the goods have also been prohibited.

11.1 Now, therefore, the said SEZ Unit, namely, M/s Exim Warehousing (IEC: 3710001609) are hereby called upon to show cause to the Additional Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why-

- i. The goods imported vide Bills of Entry as detailed in Table A above having declared assessable value of Rs. 5,13,29,412/- (Rupees Five Crore Thirteen Lakhs Twenty-Nine Thousand Four Hundred and Twelve only) should not be confiscated under Section 111(d) and 111(o) of the Custom Act, 1962 for contravening the Import Policy conditions and conditions stipulated in the LoA;
- ii. Penalty should not be imposed on them, separately under each of the provisions of Section 112 & 114AA of the Customs Act, 1962 for the reasons discussed above.
- iii. Bond-cum-Legal Undertaking in form-H executed by them should not be enforced towards its above liabilities.

11.2 Furthermore, Shri Javed Ashraf, partner of the SEZ Unit M/s. Exim Warehousing, is hereby called upon to show cause to the Additional Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i. Penalty should not be imposed on him, under the provision of Section 112 and Section 114AA of the Customs Act, 1962 for the reasons discussed above.

11.3 Furthermore, Shri Imtiyaz Alam, partner of the SEZ Unit M/s. Exim Warehousing, is hereby called upon to show cause to the Additional Commissioner of Customs, having office situated at Customs House, Near Balaji Temple, Kandla, District Kutch within 30 days from the receipt this notice as to why:

- i. Penalty should not be imposed on him, under the provision of Section 112 and Section 114AA of the Customs Act, 1962 for the reasons discussed above.

12. The Noticee(s) are required to submit their reply in writing to the Adjudicating Authority, as above, within 30 days from the date of receipt of this notice. In their written reply, the Noticee(s) may also state as to whether they would like to be heard in person. In case, no reply is received within the time limit stipulated above or any further time which may be granted to them by the Adjudicating Authority and/or if they fail to appear for personal hearing, when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the Noticee(s). Further, the Noticee(s) is advised to mention their email address in writing for virtual hearing as per CBIC's Instruction dated 21.08.2020 issued vide F.No. 390/Misc/3/2019-JC.

13. This notice is issued without prejudice to any other action that may be taken in respect of the above goods and / or the persons / firms mentioned in the notice under the provisions of the Customs Act, 1962 and / or any other law for the time being in force, in the Republic of India.

14. The department reserves the right to add, amend, modify, delete any part or the portion of this notice any such addendum, amendment, modification, deletion, if made, shall be deemed to be part and parcel of this notice.

15. The list of relied upon documents (RUDs) in this case is as per Annexure-R.

Additional Commissioner,
Custom House, Kandla

F.No.GEN/ADJ/ADC/2260/2025-Adjn-O/oCommr-Cus-Kandla

Dated:09-12-2025

**By Email/ Speed Post
To**

1. M/s Exim Warehousing, Shed No.400 (CIB Special Type), Ground & First Floor, Sector-II, Kandla Special Economic Zone, Gandhidham.
2. Shri Javed Ashraf, the partner of the SEZ Unit M/s. Exim Warehousing, Shed No.400 (CIB Special Type), Ground & First Floor, Sector-II, Kandla Special Economic Zone, Gandhidham.
3. Shri Imtiyaz Alam, the partner of the SEZ Unit M/s. Exim Warehousing, Shed No.400 (CIB Special Type), Ground & First Floor, Sector-II, Kandla Special Economic Zone, Gandhidham

Copy to: -

1. The Development Commissioner, Kandla Special Economic Zone, Gandhidham, Kutch.
2. The Commissioner of Customs. Kandla
3. The Deputy/Assistant Commissioner of Customs, Adjudication Cell, Kandla Customs House, Kandla.
4. The Superintendent, EDI Section, Custom House Kandla.
5. Guard file.

Annexure-R

Attached to Show Cause Notice issued vide F.No. GEN/ADJ/ADC/2260/2025-

**Adjn-O/o Commr-Cus-Kandla to M/s.Exim Warehousing, KASEZ and others
(List of Relied upon Documents)**

- RUD-01:** LoA No.35/2009-10 dated 22.03.2010
- RUD-02:** Renewal of LoA letter dated 21.12.2016
- RUD-03:** Extension of LoA letter dated 22.03.2021
- RUD-04:** Audit HM letter dated 01.10.2021
- RUD-05:** Audit LAR dated 03.11.2021
- RUD-06:** Annexure-A along with Import Bills of Entry
- RUD-07:** Relevant portion of Minutes of 163rd UAC of KASEZ, held on 27.10.2020
- RUD-08:** DGFT Notification No. 20/2015-20 dated 25.07.2018
- RUD-09:** Letter dated 13.10.2021 to M/s. Exim Warehousing, KASEZ
- RUD-10:** Letters dated 22.04.2025, 01.05.2025 and 22.05.2025 to M/s. Exim Warehousing, KASEZ