प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421
ई-मेल/ E-Mail: adj-mundra@gov.in

A	फा. सं./ FILE NO.	GEN/ADJ/ADC/503/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/247/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	19-08-2026
E	जारी करने की तिथि DATE OF ISSUE	19-08-2026
F	कारण बताओ नोटिस संएवं तिथि SCN NO. & DATE	GEN/ADJ/ADC/503/2025-Adjn dated 20.02.2025
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	M/s. Vinaykumar and Co. (IEC: 0805007865) E-323, New Market Yard, Unjha, Mahesana, Gujarat – 384 170

1. यह अपील आदेश संबन्धित 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 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए3-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 128A 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), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"

   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months 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 accompanied by –
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. 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 (Appeals) 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

Specific intelligence gathered by the Directorate of Revenue Intelligence (hereinafter referred to as 'DRI') indicated that **M/s. VINAYKUMAR AND CO., (IEC: 0805007865)** (hereinafter also referred to as the "Importer/Noticee") having address as '**E-323, New Market Yard, Unjha, Mahesana, Gujarat-384170** is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. As per said notification *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*.

2. Acting upon the intelligence, the containers (15 x 40') covered under the Bill of Entry No. 5278246 dated 27.08.2024 filed by the importer M/s. Vinaykumar and Co. at Mundra Custom House were tracked from the website of M/s Oceanic Star Line (**star-liners.com/track-my-shipment/#listing-table**) and primarily it was noticed that there were major discrepancies between the details mentioned in Bill of Lading No. OSLSBL-981/24 for BE No. 5278246 dated 27.08.2024 and the tracking details downloaded from aforementioned website i.e. Name of the vessel, Shipped on Board date, etc. Later, it was noticed that another consignment (15 x 40') imported by M/s. Vinaykumar and Co. covered under BL No. OSLPZUMUN3056024 and IGM No. 2387542 dated 08.09.2024 has arrived at Mundra Port and suffers from same illegality. Accordingly, the import consignment covered under Bill of Entry No. 5278246 dated 27.08.2024 filed by the importer M/s Vinaykumar and Co. and lying in the CFS of M/s Transworld Terminals Private Limited

(Transworld CFS), APSEZ, Mundra and consignment covered under BL No. OSLPZUMUN3056024 and IGM No. 2387542 dated 08.09.2024 was put on hold for examination by officers of DRI. The goods covered under Bill of Entry No. 5278246 dated 27.08.2024 and consignment covered under BL No. OSLPZUMUN3056024 and IGM No. 2387542 dated 08.09.2024 were examined by officers of DRI on 15/16.10.2024 and by the Preventive Officer, CH Mundra on 28.10.2024 & 05.11.2024 and accordingly a panchnama dated 16.10.2024, 28.10.2024 & 05.11.2024 was drawn at the CFS of M/s Transworld Terminals Private Limited (Transworld CFS), APSEZ, Mundra in respect of the same.

3. During the investigation, a search was conducted at the office Premise of M/s Paramount Sea Links Pvt. Ltd. (General Agent working in India on behalf of M/s Oceanic Star Line, Pakistan) having office situated at 'Office No. 14, 2nd Floor, Aviskar Building, Plot No. 204, Ward 12-B, Gandhidham-370201' under Panchnama dated 12.09.2024. During the Panchnama proceedings carried out at the said address, some e-mail correspondences relating to present investigation were resumed by the visiting officers of DRI on a reasonable belief that the same were required for DRI investigation.

4. During the course of investigation, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962 and some documents were collected as stated below:

4.1 Statement of Shri Vinaykumar Prahladbhai Patel son of Shri Prahladbhai Patel (Proprietor), Authorized signatory of M/s. Vinaykumar and Co., E-323, New Market Yard, Unjha, Mahesana, Gujarat-384170, aged 37 years (DOB 05-06-1987), recorded u/s 108 of the Customs Act, 1962 on 21.10.2024 wherein he inter alia stated that in year 1987, his father set up the proprietorship firm M/s. Vinaykumar and Co. for trading of seeds from domestic suppliers; that in the year 1996, his father set up the factory for processing of Watermelon Seeds procured from domestic suppliers only; that in the year 2021-22 they applied for and get quota for importing Watermelon Seeds from DGFT; that around 352 MTs of Watermelon Seeds were imported from Dubai through their broker – Shri Dineshbhai of M/s. Shree Tirupati Brokers, 603, Kings Plaza, Astron Chowk, Rajkot-360001 and around 840 MTs was imported directly by him; that he look after the work related to sale and purchase of seeds and spices both domestic and overseas (imports and exports); that they import watermelon seeds for processing at their factory premises and then after they sell the processed seeds in domestic market only.

Regarding the import of watermelon seeds, he submitted the copy of Sales Contract No. 181 and performa invoice both dated 03.06.2024, Melon/Yellow Peas Import Monitoring System Certificate dated 18.07.2024, B/L No. OSLSBL-981/24 (Shipped on board & Issued date 26.06.2024), Phytosanitary Certificate dated 25.06.2024, Commercial Invoice cum Packing list dated, Fumigation Cert. and COO Cert. all dated 30.06.2024 etc. related to 15 Containers imported under B. L. No. OSLSBL-981/24 (Shipped on board & Issued date 26.06.2024) and Bill of Entry No. 5278246, which were supplied to him by his overseas supplier Shri Ibrahim Al Halali, Dubai of M/s Ibrahim Elhalali Import & Export Enterprises, Khartoum, Sudan and on being asked all of them having the same dates he stated that he had imported these containers directly from overseas supplier and he had no idea of all of them having same dates. He also submitted the copy of Sales Contract No. 181. He further stated that he went to Dubai on business trip in February-2024 to attend the Gulf Food Expo, Dubai and directly talked with overseas supplier Shri Ibrahim Al Halali. He also submitted that in June 2024, he telephonically talked with overseas supplier for 30 containers of Watermelon Seeds and requested to get it loaded before 30th June to which he accepted and further stated that no payment has been made to the overseas supplier regarding the said consignment. He admitted that he is aware about Notification No. 05/2023 dated 05.04.2024 issued by DGFT which stipulates that if watermelons seeds had loaded or shipped on board before 30th June 2024 then it will be under 'Free' category, however if goods loaded on ship or shipped on board after 30th June 2024, then it will be under category of restricted.

On being shown two different shipped on board date i.e. 16.07.2024 and 26.06.2024 in respect of old BL-OSLPZUMUN3056024 and new BL-OSLSBL-981/24 respectively, he stated that it appears that shipped on board date has been manipulated in B/L documents; that shipped on board date has been manipulated from 16.07.2024 to 26.06.2024 in B/L documents by someone but he assured that he had never talk to anyone and also not given directions in this regard for manipulation in documents; that the amendment in B/L documents have done neither by him nor as per his directions; that while making the deal with Shri Ibrahim Al Halali, Dubai of M/s Ibrahim Elhalali Import & Export Enterprises, Khartoum, Sudan, he had clearly told them to send the goods only if the cargo i.e. watermelon seeds ships on board before 30th June, otherwise not to send them; that the payment for the said consignment will be made only after custom clearance.

On being shown email communication dated 14.08.2024 between M/s. Paramount Sealink Pvt. Ltd. through email ID impdocs@paramountsealink.com and representatives of M/s Eastern Shipping Co. Ltd. through email ID tagwa@easternship.com (which was resumed during the search dated 12.09.2024 at premises of M/s.

Paramount Sealink Pvt. Ltd., Gandhidham) in which BL No. OSLPZUMUN3056024 replaced by Switch BL No. OSLSBL-981/24 he stated that he do not know the motive behind the switching of the said BL; and that if he had known in advance that his present shipment (fifteen containers) was loaded after 30.06.2024, he would never have imported it.

On being shown the tracking report generated from the official website of Oceanic Star Line (star-liners.com/track-my-shipment) in respect of containers covered under Bill of Lading No. OSLPZUMUN3056024/ OSLSBL-981/24 which was load full on 30.07.2024 on Vessel- SIDRA AHLAM with voyage no. 2406 from Port Sudan and other details and on perusal of same he admitted that the consignment covered under BL No. OSLPZUMUN3056024 was loaded on 30.07.2024 on Vessel- SIDRA AHLAM with voyage no. 2406 from Port Sudan and not on Vessel-SUNSET X with voyage no. 2423 (as mentioned in switch BL No. OSLSBL-981/24).

On being asked if any other consignment of watermelon seeds have been imported by him he stated that he had made another contract no. 182 dated 03.06.2024 for 420 MTs of watermelon seeds with similar payment terms and conditions and in support submitted the copy of Sales Contract and performa invoice dated 03.06.2024 along with BL No. OSLPZUNSA3056024 provided to him through Whatsapp by his overseas shipper. He also stated that due to discrepancy in the BL No. OSLPZUNSA3056024 (shipped on board 26.06.2024) and the BL No. appearing in the IGM filed by the shipping line, therefore, he abstain from filing the Bill of Entry for the same.

On being shown email communication dated 04.09.2024 between M/s. Paramount Sealink Pvt. Ltd. through email ID impdocs@paramountsealink.com and representatives of M/s Eastern Shipping Co. Ltd. through email ID tagwa@easternship.com (which was resumed during the search dated 12.09.2024 at premises of M/s. Paramount Sealink Pvt. Ltd., Gandhidham) in which BL No. OSLPZUMUN3171424 is replaced by Switch BL No. OSLPZUNSA3056024 he stated that he do not know the motive behind the switching of the said BL; and that if he had known in advance that his present shipment (fifteen containers) was loaded after 30.06.2024, he would never have imported it.

On being shown two different shipped on board date i.e. 17.08.2024 and 26.06.2024 in respect of old BL No. OSLPZUMUN3171424 and new BL-OSLPZUNSA3056024 respectively, he stated that it appears that shipped on board date has been manipulated in B/L documents; that shipped on board date has been manipulated from 17.08.2024 to 26.06.2024 in B/L documents by someone but he assured that he had never talk to anyone and also not given directions in this regard for manipulation in documents; that the amendment in B/L documents have done neither by him nor as per his directions; that while making the deal with Shri Ibrahim Al Halali, Dubai of M/s Ibrahim Elhalali Import & Export Enterprises, Khartoum, Sudan, he had clearly told them to send the goods only if the cargo i.e. watermelon seeds ships on board before 30th June, otherwise not to send them; that the payment for the said consignment will be made only after custom clearance.

4.2 Statement of Shri Bharat Himmatlal Parmar son of Late Sh. Himmatlal Nandaji Parmar, aged 40, Branch Manager of M/s Paramount Sea Links Pvt. Ltd., (Delivery Agent of Shipping line i.e. M/s Oceanic Star Line) recorded u/s 108 of the Customs Act, 1962 on 04.11.2024 wherein he inter alia stated that he has been working as Branch Manager in M/s Paramount Sea Links Pvt. Ltd. for Kandla & Mundra locations since April, 2024, currently handling the work related to export, import and accounts operations; that M/s. Oceanic Star Line is their principal and M/s. Paramount Sea Links Pvt. Ltd. had been handling all shipping-related activities, including export and import at Mundra Port, on behalf of M/s. Oceanic Star Line and also submitted the agreement between them. Further, he stated that they generally receive mail communication regarding consignments sent by M/s. Oceanic Star Line such as the details of arrival notice with containers details. After arrival of the consignment they look after all clearance on behalf of Shipping Line to discharge the goods to their importers. He also submitted the copy of Bill of Lading No. OSLPZUMUN3056024 alongwith Switch BL No. OSLSBL-981/24 in respect to 15 containers covered under BE No. 5278246 dated 27.08.2024 and copy of BL No. OSLPZUMUN3171424 along with switched BL No. OSLPZUNSA3056024 in respect to 15 containers covered under IGM No. 2387542 dated 08.09.2024 pertaining to importer M/s. Vinaykumar and Co.

