

	<p style="text-align: center;">         कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,          सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421  <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:</b>  <b>CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</b>  <b>PHONE : 02838-271426/271163 FAX :02838-271425</b>  <b>E-mail id- adj-mundra@gov.in</b> </p>	
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<b>A</b>	<b>FILE NO.</b>	F. No. GEN/ADJ/ADC/1518/2023-Adjn-O/o Pr Commr-Cus-Mundra
<b>B</b>	<b>ORDER-IN- ORIGINAL NO.</b>	MCH/ADC/MK/104/2024-25
<b>C</b>	<b>PASSED BY</b>	MUKESH KUMARI ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA.
<b>D</b>	<b>DATE OF ORDER</b>	25-07-2024
<b>E</b>	<b>DATE OF ISSUE</b>	25.07.2024
<b>F</b>	<b>SCN NUMBER &amp; DATE</b>	GEN/ADJ/ADC/1518/2023-Adjn dated 31.07.2023
<b>G</b>	<b>NOTICEE/ PARTY/ IMPORTER</b>	1. M/s. Shree Krishan Enterprise 2. M/s Velji Dosabhai & Sons Pvt. Ltd
<b>H</b>	<b>DIN NUMBER</b>	20240771MO0000333FFC

1. यहआदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकता है-

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

“सीमाशुल्कआयुक्त (अपील),  
 चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,  
 नवरंगपुरा, अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA  
HAVING HIS OFFICE AT 4<sup>TH</sup> FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,  
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

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

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

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

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

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

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

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

#### **BRIEF FACT OF THE CASE:-**

M/s. Shree Krishan Enterprise (IEC- EXSPM9406H), 411, Shop No. 508, Pramukhpark, Behind AEC Char Rasta, Naranpura, Ahmedabad, Gujarat - 380013 have filed following Shipping Bill for export of "Tungsten Carbide" through their CHA- M/s Velji Dosabhai & Sons Pvt. Ltd declaring their goods under Chapter 82090010. The Country of destination was declared as United Arab Emirates. The details of the Shipping Bills are as under:

Shipping Bill No(s). & Date	Description of Goods	Qty.	Declared FOB Value (Rs.)	Total Export Benefits (Rs.)
9026055 dated 17.03.2022	Tungsten Carbide	121.9 Kgs	2,50,25,456/-	Drawback- 4,50,458/- RODTEP- 3,00,306/-
9095472 dated 21.03.2022	Tungsten Carbide	136.4 Kgs	2,52,88,800/-	Drawback- 4,55,196/- RODTEP- 3,03,466/-

Total	5,03,14,255/-	Drawback- 9,05,656/- RODTEP- 6,03,772/-
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2. Whereas, an alert has been received from NCTC informing that the above mentioned Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 filed by exporter M/s Shree Krishan Enterprise are of high value for a risky commodity and to risky country i.e. United Arab Emirates. Further, it has been informed from NCTC that the supply chain of the said exporter is also seems doubtful as the supplier as well as exporter are recently registered and vehicle movement under e-way bills are not proper.

3. Based upon the alert received from NCTC, the consignment covered by Shipping Bill No. 90260555 dated 17.03.2022 was put under hold and the goods brought for Export under the said Shipping Bill were examined by the officers of the Docks Examination on 30.03.2022 under Examination Report Dated 30.03.2022 at M/s Seabird CFS, Mundra Port, Mundra. Further, the consignment covered by Shipping Bill No. 9095472 dated 21.03.2022 was also put under hold and the goods brought for Export under the said Shipping Bill were examined by the officers of the Docks Examination on 06.04.2022 under Examination Report dated 06.04.2022 at M/s Seabird CFS, Mundra Port, Mundra. During the course of examination, it is observed that the goods are packed in wooden pallet boxes (02 Boxes under each shipping bill) and in form of sets packed in plastic boxes carrying 10 pcs per box.

3.1 The details of goods found in the consignment covered by the said Shipping Bills are under;

S. No.	Shipping Bill No. & Date	Item Description	Quantity Declared	Quantity Found
1	9026055 dt. 17.03.2022	Insert TNMG 160412	4080	4080
		Insert WNMG 080408 PCD	4080	4080
		Insert APMT 160408 PCD	500	500
		Insert WNMG 060412 PCD	340	340
		Insert VNMG 12T308 PCD	2300	2300
		Insert SNMG 120412 PCD	700	700
		Total	12000	12000
2	9095472 dt. 21.03.2022	Insert WNMG 080408 PCD	2640	2640
		Insert TNMG 160404 PCD	3120	3120
		Insert WNMG 160408 PCD	3120	3120
		Insert WNMG 160412 PCD	3120	3120
		Total	12000	12000

3.2 During the course of investigation, a letter dated 01.04.2022 was issued to the said exporter to submit documents related to inward/outward supply and to produce payment received from their consignee. Further, a letter dated 01.04.2022 was also issued to the Additional Commissioner, Central Goods & Service Tax & Central Excise, Ahmedabad North Commissionerate for verification of genuineness of the exporter and to hold the export benefits/ refund of the exporter till the completion of the investigation. A letter dated 01.04.2022 was also issued to the Additional Commissioner, Central Goods & Service Tax & Central Excise, Ahmedabad South Commissionerate for verification of genuineness of the supplier (M/s Magnet Enterprise) of the exporter, who have supplied the goods intended to be exported.

