

	<p align="center">OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 Phone No.02838-271423/271426</p>	
File No.	: CUS/DOCK/SZR/26/2025-Docks Examn-O/o Pr Commr-Cus-Mundra	
Order-in- Original No.	: MCH/ADC/AKM/234/2025-26	
Passed by	: Amit Kumar Mishra, Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra.	
Date of order /Date of issue	: 04-09-2025/ /04-09-2025	
Show Cause Notice No. & Date	: SCN and PH waiver	
Noticee(s)/Party/ Exporter	: M/s Dhara Foods Pvt. Ltd. (IEC-3499000172), Regd. & Works Office: Gokul, Opp. Nava Ramji Mandir, Station Road, Gamdi Vad, Anand, Gujarat - 388 001	
DIN	: 20250971MO0000211260	

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

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

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

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

‘सीमा शुल्क आयुक्त (अपील),
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

3. उक्त अपील यह आदेश 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 सं०-6 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 ड्यूटी/ 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, सीमा शुल्क)अपील (नियम, 1982 और सीमा शुल्क अधिनियम, 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 FACTS OF THE CASE

M/s Dhara Foods Pvt. Ltd. (IEC-3499000172), (hereinafter referred to as 'the Exporter') having address Gokul, Opp. Nava Ramji Mandir, Station Road, Gamdi Vad, Anand, Gujarat – 388 001 has filed Shipping Bill No. 4428038 dated 13.08.2025 for export of various food items at Mundra Port through their Customs Broker M/s Deepam Shipping Agencies.

2. Shipping Bill No. 4428038 dated 13.08.2025 was filed by the CB M/s Deepam Shipping Agencies on behalf of exporter M/s Dhara Foods Pvt. Ltd. The declared FOB value of the goods in said Shipping Bill as per Invoice No. DF/EXP/154/2526 dated 31.07.2025 is **Rs. 24,94,556/-** (USD 28,706.05) for various food items including pulses, spices, masalas, flours, processed foods, and other grocery items intended for M/s Shrinath Trading LLC, 38507 Cherry Street, Suite F, Newark, CA 94560 USA.

3. The cargo was stuffed into a single self-sealed container No. MSMU7265245 and intended for M/s Shrinath Trading LLC, 38507 Cherry Street, Suite F, Newark, CA 94560 USA with notify party as M/s Drip Capital, Inc., 555, Bryant St #356 Palo Alto, CA 94301 USA. The self-sealing permission was granted by the Ahmedabad Commissionerate vide F.No. CUS/EPF/SSP/1294/2023-TECH-O/O PR COMMR-CUS-AHMEDABAD dated 11.06.2025.

4. Upon registration of the Shipping Bill and assessment, the goods were selected for physical examination. The entire cargo was de-stuffed on 19.08.2025 and during the packet inspection, concealment of wheat flour was noticed. A Chartered Engineer (Government approved Valuer) Er. Ajayrajsinh B. Jhala was entrusted with the task of preparing valuation report of actual cargo.

5. The examination findings revealed significant discrepancies between the declared cargo and the actual goods found in the container. As per the Chartered Engineer's report dated 30.08.2025, the following items were found:

5.1 Declared Items found as per CE Report:

Table-A

Sl.No.	DESCRIPTION	QTY	UNIT PRICE (USD)	CE Value (USD)	Value in INR
1	Desi Chana	90	27.00	2430.00	211167.00
2	Toor Dal	240	37.60	9024.00	784185.60
3	Daliya Split (Chana)	16	47.20	755.20	65626.88
4	Gluten Free Flour	18	25.90	466.20	40512.78
5	Khakhra (Ginger Garlic Bajri)	50	5.60	280.00	24332.00
6	Khakhra (Jeera)	50	5.60	280.00	24332.00

7	Khakhra (Methi)	50	5.60	280.00	24332.00
8	Khakhra (Chatpata Bajri)	50	5.60	280.00	24332.00
9	Khakhra (Ragi Ajwain)	50	5.60	280.00	24332.00
10	Khakhra (Masala)	50	5.60	280.00	24332.00
11	Khakhra (Plain)	50	5.60	280.00	24332.00
12	Dagadi Poha	13	30.70	399.10	34681.79
13	Flavoured Phool Makhana	225	12.80	2880.00	250272.00
14	Indian Namkeen	100	5.20	520.00	45188.00
15	Indian Namkeen	75	6.25	468.75	40734.38
16	Indian Namkeen	10	10.30	103.00	8950.70
17	Sabudana	10	23.80	238.00	20682.20
18	Coriander Seeds	10	40.80	408.00	35455.20
19	Coriander Seeds	30	8.00	240.00	20856.00
20	Fennel Seeds	20	65.60	1312.00	114012.80
TOTAL				USD 21,204.25	INR 18,42,649/-