On being asked he stated that when the shipper submits the loaded container to shipping line and when the container gets loaded on vessel, the goods are considered 'shipped on board' or 'loaded in full.' When asked about the receipt of documents, such as the Bill of Lading, from Oceanic Star Line for the said consignment, and to provide details of the vessel from Sudan to Mundra Port, he mentioned that he had received the documents via email but could not recall the exact date at the moment and also submitted the e-mail conversations, BL wise shipment tracking report (including vessel and transshipment details). On being asked about switch B/L, he stated that he don’t know why the shipper or related person has switched the above mentioned Bills of Lading. He further submitted that as and when we receive mail communication through overseas shipping agent regarding shipment, we communicate the arrival notice to all the importers and also submitted that he is not aware about the Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

On being shown the tracking report generated from the official website of Oceanic Star Line (star-liners.com/track-my-shipment) in respect of containers covered under BE No. 5278246 dated 27.08.2024 which was load full on 30.07.2024 on Vessel- SIDRA AHLAM with voyage no. 2406 from Port Sudan and other details and on perusal of same he admitted that the consignment covered under BL No. OSLPZUMUN3056024 was loaded on 30.07.2024 from Port Sudan.

On being shown the e-mail communication dated 17.08.2024 vide which OBL No. OSLPZUMUN3171424 was shared and e-mail dated 04.09.2024 received by him from M/s. Eastern Shipping Co. Ltd. through email ID tagwa@easternship.com wherein switch BL details were shared with subject mentioned as “OSL PRE ALERT AL AHMED // 24715 PORT SUDAN – MUNDRA” and on perusal of the same he admitted that the subject consignment was loaded on Vessel-AH AHMED with voyage no. 24715 and not on Vessel-SUNSET X with Voyage No. 2423 (as mentioned in switch BL No. OSLPZUNSA3056024).

On being shown the copy of Bill of Lading No. OSLPZUMUN3171424 issued on 26.06.2024 with shipped on board date as 17.08.2024 on Vessel-AL AHMED Voyage No. 24715 along with switched BL No. OSLPZUNSA3056024 issued on 26.06.2024 with shipped on board date as 26.06.2024 on Vessel-SUNSET X Voyage No. 2423 in respect to 15 containers covered under IGM No. 2387542 dated 08.09.2024 and on being asked that it appears that someone has manipulated the shipped on board date and Vessel details by switching the BL in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT, he stated that it appears that someone has manipulated the shipped-on board date and Vessel details while switching the BL and that he had never talked to anyone and also not given instructions in this regard for manipulation of documents.

4.3 Statement of Vankar Bharatbhai Khengarbhai son of Shri. Khengarbhai Vankar, aged 33 (DOB 26.06.1991), Senior Executive (Imports) of M/s Paramount Sea Links Pvt. Ltd., (Delivery Agent of Shipping line i.e. M/s Oceanic Star Line), recorded u/s 108 of the Customs Act, 1962 on 30.12.2024 before the Sr. Intelligence Officer, Directorate of Revenue Intelligence, Gandhidham, Kutch wherein he interalia stated that normally they receive the BL details in 4-5 days and maximum of 10 days from the sailing dated of the respective vessel and after receiving such BL details and pre-arrival notice from the respective vessel operator they file IGM for the said BL; that he has perused the mail conversations submitted by Shri Bharat Himmatlal Parmar during his statement dated 04.11.2024 and as per mail communication dated 31.07.2024 received by them from M/s. Eastern Shipping Co. Ltd. through email ID tagwa@easternship.com in which the details of BL No. OSLPZUMUN3056024 were shared and mail communication dated 14.08.2024 under which Switch BL No. OSLSBL-981/24 details were shared; that he do not know the reason as to why the first BL No. OSLPZUMUN3056024 related to M/s. Vinaykumar and Co. was shared on 31.07.2024 even though the shipped on board dated is 16.07.2024 and date of issue is 26.06.2024.

On being shown the BL No. OSLPZUMUN3056024 (shipped on board date 16.07.2024) received by mail dated 31.07.2024 and OSLSBL-981/24 (Shipped on board and Issue date 26.06.2024) received by mail dated 14.08.2024 he stated that he do not know why it took more than one and half months to receive the final BL vide mail dated 14.08.2024 and on being asked why the vessel name and shipped on board is different he stated that someone has manipulated the said BL.

On being shown the mail conversations submitted by Shri Bharat Himmatlal Parmar during his statement dated 04.11.2024 and as per mail communication dated 17.08.2024 received by them from M/s. Eastern Shipping Co. Ltd. through email ID tagwa@easternship.com in which the details of BL No. OSLPZUMUN3171424 were shared and mail communication dated 04.09.2024 under which Switch BL No. OSLPZUNSA3056024 details were shared; that he do not know the reason as to why the first BL No. OSLPZUMUN3171424 related to M/s. Vinaykumar and Co. was shared on 17.08.2024 even though the shipped on board dated is 17.08.2024 and date of issue is 26.06.2024.

On being shown the BL No. OSLPZUMUN3171424 (shipped on board date 17.08.2024) received by mail dated 17.08.2024 and OSLPZUNSA3056024 (Shipped on board and Issue date 26.06.2024) received by mail dated 04.09.2024 he stated that he do not know why it took more than one and half months to receive the final BL vide mail dated 17.08.2024 and on being asked why the vessel name and shipped on board is different he stated that someone has manipulated the said BL.

4.4 Statement of Shri Chetan Ramesh Thakkar son of Sh. Ramesh Thakkar, Authorised person of M/s. Narendra Forwarders (P) Ltd. (NFPL), recorded u/s 108 of the Customs Act, 1962 on 08.01.2025 wherein he inter alia stated that he has been working as working as a General manager in M/s. Narendra Forwarders (P) Ltd., Ground Floor, “ Geochem House”,Plot

No. 125, Sector-8,Oslo Road, Opp. Ambar Sarovar Portico Hotel, Gandhidam, Kutch- 370201 for the past 29 years; that he look after the customs documentation work related to import, export, correspondence with the party and supervision work related to billing for M/s. NFPL; that their firm came in contact with Shri. Vinaykumar Prahladbhai Patel of M/s.Vinay Kumar & Co. about 15 years back in some agriculture conference and since then they are looking after the work related to import/export for the said firm. Sir I state that for the past 15 years they have mainly worked in the goods related to spices, watermelon seeds etc.; that Shri. Amit Patel, head of documentation in M/s.Vinaykumar and Co. and sometimes Shri. Vinaykumar Prahladbhai Patel himself used to contact from M/s. Vinaykumar & Co.; that Shri Amit Patel contacted them through mail dated 27.08.2024 and sent the documents such as invoice, BL, Packing List, Melon Seeds/ Yellow Peas Import Monitoring System Certificate, Certificate of origin, fumigation certificate, Phytosanitary certificate related to B.E. No. 5278246 dated 27.08.2024; that Shri Amit Patel then again mailed on 27.08.2024 and sent revised documents such as certificate of Origin (Reference No. 05614) and commercial invoice cum packing list (dated 30.06.2024) and in support of his claim submitted the abovementioned documents; that on being enquired by them about such revision Shri Amit Patel informed them that they have not received/misplaced the original documents and hence requested to file the Bill of Entry with these revised two documents and the remaining documents as per earlier mail dated 27.08.2024; that they file the said B.E. No. 5278246 dated 27.08.2024 covering watermelon seeds on the direction of Shri Amit Patel; that their firm contacted Shri. Mohit from M/s. Paramount Sealink Pvt. Ltd. for consignment of watermelon seeds covered under B.E. No. 5278246 dated 27.08.2024.

On being shown the copy of the email conversation received from tagwa@easternship.com dated 14.08.2024 wherein BL No. OSLPZUMUN3056024 replaced by Switch Bill No. OSLSBL-981/24 is mentioned and email conversation dated 04.09.2024 received from tagwa@easternship.com wherein BL No. OSLPZUMUN3171424 replaced by Switch BL No. OSLP**ZUNSA**3056024 is mentioned, he stated that he has seen such conversation for the first time and have no knowledge about the same and neither are they a party to it.

On being asked about the cargo of watermelon seeds covered under B.L. OSLPZUMUN3171424/OSLP**ZUNSA**3056024 imported by M/s. Vinay Kumar and Co., he stated that Shri Amit Patel of M/s. VinayKumar & Co. have sent us the documents such as Copy of BL – OSLP**ZUNSA**3056024, invoice, Country of origin certificate, PIMS Certificate, fumigation certificate, Phytosanitary certificate, end use certificate, Form-I vide mail dated 28.08.2024; that after receiving the said documents, they found out that the details of the BL mentioned in the IGM were different than the BL received by them, hence they informed M/s. Paramount Sealink Pvt. Ltd. and M/s. Vinay Kumar & Co. vide the mail dated 11.09.2024 about the same. He further stated that Shri Amit Patel of M/s. Vinaykumar & Co. informed them to take the follow up of the said issue with the container line M/s. Paramount Sealink Pvt. Ltd., however, till date they have not received any direction from the importer M/s. Vinaykumar and Co. to file the Bill of Entry for the said cargo and in support of his claim submitted the copy of mail conversation.

On being asked he admitted that he is aware about Notification No. 05/2023 dated 05.04.2024 issued by DGFT which stipulates that if watermelons seeds had loaded or shipped on board before 30th June 2024 then it will be under 'Free' category, however if goods loaded on ship or shipped on board after 30th June 2024, then it will be under category of restricted.

On being asked about the BL No. OSLPZUMUN3056024 (shipped on board 16.07.2024) issued dated 26.06.2024 with the consignee as M/s. Vinaykumar & Co. for the cargo as watermelon seeds he stated that he had no knowledge about the said BL OSLPZUMUN3056024 (shipped on board 16.07.2024) issued dated 26.06.2024.

On being shown the copy of Bill of Lading No. OSLPZUMUN3056024 issued on 26.06.2024 with shipped on board date as 16.07.2024 on Vessel-SIDRA AHLAM with Voyage No. 2406, switched BL No. OSLSBL981/24 issued on 26.06.2024 with shipped on board date as 26.06.2024 on Vessel-SUNSET X Voyage No. 2423 and the tracking of the container FCIU8553065, BL OSLPZUMUN3056024 available from the official site "star-liners.com/track-my-shipment/#listing-table" wherein it is shown that SIDRA AHLAM vessel with voyage no. 2406 has Shipped on 30.07.2024 from Port Sudan he stated that he has seen the said copy of tracking of the container FCIU8553065, BL OSLPZUMUN3056024 for the first time and abstain from offering any comments on the said tracking as it deals with the shipping line.

On being shown the copy of Bill of Lading No. OSLPZUMUN3056024 issued on 26.06.2024 with shipped on board date as 16.07.2024 on Vessel-SIDRA AHLAM with Voyage No. 2406, switched BL No. OSLSBL981/24 issued on 26.06.2024 with shipped on board date as 26.06.2024 on Vessel-SUNSET X Voyage No. 2423 and on being asked that it appears that someone has manipulated the shipped on board date and Vessel details by switching the BL in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT, he stated that he has seen the said BL No. OSLPZUMUN3056024 for the first time and abstain from offering any comments as the matter pertains to shipping line.

On being shown the copy of Bill of Lading No. OSLPZUMUN3171424 issued on 26.06.2024 with shipped on board date as 17.08.2024 on Vessel-Al Ahmed with Voyage No. 24715, and switched BL No. OSLP**ZUNSA**3056024 issued on 26.06.2024 with shipped on board date as 26.06.2024 on Vessel-SUNSET X Voyage No. 2423 and on being asked that it appears that someone has manipulated the shipped on board date and Vessel details by switching the BL in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT, he stated that he is not aware of existence of the Bill of Lading No. OSLPZUMUN3171424 issued on 26.06.2024 with shipped on board date as 17.08.2024 on Vessel- Al Ahmed with Voyage No. 24715 which have been shown to him for the first time and abstain to offer any comments for the same since the matter pertains to the shipping line. Moreover, due to difference in the Bill of Lading No. in the IGM and the Bill of Lading copy provided by the importer for filing the documents and such discrepancy was duly communicated to the importer M/s. Vinay Kumar and Co. and shipping line M/s. Paramount Sealink Pvt. Ltd. for verifying and correctness of the same but till date no communication has been received by them in the said matter from the either side.