3.3 A letter dated NIL has been received from the Exporter on 06.04.2022, mentioning the submission of (1) Purchase Documents (2) Transport Documents and (3) Details of Payment received from our RCL trading FZE and requesting to release their cargo for export as they have to fulfill their commitment to their buyer. However, going through the submission only purchase invoices issued by M/s. Magnet Enterprise were found enclosed with the said letter.

3.4 Whereas, the Additional Commissioner (Anti Evasion), Central GST & Central Excise, Ahmedabad North has forwarded the verification report in respect of the said exporter vide letter F.No. GEXCOM/AE/Insp/236/2022 dated 04.08.2022, wherein it has been informed that during the inspection conducted at the premises of M/s. Shri Krishan Enterprise having GSTIN 24EXSPM9406H2ZX (IEC No. EXSPM9406H), the same firm was found fake. Further, it is informed that they have initiated the proceedings to cancel the GST registration of the said firm.

3.5 During the course of investigation, a statement dated 16.08.2022 of Shri Killayya, Branch Manager of CHA M/s. Velji Dosabhai & Sons Pvt., Mundra has been recorded in response to summons dated 18.04.2022 and 02.08.2022. In the statement dated 16.08.2022, Shri Killayya inter alia stated that:

- He know M/s. Shree Krishan Enterprise, Shop NO. B-508, Pramukh Park, Behind AEC Char Rasta, Naranpura, Ahmedabad-380013 (IEC-EXSPM9406H) and they have filed the Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 on behalf of them.
- Generally, they have asked KYC of the exporter before filing of the shipping bill through e-mail and thereafter they filed Shipping Bills on behalf of them. After receipt of the KYC they do the physical verification of the address of the exporter.
- They have received KYC form, IEC copy, Electricity Bill, GST registration, PAN & Aadhar Card of the Proprietor through e-mail id of the exporter.
- They had verified the KYC document received by the exporter in case of the said Shipping Bills, however, no physical verification had been done by them in the instant case.
- he saw the letter returned undelivered from address of the said exporter and he don't know whether the exporter is in existent or not.
- the cargo covered under the said shipping bills are lying at CFS.

3.6 The GSTIN details of the Exporter M/s. Shri Krishan Enterprise [GSTIN 24EXSPM9406H2ZX (IEC No. EXSPM9406H)] have been verified from GST portal and it is observed that the effective date of registration for the said GSTIN was 06.02.2022 and the registration was cancelled w.e.f. 06.02.2022 i.e. from the date of registration itself.

3.7 Whereas, the verification report in respect of the supplier of the exporter has not been received, however, the GSTIN details of the supplier M/s. Magnet Enterprises [GSTIN 24LKSPK5817L2ZA have been verified from GST portal and it is observed that the effective date of registration for the said GSTIN was 22.02.2022 and the registration was cancelled w.e.f. 22.02.2022 i.e. from the date of registration itself, hence, it appears that the supplier M/s. Magnet Enterprises was also a fake and non-existing firm.

3.8 From the verification report of the premises of the Exporter and the statement of the CHA, the outcome of the GSTN portal for Search of GSTIN of the said exporter and its only supplier, it appears that the exporter M/s.

Krishan Enterprise was a dummy/bogus firm who intended to file incorrect Shipping Bills with higher valuation of goods and to avail undue export benefits.

4. In view of the foregoing paras, it is evident that the Exporter M/s Shri Krishan Enterprise as well as their sole supplier M/s. Magnet Enterprises are non-existent/ fake and that the value declared by the Exporter was not the proper/actual value and liable to be rejected in terms of Rule 8 of the Customs Valuation (Determination of export goods) Rules, 2007. Further, it also appears that in terms of Rule 3 (3) of the said rules, the value has to be re-determined by proceeding sequentially under Rule 4 to 6. In the instant case, the value of export goods could not be determined in terms of Rule 4 of the Rules, ibid, as the goods under export could not be compared with similar goods in the absence of exact description of the goods in terms of design, sizes etc. The value of the goods under export could not be determined, considering the cost of production, profit margin etc. as per Rule 5 of the Rules ibid, as the Party is non-existent. Thus, the value of impugned goods merit to be re-determined under residual method i.e. Rule 6 of the rules ibid by conducting market inquiry to ascertain the fair value.