5.2 Undeclared Prohibited Items as per CE Report:

Table-B

S.No.	Item Description	Quantity Found	Unit	Unit Price (USD)	CE Value (USD)	Value in INR
1	Wheat Flour	294	PKT (20 LBS X 2)	10	2940	255486
2	Cracked Wheat	43	PKT (55 LBS X 1)	18.5	795.5	69128.95
TOTAL					USD 3,735.5	INR 3,24,615/-

5.3 Undeclared Non-Prohibited Items as per CE Report:

Table-C

S.No.	Item Description	Quantity Found	Unit	Unit Price (USD)	CE Value (USD)	Value in INR
1	Idli Rava	29	PKT (55 LBS X 1)	18.5	USD 536.50	INR 46,622/-

5.4 Items Declared But Not Found:

Table-D

		Declared	Declared Unit Price	Declared Value	Value in
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S.No.	Description	Qty	(USD)	(USD)	INR
1	Chana Dal	150	18.50	2775.00	241147.50
2	Red Chori	102	21.50	2193.00	190571.70
3	Kashmiri Rajma	72	22.65	1630.80	141716.52
4	Moong Whole	42	21.50	903.00	78470.70
TOTAL				USD 7,501.80	INR 6,51,906/-

6. In view of the above, it is observed that the exporter has declared the value of the goods at Rs. 24,94,556/- in the Shipping Bill, but the actual value of the goods found in the container is **Rs. 22,13,886/-** comprising declared goods worth Rs. 18,42,649/-, undeclared prohibited goods worth Rs. 3,24,615/- and undeclared non-prohibited goods worth Rs. 46,622/- as per the Chartered Engineer's Report dated 30.08.2025. Further, some goods declared in the Shipping Bill were not found during the examination and in their place, the exporter had concealed undeclared goods. The examination and Chartered Engineer's Report dated 30.08.2025 revealed false declarations of goods, including prohibited wheat flour and cracked wheat, undeclared non-prohibited goods and content misdeclaration in shipping documentation.

7. The exporter vide their letter dated 02.09.2025 submitted the following:

*"We write to seek clarification regarding the export of our consignment of Wheat Flour, cracked wheat & idli rava. We respectfully request your esteemed authority to kindly grant us a **waiver of any Show Cause Notice (SCN) and personal hearing** or related requirements, and to decide the matter purely on merit.*

*Further, we humbly urge your good office to withdraw the whole consignment under question and **permit us to take the cargo back to town** on priority, based on merit.*

We sincerely thank you for your kind attention and consideration, and we look forward to your prompt and favourable response."

LEGAL PROVISIONS

8.1. Various provisions of **Customs Act, 1962** are applicable in the instant case:

Section 50: Entry of goods for exportation. (2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents. (3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: - (a) the accuracy and completeness of the information given therein; (b) the authenticity and validity of any document supporting it; and (c) compliance with the restriction or prohibition, if any, relating to the goods

under this Act or under any other law for the time being in force.

Section 113: Confiscation of goods attempted to be improperly exported, etc. - *The following export goods shall be liable for confiscation:-*

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(h) any goods which are not included or are in excess of those included in the entry made under this Act;

(i) 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 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 for confiscation under section 113, shall be liable, -*

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;

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

Section 114AA: Penalty for use of false and incorrect material. - *If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable for a penalty not exceeding five times the value of goods.*

Section 119: Confiscation of goods used for concealing smuggled goods. *"Any goods used for concealing smuggled goods shall also be liable to confiscation."*

8.2 DGFT Notification No. 39/2015-2020 dated 14.10.2022: Prohibits the export of "Wheat or Meslin Flour (Atta), Maida, Semolina (Rava/Sirgi), Wholemeal atta and resultant atta" under CTH-1101.

WAIVER OF PERSONAL HEARING & SCN

9. The exporter vide letter dated 02.09.2025 has requested for waiver of Show Cause Notice and Personal Hearing in the subject matter. The exporter has also requested to Back to Town the goods.

DISCUSSION AND FINDINGS

10. I have carefully gone through the records of the case. The exporter vide letter dated 02.09.2025 requested for waiver of Show Cause Notice and personal hearing. Thus, I find that the principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with, and therefore, I proceed to decide the case on the basis of the documentary evidence available on records.