5. <u>Evidences available on record during investigation :</u>

5.1 The tracking details of the 15 containers covered under BL No. OSLPZUMUN3056024 loaded on vessel SIDRA AHLAM with voyage no. 2406 obtained from the site Oceanic group (star-liners.com/track-my-shipment/#listing-table) wherein it is mentioned that the vessel SIDRA AHLAM with voyage no. 2406 has shipped from the Port Sudan on 30.07.2024 and 15 containers covered under BL No. OSLPZUMUN3171424 in which the Port of Loading is mentioned as PORT SUDAN and the shipped on board date is mentioned as 17.08.2024 with Vessel name as AL AHMED and Voyage 24715. On perusing the BL No. OSLPZUMUN3056024 (verify) received from Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan through mail (tagwa@easternship.com) dated 31.07.2024 wherein the ship on board date is mentioned as 16.07.2024 with vessel as SIDRA AHLAM having voyage no. 2406 issued by M/s. Eastern Shipping Co. Ltd., Sudan and switch BL No. OSLSBL-981/24 (verify) received from Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan through mail (tagwa@easternship.com) dated 11.08.2024 wherein the ship on board date is mentioned as

26.06.2024 with vessel as SUNSET X having voyage no. 2423 issued by M/s. Eastern Shipping Co. Ltd., Sudan which was submitted for filing IGM and Bill of Entry No. 5278246 dated 27.08.2024 at Mundra Custom House shows that the said BL was manipulated/forged to get the 'Restricted' goods cleared.

Further, on perusing the BL No. OSLPZUMUN3171424 (verify) received from Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan through mail (tagwa@easternship.com) dated 17.08.2024 wherein the ship on board date is mentioned as 17.08.2024 with vessel as AL AHMED having voyage no. 24715 issued by M/s. Eastern Shipping Co. Ltd., Sudan and switch BL No. OSLP**ZUNSA**3056024 (verify) received from Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan through mail (tagwa@easternship.com) dated 04.09.2024 wherein the ship on board date is mentioned as 26.06.2024 with vessel as SUNSET X having voyage no. 2423 issued by M/s. Eastern Shipping Co. Ltd., Sudan which was submitted for filing IGM No. 2387542 dated 08.09.2024 at Mundra Custom House shows that the said BL was manipulated/forged to get the 'Restricted' goods cleared. The Notification No. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category.

5.2 E-mail conversation: The e-mail conversations recovered during search conducted at the office premise of M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent of Shipping Line i.e. M/s Oceanic Star Line) having office situated at Office No. 14, 2nd Floor, Aviskar Building, Plot No. 204, Ward 12-B, Gandhidham-370201, under Panchnama dated 12.09.2024 indicated that various communications were made between officials of M/s Eastern Shipping Co. Ltd. and M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) to manipulate the Bill of Lading for clearance of subject goods stuffed in (15 x 40') containers covered under BL No. OSLPZUMUN3056024/ OSLSBL-981/24 and in (15 x 40') containers covered under BL No. OSLPZUMUN3171424/ OSLP**ZUNSA**3056024. Some of the relevant e-mail conversations are mentioned in given below Table:

Subject	***"OSL PRE ALERT SIDRA AHLAM // 2406 PORT SUDAN -- MUNDRA"***		
E-mail Date	**Sender Name, Designation, Firm Name**	**Receivers Name and E-mail IDs**	**Relevant portion of e-mail text**
31.07.2024 (4:20 PM)	Tagwa Badri, Marketing Executive, Eastern	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan	Dear Paramount Team (Mundra Team) Cc Ashraf//Jeddah T/S team

	Shipping Co. Ltd., Sudan (tagwa@easternship.com)	(ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	POD: MUNDRA Please find attached of Cargo Manifest, TDR and 7 DBL NO. …. OSLPZUMUN3056024 (15x40) … with Remark Dear Paramount Team (Mundra Team) Please note I will send to you the final Cargo Manifest and DBL ASAP, Please wait
31.07. 2024 (1:52 PM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Tagwa, Pre-alert noted kindly confirm second leg connecting vessel and ETA at Mundra.
01.08. 2024 (8:49 AM)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net),	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham	Dear @Tagwa Badri, Once the connecting details finalized will update the same.

		(brmgr@paramountsealink.com) & various others	
14.08.2024 (3:17 PM)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Paramount Team (Mundra Team) Please find attached of 7 Switch BL NO. …. BL NO. OSLPZUMUN3056024 replaced by switch B/L NO : OSLSBL-981/24 ….
06.09.2024 (2:58 PM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Ms. Tagwa, Pls note we are going to file manifest as per attached BL if any changes than pls confirm us in 30mint otherwise we will not be responsible for any cos and charges.
08.09.2024 (4:35 PM)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd.,	Dear Mohit, …. BL NO : OSLSBL-981/24 …. I have sent you the final documents on Wed 8/14/2024

		Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	12:47 PM If any changes occur after this, we as the POL or POD are not responsible The fines will be on the shipper or the consignee

Subject	***"OSL PRE ALERT AL AHMED // 24715 PORT SUDAN ------- MUNDRA"***		
E-mail Date	**Sender Name, Designation, Firm Name**	**Receivers Name and E-mail IDs**	**Relevant portion of e-mail text**
17.08. 2024 (10:35 PM)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Paramount (Mundra Team) Cc Ashraf//Jeddah T/S team Please find attached of Cargo Manifest, TDR and DBL NO. OSLPZUMUN3171424 (15x40) with Remark Dear Paramount (Mundra Team) Please note I will send to you the final Cargo Manifest and DBL ASAP, Please wait
20.08. 2024 (1:23 PM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net) & others	Dear Tagwa, Pre-alert noted kindly confirm second leg connecting vessel and ETA at Mundra.

		with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	
04.09. 2024 (8:05 PM)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Mohit/Paramount Team (Mundra Team) Please find attached of Switch BL NO. BL NO. OSLPZUMUN3171424 replaced by switch B/L NO : OSLPZUNSA3056024
09.09. 2024 (2:54 PM)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Mohit/Paramount Team (Mundra Team) Please note the shipper has surrendered OBL under our custody at POL, you are kindly requested to release the content of BL NO. OSLPZUNSA3056024 (15x40) without presentation of OBL after collecting all related cost at our end. Kindly find here attached OBL NO : OSLPZUNSA3056024 includes Surrendered STAMP.
06.09. 2024	Muhammad Fahad Jafri,	Tagwa Badri, Marketing Executive,	Dear Mohit, Against which b/l

(2:58 PM)	Manager Trade Department, Oceanic Group, Pakistan, (Fahad.jafri@star-liners.com)	Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	number, you have filed the manifest as agent replace the b/l number as per shipper/consignee request ??? Note Dear Mohit/Paramount Team (Mundra Team) Please find attached of Switch BL NO. BL NO. OSLPZUMUN3171424 replaced by switch B/L NO : OSLPZUNSA3056024
12.09. 2024 (7:53 AM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Muhammad Fahad Jafri, Manager Trade Department, Oceanic Group, Pakistan, (Fahad.jafri@star-liners.com), Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	Dear Mr Fahad, We haven't received confirmation from POL for the manifest amendment yet. Kindly instruct POL to advise whether the shipper is interested to any for manifest amendment. If yes, we shall advise charges and get manifest amendment, which will take time of 4 to 5 days after all related documents for IGM amendment are submitted in Customs. Docs required for manifest amendment 1. Shipper and Consignee KYC details 2. New and Old BL's coy 3. Cost of amendment USD 680/- per BL
12.09.	Martin Abdel	Ahmed Zunnoon,	Dear Mohit,

2024 (2:49 PM)	Said, Deputy General Manager, Eastern Shipping Co. Ltd., Sudan (martin@easternship.com)	Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Muhammad Fahad Jafri, Manager Trade Department, Oceanic Group, Pakistan, (Fahad.jafri@star-liners.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	We will accept the cost amendment from our side, please share us the office penalty invoices against this case BL OSLPZUNSA3056024
12.09. 2024 (7:53 AM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Martin Abdel Said, Deputy General Manager, Eastern Shipping Co. Ltd., Sudan (martin@easternship.com) , Muhammad Fahad Jafri, Manager Trade Department, Oceanic Group, Pakistan, (Fahad.jafri@star-liners.com), Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net) & others with CC to Bharat	Dear Martin & Fahad, These are sundry charges without any receipt, undertable to get IGM amendment. If you want you can ask consignee to get this amendment done by themselves we will issue NOC to them. We don't mind at all.

		Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com) & various others	

The email correspondences referenced above, while not exhaustive, provide sufficient evidence to demonstrate that all parties involved—namely Ahmed Zunnoon, Pricing Executive, M/s. Oceanic Group, Pakistan, Muhammad Fahad Jafri, Manager Trade Department, M/s. Oceanic Group, Pakistan, Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan, Martin Abdel Said, Deputy General Manager, Eastern Shipping Co. Ltd., Sudan, Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham, Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham and the consignee (importer)—were fully aware of the restrictions on the import of watermelon seeds. Despite being cognizant of the applicable penalties imposed by customs, these entities deliberately concealed the fact that the actual 'Shipped on Board' date was after June 30, 2024 for (15 x 40') containers covered under BL No. OSLPZUMUN3056024/ OSLSBL-981/24 and in (15 x 40') containers covered under BL No. OSLPZUMUN3171424/ OSLPZUNSA3056024. Through intentional misrepresentation and manipulation of dates, they sought to facilitate the clearance of restricted cargo in violation of the established regulations.

6. <u>Seizure:</u>

During the investigation, it was observed as per tracking details available at website of M/s Oceanic Star Line and as per other evidences gathered during investigation that the imported goods i.e. Watermelon Seeds have been loaded on board after 30th June 2024 and hence are restricted goods as per Notification no. 05/2023 dated 05.04.2024 issued by the DGFT. Thus, it appears that the goods imported by M/s. Vinaykumar and Co., under BL No. OSLPZUMUN3056024/ OSLSBL-981/24 and Bill of Entry No. 5278246 dated 27.08.2024 filed at Mundra Custom House and goods covered under BL No. OSLPZUMUN3171424/ OSLPZUNSA3056024 under IGM No. 2387542 dated 08.09.2024, appears to have been mis-declared in documents submitted to the Customs. Therefore, there being a reasonable belief that that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 09.12.2024.

7. <u>Brief of investigation conducted and liability of imported goods for confiscation:</u>

7.1 Investigation conducted by DRI has revealed that the containers covered under Bill of Entry No. 5278246 dated 27.08.2024 and IGM No. 2387542 dated 08.09.2024 were shipped from Sudan port on 16.07.2024 and 17.08.2024, well beyond the cut-off date of 30.06.2024 specified in DGFT Notification No. 05/2023 dated 05.04.2024. The tracking details on the official website of M/s Oceanic Star Line (**star-liners.com/track-my-shipment/#listing-table**) of the vessel SIDRA AHLAM with voyage no. 2406 and BL No. OSLPZUMUN3171424 (shipped on board date 17.08.2024) confirms that the containers were loaded on the vessel after 30.06.2024, further corroborating the lapse in compliance with the notification's timeline. Moreover, email correspondences and other evidence clearly demonstrate that a forged Bills of Lading No. OSLSBL-981/24 and OSLPZUNSA3056024 was created, falsely reflecting the 'shipped on board' date as 26.06.2024, instead of the actual date which was after 30.06.2024. This deliberate manipulation of shipping documents was aimed at unlawfully availing the benefits under the DGFT Notification No. 05/2023. The investigation indicates that the importer along with Ahmed Zunnoon, Pricing Executive, M/s. Oceanic Group, Pakistan, Muhammad Fahad Jafri, Manager Trade Department, M/s. Oceanic Group, Pakistan, Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan, Martin Abdel Said, Deputy General Manager, Eastern Shipping Co. Ltd., Sudan, Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham, Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham orchestrated the falsification of relevant dates on the Bills of Lading to facilitate the clearance of restricted cargo. By doing so, the importer has failed to adhere to the conditions of DGFT Notification No. 05/2023, thereby violating the provisions of the Foreign Trade Policy 2023. This constitutes a serious breach of regulatory compliance and evidences deliberate intent to mislead customs authorities.