5. Therefore, the valuation of goods is determined under Rule 6 of the Customs Valuation (Determination of export goods) Rules, 2007 using reasonable means consistent with the principles and general provisions of these Rules and therefore, opinion of the Chartered engineer was taken by way of market research. The Chartered Engineer had submitted the valuation vide valuation certificate Ref: ABJ:INSP:CE:23-24:EXP:BS:09 dated 20.06.2023 and ABJ:INSP:CE:23-24:EXP:BS:10 dated 20.06.2023 for the goods covered under Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 respectively. The detailed calculation chart of the goods as per Valuation Certificate submitted by Chartered Engineer is as under:

S. No.	Shipping Bill No. & date	Item Description	Qty (Pcs)	Per Piece Re-determined Value (in INR)	Re-determined Value (in INR)
1	9026055 dt. 17.03.2022	Insert TNMG 160412	4080	200	8,16,000
		Insert WNMG 080408 PCD	4080	210	8,56,800
		Insert APMT 160408 PCD	500	250	1,25,000
		Insert WNMG 060412 PCD	340	230	78,200
		Insert VNMG 12T308 PCD	2300	220	5,06,000
		Insert SNMG 120412 PCD	700	235	1,64,500
2	9095472 dt. 21.03.2022	Insert WNMG 080408 PCD	2640	210	5,54,400
		Insert TNMG 160404 PCD	3120	200	6,24,000
		Insert WNMG 160408 PCD	3120	210	6,55,200
		Insert WNMG 160412 PCD	3120	230	7,17,600
	Total		24000		50,97,700

## 6. RELEVANT LEGAL PROVISIONS:

### CUSTOMS ACT, 1962:

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

*The following export goods shall be liable to confiscation:-*

....

....

**Section 113 (i):** *Confiscation of goods attempted to be improperly exported, etc.- The following export goods shall be liable to confiscation- any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act.*

**Section 113 (ia):** *Any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under section 75.*

**Section 113(ja):** *any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;*

**Section 114:** *Penalty for attempt to export goods improperly, etc. - Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -*

....

*(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.*

**Section 50 (2) of the Customs Act, 1962:** *"The exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents"*

### CUSTOMS VALUATION (DETERMINATION OF VALUE OF EXPORT GOODS) RULES, 2007:

#### Rule 3 Determination of the method of valuation-

(1) *Subject to rule 8, the value of export goods shall be the transaction value.*

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

(3) *If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.*

#### Rule 4 Determination of export value by comparison -

(1) *The value of the export goods shall be based on the transaction value of goods*

of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

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

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

**Rule 5 Computed value method-**

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-

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

**Rule 6 Residual method-**

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

**Section 75: Drawback on imported materials used in the manufacture of goods which are exported.** - (2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide -

[(a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture or processing of the goods or carrying out any operation on the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of that class or description either by manufacturers generally or by persons processing or carrying on any operation generally or by any particular manufacturer or particular person carrying on any process or other operation, and interest if any payable thereon;]

- (aa) for specifying the goods in respect of which no drawback shall be allowed;
- (ab) for specifying the procedure for recovery or adjustment of the amount of any drawback which had been allowed under sub-section (1) or interest chargeable thereon;
- (b) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;
- (c) for requiring the manufacturer or the person carrying out any process or other

*operation to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the Assistant Commissioner of Customs or Deputy Commissioner of Customs to enable such authorised officer to inspect the processes of manufacture, process or any other operation carried out and to verify by actual check or otherwise the statements made in support of the claim for drawback.*

*(d) for the manner and the time within which the claim for payment of drawback may be filed;]*

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

**SECTION 76. Prohibition and regulation of drawback in certain cases. - (1) Notwithstanding anything herein before contained, no drawback shall be allowed –**

*30[\*\*\*]*

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

**Custom Broker Licencing Regulations, 2018**

*10(d). advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;*

7. In view of the foregoing paras, it appears that the Exporter has mis-declared the cargo by virtue of overvaluation of the goods with intent to avail higher export incentive. The value declared by the Exporter in the export documents was Rs. 5,03,14,255/- (Rupees Five Crore Three Lakh Fourteen Thousand Two Hundred and Fifty Five only) whereas during the market enquiry FOB value comes to Rs. 50,97,700/- (Rupees Fifty Lakh Ninety Seven Thousand and Seven Hundred only). Since, the exporter himself was found non-existent, and the goods are lying unclaimed at the Seabird CFS, Mundra, therefore, there is no option other than confiscation of the goods and rejection of the export benefits of the exporter under the provisions of Customs Act, 1962.

8. From the foregoing enquiry, it appears that:

- i. The value declared by the Exporter was not the proper/actual value and liable to be rejected in terms of Rule 8 of the Customs Valuation (Determination of Export Goods) Rules, 2007. In terms of Rule 3(3) of the said Rules, the value has to be re-determined by proceeding sequentially under Rule 4 to 6 of CVR, 2007.
- ii. The exporter has attempted to export the goods which do not correspond in respect of value with the entry made under this Act; do not correspond in material particular with information furnished by the exporter in relation to the fixation of the rate of drawback under section 75; further, the goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the

provisions of this Act.

iii. The exporter had overvalued the goods intentionally to claim excess amount of Drawback and RODTEP. As a result of market enquiry of the representative samples, the value of the goods was found substantially lower than the declared value. The exporter had claimed drawback amounting to Rs. 9,05,656/- and RODTEP amounting to Rs. 6,03,772/- by mis-declaring the FOB value of export goods at Rs. 5,03,14,255/- (Rupees Five Crore Three Lakh Fourteen Thousand Two Hundred and Fifty Five only) while the re-determined FOB value Rs. 50,97,700/- (Rupees Fifty Lakh Ninety Seven Thousand and Seven Hundred only).