11. The issues to be decided by me are:

(i) Whether the declared value of **Rs. 24,94,556/-** in the Shipping Bill No. 4428038 dated 13.08.2025 should be rejected and re-determined at **Rs. 22,13,886/-** (*comprising declared goods worth Rs. 18,42,649/-, undeclared prohibited goods worth Rs. 3,24,615/- and undeclared non-prohibited goods worth Rs. 46,622/-*) based on the Chartered Engineer's Report dated 30.08.2025 under the Customs Valuation Rules, 2007;

(ii) Whether the undeclared prohibited goods found are liable for confiscation under Section 113(d), 113(h) and 113(i) of the Customs Act, 1962;

(iii) Whether the undeclared non-prohibited goods found are liable for confiscation under Section 113(h) and 113(i) of the Customs Act, 1962;

(iv) Whether the declared goods are liable for confiscation under Section 113(i) and 119 of the Customs Act, 1962;

(v) Whether the exporter is liable for penalty under Sections 114(i), 114(iii) and 114AA of the Customs Act, 1962.

12.1 Regarding the first issue, I find that the exporter had declared goods worth USD **Rs. 24,94,556/-** in the Shipping Bill No. 4428038 dated 13.08.2025. However, upon physical examination of the container by the Docks Officer, discrepancies were found between the declared cargo and the actual goods. The examination revealed undeclared prohibited items not mentioned in the Shipping Bill, as detailed in the Chartered Engineer's report dated 30.08.2025.

12.2 As per the Chartered Engineer's Report dated 30.08.2025, the total market value of all goods actually found is **Rs. 22,13,886/-**. This comprises declared goods worth **Rs. 18,42,649/-**, undeclared prohibited goods worth **Rs. 3,24,615/-** and undeclared non-prohibited goods worth **Rs. 46,622/-**. This valuation has been conducted in accordance with Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

12.3 According to Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, when the proper officer has reasonable doubt about the truth or accuracy of the declared value, and if after receiving further information or in the absence of a response, the officer still has reasonable doubt, the transaction value shall be deemed not to have been determined in accordance with Rule 3(1).

12.4 In the present case, given the concealment of prohibited goods and false declaration of cargo contents, I find sufficient grounds to reject the declared value and re-determine the value at **Rs. 22,13,886/-** based on actual goods found as per the Chartered Engineer Report dated 30.08.2025.

13.1 Regarding the second issue, I find that undeclared prohibited goods were found in the container as mentioned in Table-B supra, which were not mentioned in Shipping Bill No. 4428038 dated 13.08.2025. These goods are prohibited for export as per DGFT Notification No. 39/2015-2020 dated 14.10.2022.

13.2 Section 113(d) of the Customs Act, 1962 provides for confiscation of "any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force."

13.3 Section 113(h) of the Customs Act, 1962 provides for confiscation of "any goods which are not included or are in excess of those included in the entry made under this Act." These undeclared prohibited goods fall under this provision.

13.4 Section 113(i) of the Customs Act, 1962 provides for confiscation of goods "entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act." The presence of undeclared prohibited goods creates a material discrepancy with the shipping bill entry.

13.5 As the aforesaid goods are prohibited for export as per the DGFT notification mentioned above and were not declared in the Shipping Bill, these goods are liable for confiscation under Sections 113(d), 113(h) and 113(i) of the Customs Act, 1962.

14.1 Regarding the third issue, I find that undeclared non-prohibited goods were found in the container as mentioned in Table-C supra. These goods were not declared in Shipping Bill No. 4428038 dated 13.08.2025.

14.2 I find that these undeclared non-prohibited goods are liable for confiscation under Sections 113(h) and 113(i) of the Customs Act, 1962.

15.1 Regarding the fourth issue, I find that the declared goods found were used to conceal the undeclared prohibited and non-prohibited goods in the container.

15.2 Section 119 of the Customs Act, 1962 provides that "any goods used for concealing smuggled goods shall also be liable to confiscation."

15.3 In the present case, I find that the declared goods were used to conceal the undeclared prohibited and non-prohibited goods in the container. Hence, these goods are liable for confiscation under Sections 113(i) and 119 of the Customs Act, 1962.

16.1 Regarding the fifth issue, I find that the exporter attempted to export undeclared prohibited goods as mentioned in Table-B supra, contrary to DGFT notification, rendering them liable for penalty under Section 114(i) of the Customs Act, 1962.