7.2 The facts and evidence discussed above indicate that the Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with ‘shipped on board’ Bill of lading issued till 30th June 2024 shall be treated as ‘Free’ to import”. It means that all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on ‘Actual User’ basis to processors of Melon Seeds having a valid FSSAI

Manufacturing License in line FSSAI Order dated 15.03.2024. However, as established in the preceding paras, M/s. Vinaykumar and Co., located at 'E-323, New Market Yard, Unjha, Mahesana, Gujarat-384170', illegally imported Watermelon Seeds under Bill of Entry No. 5278246 dated 27.08.2024 and IGM No. 2387542 dated 08.09.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board on 16th July 2024 and 17th August 2024 i.e. beyond the permissible date of 30th June 2024 using a forged Bill of Lading. Furthermore, it was revealed during the investigation that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. 5278246 dated 27.08.2024 having total quantity **420 MTs** and declared assessable value Rs. **10,65,26,716/-** and IGM No. 2387542 dated 08.09.2024 having total quantity **420 MTs** and having value of **Rs. 10,76,57,573/-,** calculated as invoice vale (AED)- 4473105, insurance(AED)- 50322.431(4.425%), Total Value (AED)= 4523427.4, Exchange Rate as on 09.12.2024 (i.e. Seizure Date), 1 AED= 23.8 INR, (having combined total value of **Rs. 21,41,84,289/-)** imported by M/s. Vinay kumar and Co. are liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 and under Section 111(d), 111(f) and 111 (o) of the Customs Act, 1962 respectively.

8. <u>Roles of persons/firms involved:</u>

8.1 Role of the importer M/s. Vinaykumar and Co. (IEC: 0805007865) (Proprietor: Shri Prahaladbhai Mohanbhai Patel):

Shri Prahaladbhai Mohanbhai Patel is proprietor of M/s. Vinaykumar and Co. and being importer, he was well aware of the Import policy and Notification. M/s. Vinaykumar and Co. had imported watermelon seeds covered under Bill of Entry No. 5278246 dated 27.08.2024 and IGM No. 2387542 dated 08.09.2024 by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of entry is **840 MTs** having declared Assessable value of **Rs. 21,30,53,432/-**. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer in connivance with broker and shipper has rendered the subject goods covered under Bill of Entry No. 5278246 dated 27.08.2024, having total quantity 420 MTs liable for confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and IGM No. 2387542 dated 08.09.2024 having total quantity 420 MTs liable for confiscation under Section 111(d), 111(f) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. By not uploading the original documents as mandated during filing of Bill of Entry, the importer has attempted to mislead the department thereby rendering themselves liable to penalty under **Section 114AA** of Customs Act, 1962.

8.2 Role of M/s Paramount Sealink Pvt. Ltd. - working in India on behalf of M/s Oceanic Star Line:

The facts and evidence gathered during the search, including email correspondences, clearly establish that M/s Paramount Sealink Pvt. Ltd, acting on behalf of M/s Oceanic Star Line, deliberately colluded with representatives of M/s Oceanic Star Line and Shri. Tagwa Badri of Eastern Shipping Co. Ltd., Sudan, to manipulate the actual dates on the Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. These actions reflect a blatant disregard for regulatory compliance and an intent to mislead the authorities. The deliberate acts and omissions by M/s Paramount Sealink Pvt. Ltd. make them liable for penalties under **Section 112(a) and 112(b)** of the Customs Act, 1962. Furthermore, their involvement in the creation of forged Bills of Lading constitutes a violation that renders them liable to penalties under **Section 114AA** of the Customs Act, 1962. The facts and evidence gathered during the search, including email correspondences, clearly establish that M/s Paramount Sealink Pvt. Ltd, acting on behalf of M/s Oceanic Star Line, deliberately colluded with shipper and representatives of M/s Oceanic Star Line, Pakistan, M/s. Eastern Shipping Co. Ltd., Sudan and M/s. Gulf Gate Shipping Co. Ltd., Jeddah to manipulate the actual dates on the Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. These actions reflect a blatant disregard for regulatory compliance and an intent to mislead the authorities. The deliberate acts and omissions by M/s Paramount Sealink Pvt. Ltd. make them liable for penalties under **Section 112(a) and 112(b)** of the Customs Act, 1962. Furthermore, their involvement in the creation of forged Bills of

Lading constitutes a violation that renders them liable to penalties under **Section 114AA** of the Customs Act, 1962.

8.3 Role of Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd. :

Statement of Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd., recorded u/s 108 of the Customs Act, 1962 on 04.11.2024. In his statement, Shri Bharat Himmatlal Parmar admitted to looking after work related to export, import and accounts operations. The facts and evidences gathered during the search, including email correspondences, clearly establish that Shri Bharat Himmatlal Parmar, being the Branch Manager was made Cc to each and every mail conversations between their Principal Shipping Line (M/s. Oceanic Star Line) and overseas agents of their Principal Shipping Line (i.e. M/s. Eastern Shipping Co. Ltd., Sudan). During investigation, it was revealed that he was fully aware about the manipulation of actual dates on Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. Despite being fully aware, he failed to disclose the actual facts to the customs department and in connivance with their principal shipping line and its overseas agents, he attempted to facilitate the clearance of restricted cargo. By engaging in the creation of forged Bills of Lading in collusion with shipper and shipping line representatives, Shri Bharat Himmatlal Parmar not only mislead the customs department but also rendered himself liable to penalties under Section 112(b) of the Customs Act, 1962.

9. <u>Relevant Legal provisions :</u>

9.1 Import of Watermelon seeds falling under HS Code 12077090 was made from “Free” to “Restricted” for vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry under Section 3 and Section 5 of the FT(D&R) Act, 1992 read with Paragraph 1.02 and 2.01 of the Foreign Trade Policy (FTP), 2023 as amended from time to time. The Import of watermelon seeds is subject to Policy condition No. 4 of Chapter 12 of the ITC (HS) Classification.

9.2 Whereas vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry, it has been envisaged that <u>*“Import Policy of Melon Seeds is ‘Free’ with effect from 01st May 2024 up to 30th June 2024. Consignments with ‘shipped on board’ Bill of lading issued till 30th June 2024 shall be treated as ‘Free’ to import”*</u>. As a corollary, all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on ‘Actual

User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024.

9.3 The other relevant policy provisions pertaining to the import of watermelon seeds along with relevant penalty provisions of the Customs Act, 1962 are as follows:

9.3.1 <u>FTDR Act, 1992 :</u>

Section 3 of the FTDR Act, 1992: ***Powers to make provisions relating to imports and exports***–

(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

Section 5 of the FTDR Act, 1992: ***Foreign Trade Policy—***

The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, inlike manner, amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.

9.3.2 <u>Foreign Trade Policy, 2023 :</u>

<u>Para 1.02: Amendment to FTP</u>

Central Government, in exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, as amended from time to time, reserves the right to make any amendment to the FTP, by means of notification, in public interest.

<u>Para 2.01: Policy regarding import /Exports of goods</u>

(a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed under 'Regulatory Updates' at https://dgft. gov.in

(b) Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

9.3.3 <u>Relevant Sections of the Customs Act, 1962 :</u>

SECTION 112 of the Customs Acts. Penalty for improper importation of goods, etc.*- Any person, -*

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

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

shall be liable, -

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

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

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

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

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

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

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 to a penalty not exceeding five times the value of goods.*

10. Accordingly, Show Cause Notice dated 20.02.2025 was issued to **M/s. Vinaykumar and Co., (IEC: 0805007865) located at 'E-323, New Market Yard, Unjha, Mahesana, Gujarat-384170** wherein they were called upon to show cause in writing to the Additional Commissioner of Customs, Custom House, Mundra as to why:-

(a) The imported goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. 5278246 dated 27.08.2024 having total quantity 420 MTs and IGM No. 2387542 dated 08.09.2024 having total quantity 420 MTs and having combined value of Rs. 21,41,84,289/- imported by M/s. Vinaykumar and Co. should not be confiscated under Section 111 (d), 111(m) and 111(o) of Customs Act, 1962 and sections 111(d), 111(f), 111(o) of Customs Act, 1962 respectively.

(b) Penalty should not be imposed on **M/s. Vinaykumar and Co., located at 'E-323, New Market Yard, Unjha, Mahesana, Gujarat-384170'** under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962;

(c) Penalty should not be imposed on **M/s Paramount Sealink Pvt. Ltd.** under Section 112(b) & 114AA of the Customs Act, 1962;

(d) Penalty should not be imposed on S**hri Bharat Himmatlal Parmar**, Branch manager of M/s. Paramount Sealink Pvt. Ltd. under Section 112(b) of the Customs Act, 1962.

11. After considering the submissions of the noticees and personal hearing conducted in the impugned matter, the Order-in-Original No. MCH/ADC/ZDC/453/2025-26 dated 20.12.2025 was issued as follows:

"i. I order to absolute confiscation of impugned goods i.e. 420 MTS "Watermelon Seed" imported vide Bill of Entry No. 5278246 dated 27.08.2024, B/L No. OSLSBL-981/24 / OSLPZUMUN3056024, having value ***Rs. 10,65,26,716/-*** *(Ten Crore Sixty Five Lakh Twenty-Six Thousand Seven Hundred and Sixteen only) under Section 111 (d),111(m) & 111(o) of the Customs Act, 1962.*

ii. I impose penalty of ***Rs. 50,00,000/-*** *(Rupees Fifty Lakh only) on the importer M/s Vinaykumar & Co. for the consignment imported vide bill of entry no. 5278246 dated 27.08.2024 under Section 112 (a)(i) of the Customs Act, 1962.*

iii. I order to absolute confiscation of impugned goods i.e. 420 MTS "Watermelon Seed" imported vide B/L No. OSLPZUMUN3171424/ OSLPZUNSA3056024 and IGM No. 2387542 dated 08.09.2024, having value ***Rs. 10,76,57,573/-*** *(Ten Crore Seventy Six Lakh Fifty-Seven Thousand Five Hundred and Seventy-Three only) under Section 111 (d),111(f) & 111(o) of the Customs Act, 1962.*

iv. I impose penalty of ***Rs. 50,00,000/-*** *(Rupees Fifty Lakh only) on the importer M/s Vinaykumar & Co. for the consignment imported vide B/L No. OSLPZUMUN3171424/ OSLPZUNSA3056024 under Section 112 (a)(i) of the Customs Act, 1962.*

v. I refrain from imposing penalty on the importer M/s Vinaykumar & Co. under Section 112(b) of the Customs Act, 1962.

vi. I impose penalty of ***Rs. 2,00,000/-*** *(Rupees Two Lakh only) on the importer M/s. Vinaykumar & Co. under Section 114AA of the Customs Act, 1962.*

vii. I impose penalty of ***Rs. 2,00,000/-*** *(Rupees Two Lakh only) on M/s Paramount Sealink Pvt. Ltd. under Section 112 (b)(i) of the Customs Act, 1962.*

viii. I impose penalty of ***Rs. 1,00,000/-*** *(Rupees One Lakh only) on the M/s. Paramount Sealink Pvt. Ltd. under Section 114AA of the Customs Act, 1962.*

ix. I impose penalty of ***Rs. 25,000/-*** *(Rupees Twenty Five Thousand only) on Sh. Bharat Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd. under section 112(b) of the Customs Act, 1962."*

12.1 Being aggrieved by Order-in-Original No. MCH/ADC/ZDC/453/25-26 dated 20.12.2025 (hereinafter referred to as "the said OIO"), the importer

M/s. Vinaykumar and Co., along with eight other similarly placed importers involved in identical facts and issues, preferred appeals before the Commissioner of Customs (Appeals), Ahmedabad. The said appeals were disposed of vide a common Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 (hereinafter referred to as "the OIA"), passed by the Commissioner of Customs (Appeals), Ahmedabad.