9. In view of the above, it appears that the exporter has tried to export the impugned goods to avail export incentives by overvaluing the goods. Therefore, the goods covered under impugned Shipping Bills are liable for confiscation under Section 113 (i), Section 113(ia) and Section 113(ja) of the Customs Act, 1962. The exporter for their acts of omission and commission is also liable to pay penalty under Section 114 of the Customs Act, 1962. Therefore, the goods covered under the said Shipping Bills have been placed under seizure vide Seizure Memo dated 19.06.2023.

10. Further, it appears that the Custom Broker did not follow due diligence in respect of imported goods and the exporter. Further, he has also failed to comply with the provisions of the Custom Broker Licencing Regulations, 2018, thus, appears to be liable for penal action under Section 117 of the Customs Act, 1962 for contravention of Custom Broker Licencing Regulations, 2018.

11. Accordingly, a Show Cause Notice No. GEN/ADJ/ADC/1518/2023-Adjn-O/o Pr Commr-Cus-Mundra dated 31.07.2023 was issued to M/s. Shree Krishan Enterprise (IEC- EXSPM9406H), 411, Shop NO. 508, Pramukh Park, Behind AEC Char Rasta, Naranpura, Ahmedabad, Gujarat - 380013 (the exporter) wherein they were called upon to show cause to the Additional Commissioner of Customs, Mundra having his office at 5B, Port User Building, Mundra, within 30 days of the receipt of this Notice as to why:

- i. The declared FOB value of Rs. 5,03,14,255/- (Rupees Five Crore Three Lakh Fourteen Thousand Two Hundred and Fifty Five only) of the goods covered under impugned Shipping Bills bearing no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 should not be rejected under Rule 8 of CVR, 2007 and re-determined as Rs. 50,97,700/- (Rupees Fifty Lakh Ninety Seven Thousand and Seven Hundred only) under Rule 6 of CVR, 2007.
- ii. The goods covered under impugned Shipping Bills no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022, should not be confiscated under Section 113(i), Section 113(ia) & Section 113(ja) of the Customs Act, 1962.
- iii. The drawback claims in respect of impugned Shipping Bill no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 should not be rejected.
- iv. The RODTEP claims in respect of impugned Shipping Bill no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 should not be rejected.
- v. Penalty should not be imposed upon the exporter under the provisions of Sections 114(iii) of the Customs Act, 1962.

12. Further, vide Show Cause Notice No. GEN/ADJ/ADC/1518/2023-Adjn-O/o Pr Commr-Cus-Mundra dated 31.07.2023, M/s. Velji Dosabhai & Sons Pvt. Ltd. 203 & 204, 2nd Floor, New Port User Building, Mundra Port, Mundra (the Customs Broker of the exporter) was called upon to show cause to the

Additional Commissioner of Customs, Mundra having his office at 5B, Port User Building, Mundra, within 30 days of the receipt of this Notice as to why;

- i. Penalty should not be imposed upon them under the provisions of Sections 117 of the Customs Act, 1962.

**WRITTEN SUBMISSION –**

**13. Submissions made by M/s. Velji Dosabhai & Sons Pvt. Ltd. vide their letter dated 17.01.2024:**

**13.1** It is submitted that the notice has two basis, i.e. Value of goods sought to be exported and identity / existence of the exporter. As we have said above, our concern is only in respect of second aspect, viz. KYC of the exporter. We were required to obtain authorization from exporter and then to verify the KYC of the exporter. We had obtained the authorization from exporter. We had also undertaken KYC as is established from documents submitted.

Thus the only issue involved in the notice is KYC of the exporter.

Para 3-4 of the notice clearly show that the exporter had responded to the inquiry made by the Department and had filed documents. This fact established the presence and genuineness of the exporter.

**13.2** It is submitted that all the documents qua KYC were already submitted during investigation. The same are also referred in the notice. It is unfortunate that this aspect does not appear to have been examined. We discuss each of the documents here-in-below. We have attached copy of each documents discussed.

**a. Aadhaar Card, PAN card, IEC registration**

The exporter firm is a proprietorship firm. The aadhaar card copy of the owner is available and attached herewith. There is no verification of aadhaar card and there is nothing to show that the same is incorrect or sham.

What is more interesting is that the aadhaar card also gives address of the owner. This address is different from the one on record. Again there is no inquiry at this address. Without inquiry no conclusion can be arrived at.

**b. GST registration.**

The exporter was registered with GST authorities and, even otherwise, normal inquiry at the portal is feasible.

The Department had, through jurisdictional GST department, made inquiry at the address of the exporter. The jurisdictional GST department reported, under letter dated 4-8-22, the premises to be fake and intimated that proceedings were undertaken to cancel the registration. Thus it is established that till 4-8-22 the GST registration was valid and operational. (Pl see para 3.5 of the notice.)