16.2 I also find that the exporter attempted to export undeclared non-prohibited goods as mentioned in Table-C supra, which do not correspond in respect of value or material particulars with the entries made in the Shipping Bill. Therefore, the

exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962 for these non-prohibited undeclared goods.

16.3 Further, I find that the exporter failed to declare prohibited and non-prohibited items in the Shipping Bill. The act of concealing goods indicates an intent to circumvent proper customs clearance procedures. Some goods declared in the Shipping Bill were not found during the examination and in their place, the exporter had concealed undeclared goods. By knowingly making a false declaration in the Shipping Bill, the exporter becomes liable for penalty under Section 114AA of the Customs Act, 1962.

17. The exporter vide letter dated 02.09.2025 has requested permission for Back to Town the cargo. Considering the nature of the violation and the request, I find it appropriate to allow redemption of the confiscated goods. Although the prohibited goods cannot be exported as per DGFT notifications, redemption allows the exporter to recover their goods for domestic use or other permissible purposes. Section 125 of the Customs Act, 1962 grants discretionary power to the adjudicating authority to allow redemption of confiscated goods upon payment of a fine in lieu of confiscation.

18. In view of the foregoing discussions and findings, I pass the following order:

ORDER

(i) I order to reject the declared value of **Rs. 24,94,556/-** in the Shipping Bill No. 4428038 dated 13.08.2025 and re-determine the value at **Rs. 22,13,886/-** (*comprising declared goods worth Rs. 18,42,649/-, undeclared prohibited goods worth Rs. 3,24,615/- and undeclared non-prohibited goods worth Rs. 46,622/-*) based on the actual goods found as per the Chartered Engineer's report dated 30.08.2025 under the Customs Valuation Rules, 2007;

(ii) I order to confiscate the undeclared prohibited goods as mentioned in Table-B supra, found in Container No. MSMU7265245 under Shipping Bill No. 4428038 dated 13.08.2025 having market value of **Rs. 3,24,615/-** under Sections 113(d), 113(h) and 113(i) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same for Back to Town on payment of a **Redemption Fine of Rs. 1,00,000/- (Rupees One Lakh Only)** under Section 125 of the Customs Act, 1962;

(iii) I order to confiscate the undeclared non-prohibited goods as mentioned in Table-C supra, found in Container No. MSMU7265245 under Shipping Bill No. 4428038 dated 13.08.2025 having market value of **Rs. 46,622/-** under Sections 113(h) and 113(i) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same for Back to Town on payment of a **Redemption Fine of Rs. 10,000/- (Rupees Ten Thousand Only)** under Section 125 of the Customs Act, 1962;

(iv) I order to confiscate all declared goods found as mentioned in Table-A supra, in Container No. MSMU7265245 having market value of **Rs. 18,42,649/-** under Sections 113(i) and 119 of the Customs Act, 1962. However, I give the option to the

exporter to redeem the same for Back to Town on payment of a **Redemption Fine of Rs. 1,00,000/- (Rupees One Lakh Only)** under Section 125 of the Customs Act, 1962;

(v) I order to impose and recover **Penalty of Rs. 1,00,000/- (Rupees One Lakh Only)** from the exporter under Section 114(i) of the Customs Act, 1962 for attempting to export prohibited goods;

(vi) I order to impose and recover **Penalty of Rs. 10,000/- (Rupees Ten Thousand Only)** from the exporter under Section 114(iii) of the Customs Act, 1962 for undeclared non-prohibited goods;

(vii) I order to impose and recover **Penalty of Rs. 1,00,000/- (Rupees One Lakh Only)** from the exporter under Section 114AA of the Customs Act, 1962 for making a false declaration and misdeclaration of goods.

19. This order is issued without prejudice to any other action that may be contemplated against the exporter or any other person(s) 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.

(अमित कुमार मिश्रा)
अपर आयुक्त (निर्यात)
सीमा शुल्क, मुंद्रा

F.No. CUS/DOCK/SZR/26/2025-Docks Examn

To,
M/s Dhara Foods Pvt. Ltd. (IEC-3499000172),
Regd. & Works Office: Gokul,
Opp. Nava Ramji Mandir, Station Road,
Gamdi Vad, Anand, Gujarat – 388 001

Copy to:-

1. The Deputy Commissioner (Tech.), O/o the Pr. Commissioner of Customs, Custom House, Navrangpura, Ahmedabad, Gujarat – 380 009
2. The Deputy Commissioner, Review Section, Custom House, Mundra
3. The Deputy Commissioner, TRC, Custom House, Mundra
4. The Deputy Commissioner, EDI, Custom House, Mundra
5. Guard File.