12.2 Vide the OIA, the learned Commissioner (Appeals), Ahmedabad, after condoning the delay in filing of the appeals, examined the submissions made by the appellants, including the contention regarding the option of redemption extended by the undersigned in the case of M/s. Shreeshiv Agri Impex LLP vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026, passed in compliance with the directions of the Hon'ble High Court of Gujarat vide Common Oral Order dated 29.01.2026 in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025. The learned Commissioner (Appeals) observed that the impugned order did not contain any detailed examination or findings on the legal submissions, judicial precedents, and contentions raised by the appellants in their defence reply, and accordingly set aside the said OIO and remanded the matter to the undersigned for de novo adjudication under Section 128A(3) of the Customs Act, 1962. The relevant observations of the learned Commissioner (Appeals) are reproduced below for ready reference:

> "***5.6.*** *I find that the impugned order does not contain any detailed examination or findings on the aforesaid legal submissions, judicial precedents, and contentions raised by the appellants as detailed in their defence reply. Since these issues have a direct bearing on the present cases, I am of the considered view that they require proper examination and adjudication by the original adjudicating authority.*
>
> ***5.7.*** *Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A(3) of the Customs Act, 1962. In this regard, reliance is placed upon the judgment of the Hon'ble Gujarat High Court in Medico Labs [2004 (173) E.L.T. 117 (Guj.)], the judgment of the Hon'ble Bombay High Court in Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)], and the decisions of the Hon'ble Tribunal in Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del.)], wherein the appellate authority's power to remand under Section 128A(3) of the Customs Act, 1962 has been recognized.*
>
> ***5.8.*** *In view of the foregoing discussion, the impugned orders are set aside and the matters are remanded to the adjudicating authority for de-novo adjudication in accordance with law. It is expressly clarified that no opinion or views have been expressed on the merits of the cases."*

12.3 I find it pertinent to mention that the observation of the learned Commissioner (Appeals) at Paras 5.5 & 5.6 of the said OIA, that the said OIO did not contain any examination of the contention regarding redemption, has to be viewed in the context that the judicial precedent on this aspect was not a settled one at the time of passing of the said OIO on 20.12.2025. The said OIO dated 20.12.2025 was passed after affording due opportunity of personal hearing to the noticees, in compliance with the principles of natural justice. The Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 in the case of M/s. Shreeshiv Agri Impex LLP, being subsequent in time to the said OIO, had itself ordered absolute confiscation without extending any option of redemption. It was only pursuant to the Common Oral Order dated 29.01.2026 of the Hon'ble High Court of Gujarat, and the Addendum dated 10.02.2026 issued thereto, that the option of redemption came to be extended in the case of M/s. Shreeshiv Agri Impex LLP. The said development, being subsequent to the said OIO, was not available for consideration at the time of issuance of earlier OIO dated 20.12.2025, and the same now falls for consideration in the present de novo adjudication.

12.4 Further, in order to ascertain the correct scope and applicability of the said Order-in-Appeal, a letter bearing F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 was addressed to the Commissioner of Customs (Appeals), Ahmedabad, seeking clarification as to whether the setting aside of the impugned Orders-in-Original and the consequential remand for de-novo adjudication under Section 128A(3) of the Customs Act, 1962, is restricted only to the appellants specifically named in the said Order-in-Appeal, or whether the said Orders-in-Original stand set aside in their entirety, including in respect of all other noticees, if any, covered under the respective Orders-in-Original.

In response thereto, the Office of the Commissioner of Customs (Appeals), Ahmedabad vide their letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 has clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal and the issues arising from their respective appeals.

12.5 RRA Section, Mundra Customs vide their email dated 24.07.2026, has informed that the said OIA dated 07.07.2026 has been accepted by the Committee of the Principal Commissioner/Commissioner(s) on 24.07.2026.

13. <u>WRITTEN SUBMISSIONS</u>

13.1 SUBMISSION OF 1ST NOTICEE i.e. M/s. Vinaykumar & Co.:

13.1.1 Noticee-1 submitted their earlier written submission dated 11.04.2025 that the foundation of the entire case is based upon the Panchnama drawn at the premises of M/s Paramount Sealink Pvt Ltd however the said Panchnama is totally unreliable and inadmissible along with the statements and contents mentioned or drawn during it as the Panchnama dated: 12.09.2024 has Pancha 1: Shri Vikash Pandit whose sign can be found at every page however the Pancha – 2: is mentioned to be Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama however the signature on each page for P2 reveals name of one Shri Manoj Rathod. There is no record of Shri Manoj Rathod being called or being present during Panchnama much less him being pancha for the aforementioned Panchnama. This discrepancy questions the validity and legality of the document in its entirety. Therefore, the Panchnama in the said case has become non-est and hence cannot be relied or used in the said proceedings.

13.1.2 The Panchnama records that one Shri Bharat was present during the Panchama at the premises and he admitted that he is the branch manager however the import related work including filing of IGM etc., is specifically handled by Shri Mohit Kumar. Thereafter during search, it was found that in this above-mentioned premises of Paramount Sealink Pvt Ltd there were total five computers which were installed and on being asked Shri Bharat informed the officers that they are using three email ids viz. impdocs@paramountsealink.com, billing@paramountsealink.com and mnr@paramountsealink.com for all the conversations relating to the import and export and other work being done at their premises . Shri Bharat provided the three email ids viz. impdocs@paramountsealink.com, billing@paramountsealink.com and mnr@paramountsealink.com to the officers and informed them that all of these three email ids were already opened at the computer system being used by Shri Mohit and Shri Mahesh at the time of Panchama. The officers then accessed those emails through the computer systems on which they were already logged in and made three files which were named as Made-up file-1 comprising of 488 Pgs., Made-up file-2 comprising of 472 Pgs. and Made-up file-3 comprising of 394Pgs., signatures of Sri Bharath were taken on every page of these made-up files and the signatures of Panchas were taken on the first and the last page of the files. The show Cause Notice brings out that during this search some emails were 'resumed'. However, it would be factually incorrect to state that these emails were resumed from the premises of Paramount Sealink as these emails were not available in printed format when the search was conducted. Instead, the printouts of these emails were taken during the Panchnama by the officers themselves and in gross violations of provisions laid down under section 138C of the Customs Act 1962. The section 138C of Customs Act mandates that when such copies of any digital form are being recovered from any electronic device which is then to be relied or admitted as evidence during any proceedings under Customs Act it has to be done under a certain procedure and a certificate or statement certifying as to what has been recovered and what does the recovered document means has to be obtained from the one who is in regular possession of the device.

13.1.3 In the instant case the devices from which the printouts of these emails were recovered were being continuously used and were in possession of Shri Mohit and Shri Mahesh of Paramount Sealink Private Limited but no statement of theirs in this regard as to what are the contents of email and what they mean have been recovered from them. It is also necessary to highlight a fact that when Sri Bharath had informed the officers very explicitly that the import related work is being handled by Shri Mohit in particular at first, even then the officers have neither questioned Shri Mohit during the Panchama nor was any statement of Shri Mohit has been recorded or bought on record or relied at any stage in the investigation or in the SCN.

13.1.4 It is submitted that these printouts taken in the gross violation of section 138C cannot be relied as evidence as they are inadmissible because of non-following of the procedure laid down by the statute which is mandatory to bring out the legitimacy and truthfulness of the documents reliance in this case is placed in the following cases:

(i) In Arjun Pandit Rao v. Kailash Kushanrao 2020 (7) SCC 1 (Civil Appeal No. 20825-20826 of 2017). It was held by Supreme Court regarding the contents of the 'Certificate' as: *"The certificate submitted under this provision constitutes particulars of those electronic records and identity inclusive of authorized signature of a person having official responsibility in relation to the management and operation of the relevant device."*

(ii) The Supreme Court in the case of Anvar P.V. v. P.K. Basheer and Others (2014) 2017 (352) ELT 416 (SC) have held in the case of similarly worded provision of Section 65B Indian Evidence Act 1872 that such certification is an essential requirement for making any of such printouts admissible as evidence. *"Electronic Evidence - Admissibility of - Speeches, songs and announcements recorded using other instruments and by feeding them into a computer, CDs made therefrom and* ***produced in court, without due certification*** *- Such CDs produced by way of secondary evidence,* ***not admissible in evidence, mandatory requirements of Section 65B of Indian Evidence Act, 1872 being not satisfied*** *-* ***Whole case set up*** *regarding corrupt practice using songs, announcements and speeches* ***fails.****"*(Highlighting Supplied)

(iii) Further Reliance is placed on case of Jeen Bhavani International Versus Commissioner of Customs, Nhava Sheva-III (2023) 6 Centax 11 (Tri.-Bom) where in Para 12 it was held that: *"12.2………**No certificate whatsoever, as required under the provisions of Section 138C (2) was obtained**. It is settled proposition of law that if a certain act is to be done by a certain authority, in a particular manner, the same should be done in the manner in which it is ordained. There are no short cuts in investigation. **Without fulfilling the statutory requirements, subjecting the computer to forensic analysis is of no help and would not help the cause of Revenue. Therefore, we are of the considered opinion that the emails/documents etc retrieved in the instant case are not reliable evidence for the reasons cited above**.*

*12.3 With regard to seizure of CPU and alleged data retrieved there from, the department has concluded that there was parallel set of invoices for the 21 Bills of Entry, wherein the actual invoice values have been shown, which were less than the declared invoice values. **We find that the procedures laid down under section 138C have not been observed by the department, in addition to non mentioning of the details of the CPU, the place of installation in the premise, custodian of the CPU etc**. Therefore, we find that as per the ratio laid down in the above referred judgments, **the documents retrieved, lost their evidentiary value and cannot be relied upon** for upholding the charges of undervaluation of goods and demand of the differential duty."* (Highlighting Supplied)

This case was further upheld by Hon'ble Supreme Court in Commissioner of Customs, Nhava Sheva-III Versus Jeen Bhavani International (2023) 6 Centax 14 (S.C.)/2023 (385) E.L.T. 338 (S.C.) wherein the appeal of the revenue was dismissed on merits after condonation of delay.

(iv) Further reliance is placed on Junaid Kudia Versus Commissioner of Customs, Mumbai Import-II (2024) 16 Centax 503 (Tri.-Bom) wherein in Para 10 it was held: *"**10.** Upon perusal of the judgment of the Hon'ble Supreme Court in the case of Anvar P.V. (supra), we note that the Apex Court has categorically laid down the law that unless the requirement of Section 65B of the Evidence Act is satisfied, such evidence cannot be admitted in any proceedings. **We note that the Section 138C of the Customs Act is parimateria to Section 65B of the Evidence Act. Consequently, the evidence in the form of computer printouts, etc., recovered during the course of investigation can be admitted in the present proceedings, only***

subject to the satisfaction of the sub-section (2) of Section 138C ibid. *This refers to the certificate from a responsible person in relation to the operation of the relevant laptop/computer. After perusing the record of the case,* ***we note that in respect of the electronic documents in the form of computer printouts from the seized laptops and other electronic devices, have not been accompanied by a certificate as required by Section 138C(2) ibid as above. In the absence of such certificate****, in view of the unambiguous language in the judgment of the Hon'ble Supreme Court (supra),* ***the said electronic documents cannot be relied upon*** *by the Revenue for confirmation of differential duty on the appellant. In the present case, the main evidence on which, Revenue has sought to establish the case of undervaluation and misdeclaration of the imported goods is in the form of the computer printouts taken out from the laptops and other electronic devices in respect of which the requirement of Section 138C(2) ibid has not been satisfied.* ***On this ground, the impugned order suffers from uncurable error and hence, is liable to be set aside****"* (Highlighting Supplied)

This case was further upheld by Hon'ble Supreme Court in case of Commissioner of Customs, Mumbai Import-II Versus Junaid Kudia (2024) 16 Centax 504 (S.C.)/2024 (388) E.L.T. 529 (S.C.) where in the Hon'ble Supreme Court after condoning the delay and hearing the Ld. ASG has dismissed the appeal of department and upheld the order of CESTAT, Mumbai.