Para 3.6 refers to inquiry at GST portal. It states that registration was cancelled with effect from 6-2-22 which is the date of registration. It would be clear that the GST registration was cancelled with retrospective effect and therefore on 6-2-22, the registration was valid and operational. This retrospective cancellation may have significance qua GST regulations but has no relevance qua present matter.

Again who cancelled the GST registration is also relevant. Very possibly, GST department must have cancelled the registration.

Again as mentioned above, this place was only additional place of business and not the principal place of business. There is no information available as to state of principal place of business.

It is also beyond comprehension as to how the address is fake when the GST Department had granted registration. It is NOT the address which is fake, implying non-existence, but that the exporter is not available at the address as on day of investigation. In fact, we have submitted copy of rent agreement, duly stamped and copy of electricity bill for the premises. Thus the address is correct and only question is availability of exporter at that address on date of inquiry.

Unfortunately, no panchnama appears to be drawn at that premises. The facts, from the owner of the premises, are not brought on record. There is no investigation as to availability of exporter at the address during material period. The present situation cannot assist us in drawing picture at material time.

Exporter is a living human being and not mere legal entity. A living human being cannot be fake / non-existent.

Thus all that is established is that on the day of inquiry. i.e. 4-8-22, the exporter was not available at the address. Nothing turns on these investigations. It does not cast any suspicion on our KYC obligation.

At the same time, it is important that the GST portal shows filing of returns by the said exporter. This also established the fact of their existence during material period of export. If facts have undergone changes, post export, we are not responsible in any manner.

It is obvious that the conclusion reached in para 3.7 and 3.8 is incorrect and erroneous. The inquiry is superfluous and incomplete. The obvious documentary position is ignored. Not only factual position is not correctly examined but even legal position is ignored. An individual, living person cannot be called fake or bogus or sham. The case of the Department is not impersonation by individual. The transaction can be fake but not the person unless there is impersonation.

It is also matter of settled law that as Customs Broker, we were never expected to undertake physical verification of address of the exporter, when the documentary proofs were available. The notice / Departmental investigation does not hint possible suspicious nature of the documents. It only records factual position on date of inquiry.

At the same time what is crucial to note that the GST portal shows and gives principal place of business at some other address. This would be available both to Customs Department and GST department. However, there is no inquiry at this principal place of business. It is not advisable to reach to any conclusion without such elementary inquiry.

Further documents such as PAN card and IEC registration were also available and produced. There is no allegation that there were incorrect or false. There is no reference to these in the notice.

There is no investigation qua the foreign buyer or the supplier of goods to the exporter.

Thus the inescapable conclusion is that the exporter was available, existent at material time. The KYC obligation was correctly fulfilled. Thus there is no violation of any requirement on our part.

**13.3** Penalty under section 117 is envisages where there is no other penalty provision applicable. Said section reads as under:

***SECTION 117. Penalties for contravention, etc., not expressly mentioned. -***

*Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.*

Here in facts of present case, we had discharged our obligation. There is no failure of compliance of any provisions of Customs Act on our part. We have no relation to mistakes, over valuation etc done by the exporter. There is no charge of abatement. Therefore, no penalty can be imposed on us. We pray for withdrawing the notice against us.

**PERSONAL HEARING**

**14.** Personal Hearing in the matter, was fixed on 19.10.2023, 16.01.2024 and 06.03.2024. However, the noticee M/s. Shree Krishan Enterprise has neither submitted any defence submission nor has appeared for any of the personal hearings. Shri S. J. Vyas, Advocate, authorized representative of the noticee M/s. Velji Dosabhai & Sons Pvt. Ltd. attended the personal hearing on 19.01.2024 and reiterated their written submission dated 11.01.2024 and 17.01.2024 and requested to drop the proceedings initiated in the show cause notice.

**DISCUSSION & FINDING**

**15.** I have carefully gone through the facts of the case, allegation made in the show cause notice dated 31.07.2023, following the principles of natural justice as per the provisions of the Customs Act / Rules.

I find that following main issues are involved in the SCN, which are required to be decided-

- i. Whether the noticee(s) has over-valued the aforesaid goods.
- ii. Whether the aforesaid goods attempted to be exported are liable for confiscation and penalty can be imposed on exporter.
- iii. Whether the Drawback and RODTEP claimed by exporter are liable to be rejected.
- iv. Whether the custom broker is liable for penalty for the act done by the exporter.

**16.** The facts of the case are that the exporter has filed Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 for export of "Tungsten Carbide" under Chapter 82090010 and declared FOB value of Rs. 5,03,14,255/- . The Country of destination was declared as United Arab Emirates. Based on the alert received from NCTC, the impugned goods were put on hold and examined by Docks Officer at M/s. Seabird CFS, Mundra Port, Mundra.

**17.** I find that from the investigation made by the SIIB officers, Custom House, Mundra, various incriminating documents and evidences has been put forth before me that reveals the indulgence of exporter in the alleged fraudulent activity.