13.1.5 A statement of Shri Vinaykumar Patel Authorized Representative of M/s Vinaykumar & Co. was recorded at Gandhidham wherein in Q6 he was asked to produce the import related documents called under summons in answer to which he had produced copy of Sales Contract No.181, Performa Invoice dated 03.06.2024 Phytosanitary Certificate with fumigation Certificate, Commercial Invoice, Packing List and Country of Origin., etc. These documents along with the tracking details submitted by him are neither relied in the SCN nor are brought on record as annexure to his statement.

13.1.6 Further in Q7 he was asked regarding all the documents having same date i.e. Packing List, Fumigation, and Ship on Board on B/L to which he answered that he had no idea as to why all the documents had the same date and he also produced Contract with the Broker dated: 03.06.2024 for importation of these goods and had instructed him that the consignment is to be shipped only if it can be shipped on or before 30.06.2024. The noticee submits that making invoice and packing list is work of account handling person of the exporter and is a measly work of few minutes and that one exporter can make 'N' number of Invoices and Packing Lists in a single day.

13.1.7 Further at Q15 he was shown the two copies of B/L and asked regarding the same to which he answered that he had never told / instructed any person to make two Bs/L for same consignment and confided that it 'appears' someone has manipulated the B/L. However, he had neither instructed nor is aware of any such manipulation as his contract and instructions were clear that the goods are required only if can be shipped before 30.06.2024. Further, at Q 16 he was shown the switch B/L and email conversations printed during the Panchnama at M/s Paramount Sealinks Pvt Ltd., to which he answered that it appears that B/L has been replaced by switch B/L however he does not know the motive behind such switching of B/L.

13.1.8 Further statement of Shri Vankar Branch Manager of Paramount Sealink was recorded in Q15 he was asked pertaining to his own answer to Q4 wherein he has admitted that B/L details are normally received in 10 days of sailing of the vessel. He was asked then why was the B/L pertaining to importer in present case was received on 17.08.2024 wherein he said that the B/L received on email on 17.08.2024 had Shipped on Board dated: 17.08.2024 and B/L issue date: 26.06.2024, it is to be noted that the second B/L retrieved from the email of M/s Paramount Sealink has shipped on board dated: 16.07.2024. It is of essence to submit that the has not rejected the original B/L submitted by the importer to the Customs Authorities and also stands firm by the IGM filed by them on the basis on B/L with Shipped on Board dared:26.06.2024. He has also affirmed that they have filed the IGM based on the final Original and Signed copies of documents received by them.

13.1.9 It appears that a deliberate attempt to get it admitted by Shri Vankar that the B/L has been manipulated / forged has been made by the investigators since Shri Bharat during the panchnama has revealed that he is the Manager and all import related work is looked after by Shri Mohit and not him whereas in the statement it appears as if Shri Bharat and Shri Vankar were handling all the work of import in person which is not the fact in present case. Hence, it appears that his statement is in contradiction to his own depositions made during panchnama and facts on record and thus is totally unreliable and inadmissible.

13.1.10 From perusal of the Original B/L submitted by the Importer and 'Verify Copy' of B/L recovered from the email of the it is evident that the name of the Vessel and Voyage No etc. are different in both the Bs/L for which no clarification has been brought on record either through statements or through evidences as to why the details are different and in which vessel the goods have sailed. The investigating officer / agency has not taken the efforts / pain to even write an email to the office of shipper at Port of Loading or to the exporter asking them about the details as to on which vessel the consignment has left and on what date the containers were handed over to the shipping line by the exporter to prove the case of department.

13.1.11 It is submitted that the entire case is built upon the assumptions and presumptions of Shri Bharat Parmar, Branch Manager and Shri Vankar Bharat Bhai Khengarbhai the executive of Paramount Sealink Pvt Ltd who have allegedly admitted that the original B/L submitted by the importer to the Customs Authorities 'seems/appear' to be manipulated by someone. Hence, it is of essence to cross-examine them so as to confirm if the said statements are the true and voluntary and if so who has carried out the manipulation of the B/L as the B/L were directly received by them through their principal company on e-mail and it is not the case that importer or CHA or Broker has supplied them the alleged manipulated copy of B/L. The reliance in this case is placed on:

i. Andaman Timber 2015 (324) E.L.T. 641 (S.C.), where in the Hon'ble Apex Court has laid down the law in Para 6 held that:

*"**6.** According to us, not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee.* ***It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority. As far as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the appellant themselves to explain as to why their ex-factory prices remain static.*** *It was not for the Tribunal to have guess work as to for what purposes the appellant wanted to cross-examine those dealers and*

what extraction the appellant wanted from them." (Highlighting Supplied)

ii. Mahek Glazes Pvt Ltd. 2014 (300) E.L.T. 25 (Guj.) Para 6

"6. *Having heard learned counsel for the parties, we are inclined to interfere on the short ground of serious breach of principles of natural justice in the process of passing final order of adjudication. We say so because the adjudicating authority, though categorically informed by the representative of the petitioners that the petitioners are serious about exercise of their right to cross-examination and further that any meaningful participation in the adjudicating proceedings can take place only after such cross-examination is granted, the authority proceeded to decide such request only along with the final order of adjudication. Whether the petitioners had a right to seek cross-examination in the facts of the present case, is not our brief at the moment. We, therefore, refuse to comment on the petitioners' insistence for cross-examination or authority's reluctance to grant it.* ***What we, however, find is that the petitioners had at least a right to be told whether such application is being granted or refused before final order was passed. When the petitioners prayed for cross-examination and reasonably expected that the same would be granted, they cannot be expected to participate in the adjudicating proceedings up to the final stage. In other words, without dealing with and disposing of the petitioners' application for cross-examination, the adjudicating authority could not have finally adjudicated the issues. If he was of the opinion that the request for cross-examination was not tenable, by giving reasons, he could have rejected it. We wonder what would have happened, if he was inclined to accept such a request. In such a situation, he himself could not have finally disposed of the show cause notice proceedings. In either case, the petitioners had a right to know the outcome of their application****."* (Highlighting Supplied)

It is a settled law that the cross-examination has to be granted to the noticee even in quasi-judicial adjudications and as ratio laid down by the Hon'ble Apex Court in Andaman Timer (supra) it is not for the quasi-judicial authority to have 'guess work' as to for what reasons the cross-examination is being sought. However, from the reasons cited above the need for cross-examination becomes evident as it is the only pathway to obtain the answers to the series of unknowns left in the investigation.

13.1.12 It is submitted that although the statements to the extent of admission of saying that it 'appears' someone has manipulated the B/L have been recorded and brought out in the investigation no piece of evidence on record has been brought to establish as to who has manipulated the B/L and on whose instruction such act was performed. Therefore, solely based on some statements based on assumptions and presumptions which were got recorded no liability can be brought out on the noticee and thus the SCN is liable to be dropped.

13.1.13 It is submitted that the noticee is called upon to Show cause as to why the goods should not be confiscated u/s 111(d), (m) and (o) and penalties should not be imported u/s 112(a), (b) and 114AA of the Customs Act, 1962.

i. The goods were imported with due compliance of law and in compliance of the DGFT policy stating that the melon seeds are freely importable if Shipped on Board Date is before 30.06.2024.

ii. It is submitted that the goods so imported by the importer are neither in contravention to any Act within India nor are prohibited for import under Customs Act or any other Act. Hence, no provisions of 111(d) can be said to have been violated by the importer.

iii. It is submitted that there is not even allegation of the goods imported to be mis-declared in any form i.e. quantity, description, quality, etc. brought out in entire proceedings or in the SCN. Hence, no confiscation liability can be arrived at u/s 111(m) of the Customs Act.

iv. It is also submitted that the only condition of importing 'melon seeds' under free category was laid down in the DGFT Circular which stated that if the 'Ship on Board' date on the B/L is on or before 30.06.2024 then the import of 'Melon Seeds' is to be treated as free. The only documents including B/L found with the importer is the one which was submitted to the Customs Authorities and is dated as well as has 'Ship on Board' date prior to 30.06.2024. Hence there exists no reason to bring in confiscatory provision of Section 111(m) of Customs Act.

v. Therefore, there being no violation of any of the provisions of the Customs Act, 1962 there arises no reason to arrive at confiscation under any of the provisions of Section 111 as proposed in the SCN and the imported goods placed under seizure are liable to be released and allowed to be cleared from the Customs.

13.1.14 The Noticee submits that penalty u/s 112(a) cannot be imposed on the noticee as no act, omissions or commission on the part of the noticee has been brought out in the SCN which would render the goods liable for confiscation under Section 111 of the Customs Act, 1962. Also, Penal liability u/s 112 (b) cannot be brought on to the importer as the goods are still lying in the custody of the customs and hence there was no possession, carrying, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with imported goods by the importer or any other person. The noticee further submits that there can be no penalty imposed / mulcted on the noticee as proposed in the SCN since no confiscation can be arrived at in the view of the submissions (supra) and there is no violation of provisions of Section 112(a) and or 112(b) of the Customs Act, 1962

13.1.15 As regards proposition of penalty u/s 114AA of the Customs Act, 1962 it is submitted that the issue was well clarified under 27th report of the Parliamentary Committee whereby it was specified that Section 114AA is being specifically introduced to battle with the increased bogus exports to gain the incentives and benefits under various schemes by exporters and that this section is not being incorporated to deal with the cases of imports.

Reliance in this case is placed upon:

SRI KRISHNA SOUNDS AND LIGHTINGS 2019 (370) E.L.T. 594 (Tri. - Chennai) where in the Hon'ble Tribunal has found and held:

*"**6.** The Ld. AR has submitted that the Commissioner (Appeals) has set aside the penalty under Section 114AA for the reason that penalty has been imposed by the adjudicating authority under Section 112(a) and therefore there is no necessity of further penalty under Section 114AA. I find that this submission is incorrect for the reason that in the impugned order in paras 7 and 8, the Commissioner (Appeals) has discussed in detail the provision with regard to Section 114AA. It is seen stated that **as per the Taxation Laws (Amendment) Bill, 2005, introduced in Lok Sabha on 12-5-2005, the Standing Committee has examined the necessity for introducing a new Section 114AA**. **The said Section was proposed to be introduced consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border.** The said Section envisages enhanced penalty of five times of the value of the goods. The Commissioner (Appeals) has analyzed the object and the purpose of this Section and has held that in view of the rationale behind the introduction of Section 114AA of the Customs Act and the fact that penalty has already been imposed under Section 112(a), the appellate*

authority has found that the penalty under Section 114AA is excessive and requires to be set aside. Thus, the penalty under Section 114AA is not set aside merely for the reason that penalty under Section 112(a) is imposed. After considering the ingredients of Section 114AA and the rationale behind the introduction of Section 114AA, the Commissioner (Appeals) has set aside the penalty under Section 114AA.