**18.** I also find that the verification report from the Additional Commissioner (Anti Evasion), Central GST & Central Excise, Ahmedabad North indicated that M/s. Shri Krishan Enterprise having GSTIN 24EXSPM9406H2ZX is fake/bogus tax payer.

**19.** In the era of self-assessment that has been introduced on 08.04.2011 vide Finance Act, 2011, the assessee is expected to take utmost care while assessing before presenting the goods to the custom authorities for export. Important changes were made to Section 17 of the Customs Act, 1962 vide Section 38 of the Finance Act, 2011 with effect from 08.04.2011. The said amendment altered the method of assessment of Shipping Bill. With effect from 08.04.2011, assessment of Shipping Bill was no longer left with the "proper officer" appointed for the purpose under Section 17 of the Customs Act, 1962. With effect from 08.04.2011 there is only self-assessment of Bill(s) of Entry and/or Shipping Bill(s). Self-assessment in the Shipping Bill were to be either accepted or rejected by the proper officer. The "Proper Officer" appointed for the purpose of Section 17 of the Customs Act, 1962 under a Notification issued under Section 2(34) of the Act, could only make a re-assessment of the Shipping Bill(s) in case they did not agree with the self assessment of the importer or the exporter as the case may be.

**20.** I find that there was a paradigm shift in the method of assessment with effect from 08.04.2011. Till 07.4.2011, the assessment of Shipping Bill was by a "proper officer" appointed for that purpose under Section 2(34) of the Custom Act, 1962. The assessment was left to the Group 'B' Gazetted Officers and it is only such officers were appointed as "proper officers" for assessment under Section 17. However, after 08.04.2011, Shipping Bill are to be self-assessed by an exporter under Sections 46 and 50 of the Customs Act, 1962 respectively. A "proper officer" has to merely verify the entries made in the Shipping Bill under Section 50. The "Proper Officer" may examine or test imported goods or export goods or such part thereof as may be necessary. If required, such an officer can only re-assess the goods under Section 17 of the Act. Thus, a "Proper Officer" under Section 17(1) & 17(4) of the Act is merely required to re-assess the imported goods or export goods where he differs with the self-assessment of an importer or an exporter.

**21.** I find that on the basis of investigation made by SIIB, Custom House, Mundra, the situation has arisen where it is necessary to interfere with the 'self-assessment' made by the noticee and by the way of SCN, an opportunity was given to the noticee(s) to submit their defence. However, as discussed earlier, no defence submission were given by M/s. Shree Krishan Enterprise.

**22.** I find that in such conditions the transaction value is liable to be rejected under section 14 of the Customs Act, 1962 which says that the rules made in this behalf may provide for the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has to doubt the truth or accuracy of such value and determination of value for the purpose of this section.

**22.1** Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 is reproduced below:

#### **8. Rejection of declared value-**

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value

so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

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

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

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

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

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

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

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

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

**22.2** I find that the provisions of Rule 8(2) gives the legal backing to reject the transactional value declared by the noticee(s). After the rejection of declared value of the impugned goods, it becomes imperative to re-determine the value, the provisions of which are available in the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Rule 3, 4 and 6 of the aforesaid rules the value of the impugned goods is to be decide.

**22.3** The self-assessment had been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(i) an importer or exporter has to make self-assessment. Thus, more reliance has been placed on importers and exporters under self-assessment. Further, Section 50(2) of the Customs Act, 1962 provides that the exporter of any goods, while presenting a shipping bill or bill of export shall make and subscribe to a declaration as to the truthfulness of its contents. However, in this case, the Noticee Nos. 1 has not made and subscribed a truthful declaration, in as much as, they, by resorting to overvaluation of the goods as well as mis-declaration of the export goods, have appeared to contravene the provisions of Section 50 of the Customs Act, 1962 in as much as they did not correctly declare the FOB value of their export goods to claim higher drawback and other export related incentives.

**22.4** Further, it appears that the exporter resorted to mis-declaration of value of the export goods, therefore, the transaction value declared in the Shipping Bills as appears liable to be rejected under Section 14 of the Customs Act, 1962. Section 14 of the Customs Act, 1962 provides that the rules made in this behalf may provide for the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value and determination of value

for the purpose of this section. Further, as discussed above, Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, (herein after referred to as the CVR, 2007) issued under Section 156 read with Section 14 of the Act, provides for rejection of declared value when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods.

**22.5** Since the transaction value of the exported goods was found to be significantly higher as compared to the actual value of the goods, the same appears liable for rejection.

**23.** As per Rule 4 of the CVR 2007, the value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination, country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2) of the said Rule. I find that as the goods under export could not be compared with similar goods in the absence of exact description of the goods in terms of design, sizes etc., hence I hold that value of the subject export goods cannot be determined under the provisions of Rule 4 of the CVR, 2007.

**24.** Next, I move towards Rule 5 of the CVR 2007 which is reproduced as under:

5. Computed value method. –

If the value cannot be determined under rule 4, it shall be based computed value, which shall include the following: -

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

I find that the value of the goods under export could not be determined, considering the cost of production, profit margin etc. as per Rule 5 of the Rules ibid, as the Party is non-existent.

**25.** Thus, the value of impugned goods merit to be re-determined under residual method i.e. Rule 6 of the rules ibid by conducting market inquiry to ascertain the fair value. Rule 6 of the CVR, 2007 which is reproduced as below:

6. Residual method. –

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

**26.** Therefore, I find that the valuation of goods is to be determined under Rule 6 of the Customs Valuation (Determination of export goods) Rules, 2007 using reasonable means consistent with the principles and general provisions of these Rules and therefore, opinion of the Chartered engineer was taken by way of market research. The Chartered Engineer had submitted the valuation certificate and re-determined the value Rs. 50,97,700/- (Rupees Fifty Lakh Ninety Seven Thousand and Seven Hundred Only) for the goods covered under Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 respectively. Hence, I find that re-determined value of the impugned goods

covered under Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 is Rs. 50,97,700/-.

**27.** In respect of confiscation of the impugned goods and penalty to be imposed thereon, I find that the Section 113 makes it clear that 'export goods' shall incur the liability to confiscation if any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act. 'Export goods' as defined in Section 2(19) of the Customs Act means 'any goods which are to be taken out of India to a place outside India'. This liability which "accrues or arises as soon as the attempt to export the goods is made is in no way dependent and has not been made dependent on the possibility or feasibility of actual confiscation of the goods. This accrued liability of the goods to confiscation clearly attracts Section 114(iii) of the Customs Act which provides that any person who in relation to any goods, does or omits to do any act, which act or omission would render such goods liable to confiscation under Section 113 or abets the doing or omission of such an act, shall be liable to penalty as provided in the said Section.

Hence, I find that impugned goods exported under Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 by the M/s. Shree Krishan Enterprise having re-determined FOB value of Rs. 50,97,700/- (Rupees Fifty Lakh Ninety Seven Thousand and Seven Hundred only) is liable to confiscation for violation of Section 113(i) Section 113(ia) & Section 113(ja) of the Customs Act 1962.

**28.** I find that the claims for Drawback of Rs. 9,05,656/- and claim for RODTEP of Rs. 6,03,772/- filed by M/s. Shree Krishan Enterprise while filling the Shipping Bill No. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 are not permissible for sanction in favour of the exporter in view of the misdeclaration of value of the impugned goods to take the undue benefit in the form of duty drawback and RODTEP and accordingly failed to comply with the provision of Section 50 of the Customs Act, 1962 and hence rendered the goods liable for confiscation. Therefore, I find that the claims for Drawback of Rs. 9,05,656/- is liable to be rejected under the provisions of the Section 75 of the Customs Act, 1962 read with rule 16 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 and claim for RODTEP of Rs. 6,03,772/- is liable to be rejected in contravention of the provisions of the Customs Act, 1962.

**29.** I find that M/s. Shree Krishan Enterprise had over-valued the impugned goods to take the undue benefit in the form of duty drawback and RODTEP and accordingly failed to comply with the provision of Section 50 of the Customs Act, 1962 and hence rendered the goods liable for confiscation. They submitted wrong export document such as over-valued invoices etc. to obtain above said benefits. Hence, by intentionally making false and incorrect declaration with respect to value of the goods. For these acts of commissions and omissions on their part, I find them liable for penalty under section 114(iii) of the Customs Act, 1962.

**30.** I find that the M/s. Velji Dosabhai & Sons Pvt. Ltd. acted as authorised custom broker of M/s. Shree Krishan Enterprise. Custom Brokers are governed by Customs Brokers Licensing Regulations (hereinafter referred as 'CBLR', 2018). Regulation 10 (d) and (n) of CBLR, 2018 is reproduced below:

#### 10. Obligations of Customs Broker—

A Customs Broker shall —

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information

**30.1** I find that M/s. Velji Dosabhai & Sons Pvt. Ltd. failed to advise the exporter to comply with the provisions of the Customs Act, 1962 and also failed to bring the compliance matter to the notice of Deputy Commissioner of Customs or Assistant Commissioner of Customs. I find that M/s. Velji Dosabhai & Sons Pvt. Ltd. also failed to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo and also failed to discharge his duties with utmost speed and efficiency and without any delay.

**30.2** I find that as per the report of jurisdictional CGST office the exporter i.e. M/s. Shree Krishan Enterprise was found to be a fake tax payer. Hence, M/s. Velji Dosabhai & Sons Pvt. Ltd. failed to verify the credentials of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information as provided under Regulation 10 of CBLR, 2018 and Customs Valuation (Determination of Value of Export Goods) Rules, 2017. Though, M/s. Velji Dosabhai & Sons Pvt. Ltd. in his defence submission has submitted that there is no failure of compliance of any provisions of Customs Act on their part and they have no relation to mistakes, over valuation etc done by the exporter. There is no charge of abatement.