7. On appreciating the evidence as well as the facts *presented and after hearing the submissions made by both sides,* ***I am of the view that the Commissioner (Appeals) has rightly set aside the penalty under Section 114AA since the present case involves importation of goods and is not a situation of paper transaction.*** *I do not find any merit in the appeal filed by the department and the same is dismissed. The cross-objection filed by respondent also stands dismissed."(Highlighting Supplied)*

i. Arun Kumar Kuwar Versus Principal Commissioner of Customs, New Delhi (2024) 20 Centax 123 (Tri.-Del) (Principal Bench) where in it was held:
   "13 …………… ***The purpose behind introduction of Section 114 AA was to punish those people who availed export benefits without exporting anything which according to the learned Counsel for the appellant is not the case here****. The provisions of section 114 AA provides for imposition of penalty on a person who knowingly or intentionally make, sign, uses or causes to be made any declaration, statement or documents, which is false or incorrect in any material particular in the transaction of any business for the purpose of the Act. From the statement of Shri Ravinder Singh (as quoted above), we find that the manipulation in the documents were done by the Dubai Branch of the shipping line at the behest of the actual supplier.* ***There is no evidence to link the appellant with the said manipulation done at Dubai office****. The shipping line has not been roped in the present proceedings. The revenue has not substantiated the charge of connivance of the appellant with the illegal import rather he was instrumental in ascertaining the correct valuation of the impugned goods.* ***We, therefore, do not find any justification for imposition of penalty under section 114AA of the Act****."* (Highlighting Supplied)

ii. A.V. Global Corporation Pvt. Ltd. Versus Commissioner of Customs, (Import & General), New Delhi (2024) 25 Centax 37 (Tri.-Del) wherein it was held:

*" **7.** Coming to the penalty imposed under 114 AA the objective of section 114AA as was subsequently incorporated, is apparent from 27th report of the Standing Committee on Finance (2005) which proposed this new section consequent to the deduction of several cases of fraudulent export where the exports were shown only on paper and no goods crossed the Indian boarder. The Committee opined introducing provisions of levying penalty upon 5 times the value of goods as a right deterrent **the Constitution Bench of Hon'ble Supreme Court in the case of Kalpana Mehta v. Union of India in Civil Writ Petition No.558 of 2012 has held that the Parliamentary Committee Report is to be considered to see the purpose for which a statutory provision has been brought in. Since provision 114 AA is against the fraudulent exporters we hold that the same is wrongly invoked for penalizing the Customs House Agent**. We draw our support from the decision of this Tribunal in the case of **World-Wide Cargo v. CCE, Bangalore reported in 2022 (379) E.L.T. 120 (Tri.-Bang).** In the light of the above discussion, **we hold that penalty even under 114AA has wrongly been imposed upon the appellant-CHA, same is liable to be set aside.**"* (Highlighting Suplied)

Therefore, in view of the above no penalty u/s 114AA of Customs Act, 1962 can be imposed on the noticee.

13.2 Pursuant to the remand, M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of M/s. Vinaykumar and Co. and the other similarly placed noticees/importers (excluding M/s Paramount Sealink Pvt. Ltd. and Shri Bharat Himmatlal Parmar), vide letter dated 17.07.2026, has, inter alia, submitted as under:-

13.2.1 That consequent upon the OIA dated 07.07.2026 setting aside the said OIO and remanding the matter, there subsists, as on date, no order of confiscation or penalty against the importer, while the goods continue to remain confiscated and uncleared at Mundra Port since the year 2024.

13.2.2 That Watermelon Seeds are not "prohibited goods" under the Customs Act, 1962 or any other law for the time being in force, and are, at the highest, "restricted" goods post 30.06.2024, entitled to release/redemption, relying upon the judgment of the Hon'ble Punjab & Haryana High Court in *Shree Balaji Industries v. Additional/Joint Commissioner of Customs* [2024 (387) E.L.T. 294 (P&H)] and the judgment of the Hon'ble Supreme Court in *Commissioner of Customs v. Atul Automations Pvt. Ltd.* [2019 (1) SCC, Civil Appeal No. 1057 of 2019].

13.2.3 That in the identical case of M/s. Shreeshiv Agri Impex LLP — involving the same goods, the same DGFT Notification No. 05/2023 dated 05.04.2024, the same Mundra Custom House and the same Adjudicating Authority — the Hon'ble High Court of Gujarat, vide Common Oral Order dated 29.01.2026, had directed reconsideration of the matter, pursuant to which the option of redemption was extended vide Addendum dated 10.02.2026, restricting the redemption fine to approximately 10% of the value of the goods, and the goods in that case have accordingly been released. It was contended that M/s. Vinaykumar and Co. deserves similar treatment.

13.2.4 That the goods, being an edible agricultural commodity, have been lying uncleared for nearly two years and are deteriorating in quality, moisture content and marketability, exposing them to fungal infestation and total loss, warranting expeditious disposal in terms of Section 110(1A) of the Customs Act, 1962, failing which M/s. Vinaykumar and Co. would continue to suffer crippling losses on account of mounting demurrage, detention and ground rent charges, for which, it was contended, the Department's own delay in adjudication was responsible.

13.2.5 The Authorised Representative has accordingly prayed for immediate release of the goods on terms identical to those extended in the case of M/s. Shreeshiv Agri Impex LLP, and for conclusion of the de novo adjudication in a time-bound manner.

RECORD OF PERSONAL HEARING

14. The Authorised Representative of M/s. VINAYKUMAR AND CO. vide letter dated 17.07.2026, has categorically stated that they "***do not want any personal hearing and issues may be decided on merit,*** *on urgent basis to avoid further delay and loss to impugned importers given the nature of the goods and the mounting daily losses*.".

DISCUSSION AND FINDINGS

15. I have carefully gone through the facts of the case, the Show Cause Notice dated 20.02.2025, the noticees' written submissions, the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 passed by the Commissioner of Customs (Appeals), Ahmedabad, and the fresh submission dated 17.07.2026. The authorized representative of the importer vide letter dated 17.07.2026 has requested for waiver of personal hearing in the matter. Thus, I find that the principles of natural justice have been duly complied with, and I now proceed to examine, de novo, the issues involved in the present case in the light of the available records, statutory provisions, applicable law, judicial precedents, and the specific directions contained in the OIA dated 07.07.2026.

15.1 I have gone through the letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 issued by the Office of the Commissioner of Customs (Appeals), Ahmedabad, whereby, in response to this office's letter F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 seeking clarification on the scope of the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026, it has been clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal dated 07.07.2026 and the issues arising from their respective appeals. Since M/s Vinaykumar and Co. is one of the appellants specifically named in the said Table-I, the impugned Order-in-Original stands set aside only in respect of M/s Vinaykumar and Co. and not in respect of any other noticee covered under the said Order-in-Original No. MCH/ADC/ZDC/453/2025-26 dated 20.12.2025. Accordingly, the matter is required to be adjudicated de-novo only qua M/s Vinaykumar and Co., in accordance with the directions of the Hon'ble Appellate Authority.

15.2 I now proceed to decide the issues framed in the instant SCN, which, on remand, stand at large before me. On careful perusal of the SCN, the case records, the said OIO, the OIA and the fresh submission, I find that the following issues require determination:-

(i) Whether the imported goods i.e. “Water Melon Seed” are liable for confiscation under section 111(d), 111(f), 111(m) and 111(o) of the customs Act, 1962 or otherwise;

(ii) Whether the penalties should not be imposed on M/s. VINAYKUMAR AND CO., under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962 or otherwise;

16. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually for analysis in light of facts, submissions, and circumstances of the case, provisions of the Customs Act, 1962 and nuances of various judicial pronouncements.

17. Confiscation of Goods under Section 111(d), 111(f), 111(m) and 111(o) of the Customs Act, 1962:

17.1 I find that M/s. Vinaykumar & Co. (Importer) imported watermelon seed in 2 separate consignments, each consisting of 15 containers (Total 30 containers). The details are as follows:

(i) First Consignments: Imported under Bill of entry no. 5278246 dated 27.08.2024, Bill of lading No. OSLSBL-981/24 / OSLPZUMUN3056024 and IGM No. 2386525 dated 27.08.2024

(ii) Second Consignments: imported under Bill of lading No. OSLPZUMUN3171424/ OSLPZUNSA3056024 and IGM No. 2387542 dated 08.09.2024.

Based on intelligence gathered by DRI, Gandhidham indicating that importer is indulged into illegal import of Watermelon Seeds (Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, hold the subject consignment. The examination proceedings were recorded under panchnama dated 15-16.10.2024 by officers of DRI and subsequently on 28.10.2024, 06.11.2024 by Preventive Officers/Superintendent, Mundra Customs at M/s. Transworld Terminals Pvt. Ltd. (Transworld CFS), Mundra.

17.2.1 I found that during the course of investigation, total four different bills of lading for 2 consignments were found. The details are as under:-

TABLE-A

	First Consignment		**Second Consignment**	
Bill of lading No.	OSLPZUMUN3056024	OSL SBL-981/24	OSLPZUMUN3171424	OSLPZUNSA3056024
Vessel Name	Sidra Ahlam	SUNSET X	AL Ahmed	SUNSET X
Voyage No.	2406	2423	24715	2423
B/L issue date	26.06.2024	26.06.2024	26.06.2024	26.06.2024
Ship on board Date	16.07.2024	26.06.2024	17.08.2024	26.06.2024
Total no. of containers	15	15	15	15
B/L Issued by	Eastern Shipping Company	Gulf Gate Shipping Company Limited	Eastern Shipping Company	Eastern Shipping Company

17.2.2 I find that the tracking report of the vessel SIDRA AHLAM with Voyage No. 2406 (B/L No. OSLPZUMUN3056024), obtained from the official site of Oceanic Group (star-liners.com/track-my-shipment/#listing-table), shows that it shipped from Port Sudan on 30.7.2024. Further, upon perusing of relevant bill of lading i.e. OSLPZUMUN3056024, it was observed that Shipped on Board mentioned in the B/L is 16.07.2024 which falls well beyond the cut-off date of 30.06.2024 specified in DGFT Notification No. 05/2023 dated 05.04.2024.

Further, I reviewed Bill of lading No. OSLPZUMUN3171424 pertains to second consignment wherein the “shipped on board” date is mentioned as 17.08.2024. Hence, it is established that both the consignments were shipped on board well beyond the cut-off date of 30.06.2024, as specified in the said DGFT Notification.

17.3 E-mail conversation:-

17.3.1 The e-mail conversation recovered during search conducted at the office Premise of M/s. Paramount Sealink Pvt. Ltd. under Panchnama dated 12.09.2024 indicated that various communications were made between officials of M/s Eastern Shipping Co. Ltd. and M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) to manipulate the Bill of Lading for clearance of subject goods covered under BL Nos. OSLPZUMUN3056024 / OSL SBL-981/24 and OSLPZUMUN3171424/ OSLPZUNSA3056024.

17.3.2 Upon careful examination of email correspondence specifically the messages sent by Mr. Tagwa Badri (Marketing executive, Eastern Shipping Co. Ltd. Sudan) to M/s. Paramount Shipping Pvt. Ltd. The relevant emails are as follows:-

First Consignment:-

- <u>31.07.2024</u>: Please find attached of Cargo Manifest, TDR and 7 DBL No. (Wherein B/L pertains to Vinaykumar & Co. was also one of them as “OSLPZUMUN3056024 (15X40’)”.

- <u>14.08.2024</u>: Please find attached of 7 Switch BL No. BL NO: OSLPZUMUN3056024 replaced by switch BL No: OSLSBL-981/24.

Second Consignment:-

- <u>17.08.2024</u>: Please find attached of Cargo Manifest, TDR and DBL No. OSLPZUMUN3171424 (15X40’).

- 04.09.2024: Please find attached of Switch BL No. BL NO. OSLPZUMUN3171424 replaced by switch B/L NO: OSLPZUNSA3056024.

First consignment:-

On perusing the vessel name, voyage no. and shipped on board date in the BL No. OSLPZUMUN3056024 and the new switch BL OSLSBL-981/24 received from Tagwa Badri through mails (tagwa@eastership.com) dated 31.07.2024 and 14.08.2024 respectively and on compared with, (to be read together with Table A), the above said details found different, hence, it is evident that details in Bills of lading have been manipulated/forged to facilitate the clearance of restricted goods by falsely claiming eligibility period as stipulated in Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

Second Consignment:-

On perusing the vessel name, voyage no. and shipped on board date in the BL No. OSLPZUMUN3171424 and the switch BL OSLPZUNSA3056024 received from Tagwa Badri through mails (tagwa@eastership.com) dated 17.08.2024 and 04.09.2024 respectively. The above said details found different as mentioned in table-A. Hence, it is evident that details in Bills of lading have been manipulated/forged to facilitate the clearance of restricted goods by falsely claiming eligibility period as stipulated in Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

17.4.1 I find that Shri Vinaykumar patel, authorized signatory of M/s. Vinaykumar & Co. in his voluntary statement dated 21.10.2024 before DRI wherein on being shown two different shipped on board date i.e. 16.07.2024 and 26.06.2024 in respect of old BL-OSLPZUMUN3056024 and new BL-OSLSBL-981/24 respectively and mail dated 14.08.2024 received from Tagwa Badri (tagwa@eastership.com). He admitted that shipped on board date has been manipulated in B/L documents. Further, on being shown the tracking report of Bill of Lading No. OSLPZUMUN3056024, he admitted that the consignment was loaded on 30.07.2024 on the **Sidra Ahlam** (Voyage 2406) from Port Sudan, rather than on the **Sunset X** (Voyage 2423) as stated in Switch BL No. OSLSBL-981/24.