**30.3** I rely on the Hon'ble Supreme Court's decision in the case of Commissioner of Customs V/s K. M. Ganatara and co. in civil appeal no. 2940 of 2008 wherein the apex court has approved the observation of Hon'ble CESTAT Mumbai in M/s Noble Agency V/s Commissioner of Customs, Mumbai that:

*"A Customs Broker occupies a very important position in the Customs House and was supposed to safeguard the interests of both the importers and the Customs department. A lot of trust is kept in CB by the Government Agencies and to ensure appropriate discharge of such trust, the relevant regulation is framed. Regulation 11 of CBLR, 2013 (now Regulation 10 of CBLR, 2018) lists out the obligation of the Customs Broker. Any contravention of such obligations even without intent is sufficient to invite upon CB the punishment listed in the Regulations".*

**30.4** I also rely on the Hon'ble Tribunal Judgement in the case of Rubal Logistics Pvt. Ltd. Vs Commr. Of Cus (General), New Delhi reported in 2019 (368) E.L.T. 1006 (Tri- Del.). The relevant para 6.1 of the said judgement is as under:

*"6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. Though the CHA was accepted as having no mensrea of the noticed misdeclaration/under-valuation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CHA definitely has committed violation*

*of the above mentioned Regulations. These Regulations caused a mandatory duty upon the CHA, who is important link between the Customs Authorities and the importer/exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein"*

**30.5** I find that ratio of the aforesaid judgements is squarely applicable in the instant case. Hence, I find that had the CB, M/s. Velji Dosabhai & Sons Pvt. Ltd. acted efficiently, the revenue loss of government would have not taken place. The above evidence record clearly indicates that the CB was working in a manner to facilitated fraud and violated the obligations cast upon them under the CBLR, 2018. The CB has clearly failed to discharge duties cast on him under CBLR, 2018 and is liable for penalty.

**30.6.** Thus, I find that M/s. Velji Dosabhai & Sons Pvt. Ltd. were negligent in fulfilling the statutory responsibilities in the manner they should have been done. They could have been more careful in respect of their clients/ customers so that such frauds could have been prevented. Hence, I find that penalty under Section 117 of the Customs Act, 1962 is necessary to deter noticee M/s. Velji Dosabhai & Sons Pvt. Ltd. and signal to them to be more careful while conducting their business in relation to imports and exports of goods.

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

**ORDER**

- i. I reject the declared FOB value of Rs. 5,03,14,255/- (Rupees Five Crore Three Lakh Fourteen Thousand Two Hundred and Fifty Five only) of the goods covered under impugned Shipping Bills bearing no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 under Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and order to re-determine the FOB value as Rs. 50,97,700/- (Rupees Fifty Lakh Ninety Seven Thousand and Seven Hundred only) under Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- ii. I order for confiscation of the impugned goods covered under Shipping Bills no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022 having re-determined value of Rs. 50,97,700/- under Section 113(i), Section 113(ia) & Section 113(ja) of the Customs Act, 1962. However, I give an option to the Exporter to pay Redemption Fine in lieu of the Confiscation amounting to Rs.5,00,000/- (Rupees Five Lakh only) as per the provisions of the Section 125 of the Customs Act, 1962 .
- iii. I reject the claim of drawback of Rs. 9,05,656/- as claimed by exporter in respect of Shipping Bill no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022.
- iv. I reject the claim of RODTEP of Rs. 6,03,772/- as claimed by exporter in respect of Shipping Bill no. 9026055 dated 17.03.2022 and 9095472 dated 21.03.2022.
- v. I impose a penalty of Rs.15,00,000/-(Rupees Fifteen Lakh only) on M/s. Shree Krishan Enterprise under the provisions of Sections 114(iii) of the Customs Act, 1962.
- vi. I impose a penalty of Rs.4,00,000/-(Rupees Four Lakh only ) on M/s. Velji Dosabhai & Sons Pvt. Ltd. under the provisions of Sections 117 of the

Customs Act, 1962.

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

**33.** The SCN F. No. GEN/ADJ/ADC/1518/2023-Adjn-O/o Pr Commr-Cus-Mundra dated 31.07.2023 is disposed off in above terms.

**MUKESH KUMARI  
ADDITIONAL COMMISSIONER  
CUSTOMS HOUSE, MUNDRA.**

**F. No.** GEN/ADJ/ADC/1518/2023-Adjn-O/o Pr Commr-Cus-Mundra

**BY SPEED POST**

**To,**

1. M/s. Shree Krishan Enterprise,  
411, Shop No. 508, Pramukhpark,  
Behind AEC Char Rasta, Naranpura,  
Ahmedabad, Gujarat – 380013.
2. M/s. Velji Dosabhai & Sons Pvt. Ltd.,  
203 & 204, 2<sup>nd</sup> Floor, New Port User Building,  
Mundra Port, Mundra.

Copy to:-

1. The Additional Commissioner (SIIB), Customs House, Mundra
2. The Deputy/Assistant Commissioner (RRA), Customs House, Mundra
3. The Deputy/Assistant Commissioner (TRC), Customs House, Mundra
4. The Deputy/Assistant Commissioner (EDI), Customs House, Mundra for  
uploading the same on the website of Customs House, Mundra
5. Guard File.

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