Further, for another consignment, on being shown two different shipped on board date i.e. 17.08.2024 and 26.06.2024 in respect of old BL No. OSLPZUMUN3171424 and new BL OSLPZUNSA3056024 respectively and mail dated 04.09.2024 received from Tagwa Badri (tagwa@eastership.com), he admitted that shipped on board date has been manipulated in B/L documents; that shipped on board date has been manipulated from 17.08.2024 to 26.06.2024 in B/L documents.

17.4.2 I find that during statements were recorded by DRI, the bills of lading Nos. OSLPZUMUN3056024/OSLSBL-981/24 (first consignment), OSLPZUMUN3171424 and new switch BL OSLPZUNSA3056024 (second consignment), tracking details obtained from the site of Oceanic group and e-mail conversations (as discussed above) were presented to (i) Shri Bharat Parmar, (Branch Manager, M/s. Paramount Sea Links Private Limited) (ii) Shri Vankar bharatbhai (executive-Paramount), after analyzing they admitted in their statements that shipped on board date and Vessel details have been manipulated in BL in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

17.5 I consider statements of noticees as material evidence in this case. It is relevant here to refer to some landmark judicial pronouncements on the issue of acceptability and evidentiary value of statements recorded under provisions of section 108 of the Act.

i. The Hon'ble Supreme Court in the case of **Romesh Chandra Mehta** and in the case of **Percy Rustomji Basta** has held "*that the provisions of Section 108 are judicial provisions within which a statement has been read, correctly recorded and has been made without force or coercion. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence".*

ii. The Hon'ble Supreme Court in the case of **Badaku Jyoti Svant** has decided that "*statement to a customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct".*

iii. Hon'ble Punjab and Haryana High Court in the case of **Jagjit Singh** has decided that *"It is settled law that Customs Officers were not police officers and the statements recorded under Section 108 of the Customs Act were not hit by Section 25 of the Evidence Act. The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in the matter of Ram Singh, in which it is held that recovery of opium was from accused by officers of Narcotic Bureau. Accused made confession before said officers. Officers of Central Bureau of Narcotics were not police officers within the meaning of Section 25 and 26 of the Evidence Act and hence, confessions made before them were admissible in evidence".*

17.6 In view of the foregoing discussion, I find that the statements recorded by DRI under the provisions of Section 108 of the Act form reliable evidence in the case supporting the charge of mis-declaration of import documents and submission of forged/manipulated Bills of lading.

17.7 I find M/s. Vinaykumar & Co. (Noticee no. 1) through their advocate, in their written submission dated 11.04.2025 alleged that the panchnama dated 12.09.2024 drawn at the premises of M/s Paramount Sealink Pvt Ltd is totally unreliable and inadmissible. They contend that the Pancha – 2: is mentioned as Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama however the signature on each page for P2 reveals name of one Shri Manoj Rathod. This discrepancy questions the validity and legality of the document in its entirety. Therefore, the Panchnama in the said case has become non-est and hence cannot be relied or used in the said proceedings.

The above said panchnama proceedings dated 12.09.2024 was performed by the officers of DRI, Gandhidham. Therefore, a letter was addressed to Additional Commissioner, DRI Gandhidham, on 13.10.2025, requesting for clarification in the said matter. A reply in this matter was received from the DRI vide letter dated 12.11.2025. The gist of the same is re-produced below:-

"In this regard, it is to clarify that "Pancha 2: who is mentioned to be Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama has made signature on each page of Panchnama as "Shri Manoj Rathod". Further, it is to submit that the name mentioned at the beginning of Panchnama dated 12.09.2025, which is Shri Rukhi Manubhai Chhagan S/o Shri Manubhai Chhagan, is as per his document (Adhar Card), however his nick name is "Manoj" and therefore, he used to sign as "Manoj Rathod". "Manoj Rathod" is the signature of Shri Rukhi Manubhai Chhagan. A statement of Panch-2 (Shri Rukhi Manubhai Chhagan) clarifying the same has been enclosed alongwith copy of his Adhar Card).

In view of the above, it is to submit that the facts of the Pnachnama dated 12.09.2024 drawn at the office premise of M/s. Paramount Sealink Pvt. Ltd. having address at Suit No. 2, 2 Floor, Avishkar Complex, Ward-12B, Plot no. 204, Gandhidham are true and correct".

(Statement of Panch-2)

मैं रुखी मनु भाई छगन यह सत्यापित करता हु कि 12 सितम्बर 2024 को पंचनामा की दौरान मैं उपस्थित था और मैंने ही पंच-2 के रूप में हस्ताक्षर किये है। यह पंचनामा पैरामाउन्ट कम्पनी ऑफिस में बनाया गया था और मैं पूरे समय पंच के रूप मे उपस्थित था सारी कार्यवाही मेरे सामने हुई मेरा आधार कार्ड मे नाम रुखी मनु भाई छगन है और मेरे घर का नाम मनोज है। मनोज राठौर (Manoj Rathod.) मेरा हस्ताक्षर है। मैं (Manoj Rathod) नाम से हस्ताक्षर करता हु और इस पंचनामा मे किये हुये हस्ताक्षर मेरे ही हैं।

Manoj Rathod.
03/11/2025
(Rukhi Manu Bhai Chhagan)

Based upon a thorough review of the record and the evidence presented herein, I conclude that the allegation raised by the importer (Notice No. 1) lacks merit. This claim is not supported by any factual data or verifiable documentation, rendering it baseless.

17.8 <u>Cross Examination sought by the Noticees:</u>

(i) I find that M/s. Vinaykumar & Co. (Noticee no. 1) through their advocate, have requested for cross-examination of Shri Bharat Parmar, Branch Manager, M/s. Paramount Sealink (Noticee no. 3) and Shri Vankar Bharatbhai, Executive-M/s. Paramount Sealink.

(ii) I find that each noticee was given ample opportunity to present their defense, access all relied-upon documents (RUDs), and participate in personal hearings. The noticees were afforded full opportunity to defend themselves during hearings, this satisfied principles of audi alteram partem. I find that their request for cross-examination is baseless and an attempt to delay the adjudication proceedings.

(iii) Further, it is a settled position that proceedings as to which request of cross examination to be allowed in the interest of natural justice. I also rely on following case-laws in reaching the above opinion:-

a. **Poddar Tyres (Pvt) Ltd. v. Commissioner - 2000 (126) E.L.T. 737**:- wherein it has been observed that cross-examination not a part of natural justice but only that of procedural justice and not 4 'sine qua non'.

b. **Kamar Jagdish Ch. Sinha Vs. Collector - 2000 (124) E.L.T. 118 (Cal H.C.)**:- wherein it has been observed that the right to confront witnesses is not an essential requirement of natural justice where the statute is silent and the assessee has been offered an opportunity to explain allegations made against him.

c. **Shivom Ply-N-Wood Pvt. Ltd. Vs Commissioner of Customs & Central Excise Aurangabad- 2004(177) E.L.T 1150(Tri.-Mumbai)**:- wherein it has been observed that cross-examination not to be claimed as a matter of right.

d. Hon'ble Andhra Pradesh High Court in its decision in **Sridhar Paints v/s Commissioner of Central Excise Hyderabad** reported as 2006(198) ELT 514 (Tri-Bang) held that: .... denial of cross-examination of witnesses/officers is not a violation of the principles of natural justice, We find that the Adjudicating Authority has reached his conclusions not only on the basis of the statements of the concerned persons but also the various incriminating records seized. We hold that the statements have been corroborated by the records seized (Para 9)

e. Similarly in **A.L Jalauddin v/s Enforcement Director reported as 2010(261)ELT 84 (mad) HC** the Hon High court held that; ".....Therefore, we do not agree that the principles of natural justice have been violated by not allowing the appellant to cross-examine these two persons: We may refer to the following paragraph in AIR 1972 SC 2136 = 1983 (13) E.L.T. 1486 (S.C.) (Kanungo & Co. v. Collector, Customs, Calcutta)".

f. **In the case of *Patel Engg. Ltd. vs UOI* reported in 2014 (307) ELT 862 (Bom.) Hon'ble Bombay High Court has held that;**

g. "Adjudication — Cross-examination — Denial of—held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances — Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors — Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated.” [para 23]

h. **In the case of *Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda* [2002 (142) E.L.T. 640 (Tri.-Mumbai)], Tribunal observed at Para 17 that—**

“Natural Justice — Cross-examination — Confessional statements — No infraction of principles of natural justice where witnesses not cross-examined when statements admitting evasion were confessional.”

i. **In the case of *Commissioner of Customs, Hyderabad v. Tallaja Impex* reported in 2012 (279) ELT 433 (Tri.), it was held that—**

“In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross-examination cannot be claimed as a matter of right.”

j. **Hon’ble Tribunal in the case of *P. Pratap Rao Sait v/s Commissioner of Customs* reported as 1988 (33) ELT (Tri) has held in Para 5 that:**

“The plea of the learned counsel that the appellant was not permitted to cross-examine the officer and that would vitiate the impugned order on grounds of natural justice is not legally tenable.”

Upon comprehensive review of the record, including the established facts, the corroborated documentary evidence presented, I find that request for cross-examination is devoid of legal or procedural merit. Accordingly, the application requesting to conduct of cross-examination is hereby denied.

17.9.1 I find that in the written submissions, the Noticee -1 contended that the printouts of emails were obtained during panchnama is "gross violation" of Section 138C of the Customs Act, 1962.

In this context, relevant section 138C(4) of the Customs Act, 1962 is reproduced below:

(4)In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,-

(a)identifying the document containing the statement and describing the manner in which it was produced;

(b)giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c)dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

17.9.2 I further relied upon a landmark ruling of the Supreme Court in case of "**Additional Director General Adjudication, Directorate of Revenue Intelligence v. Suresh Kumar and Co. Impex Pvt. Ltd. & Ors.** (2025 INSC 1050) dated 20.08.2025":

"Keeping the aforesaid in mind, we are of the view and, more particularly, considering the Record of Proceedings duly signed by the respondents, including the various statements of the respondents recorded under Section 108 of the Act, 1962, that there was due compliance of Section 138C(4) of the Act, 1962.

When we say due compliance, the same should not mean that a particular certificate stricto senso in accordance with Section 138C(4) must necessarily be on record. The various documents on record in the form of record of proceedings and the statements recorded under Section 108 of the Act, 1962 could be said to be due compliance of Section 138C (4) of the Act, 1962".

17.9.3 In this context, I find that printouts of email communications were taken on-site printing and under panchnama dated 12.09.2024 wherein Sh. Bharat Parmar, Branch Manager of M/s. Paramount Sealink Pvt. Ltd. was present during the entire process of panchnama. He acknowledged and affixed his signature on every single page of three made-up files before investigating officers and independent panchas. In view of the above, in this case, the mandatory requirement of authentication under section 138C (4) has been substantially complied with.

17.10.1 I find that the Noticee, in their written submission, alleged that the entire case is built upon the assumptions and presumptions of Shri Bharat Himmatlal Parmar and Shri Vankar Bharat Bhai Khengarbhai, the executives of Paramount Sealink Pvt Ltd. Further, I find that the Noticee has relied upon various case laws in their detailed written submissions, however, I find that the **Hon'ble Supreme Court of India in case of Ambica Quarry Works vs. State of Gujarat & Others [1987(l) S.C. C. 213]** observed that *"the ratio of any decision* must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."

17.10.2 Further in the case of **Bhavnagar University vs. Palitana Sugar Mills (P) Ltd. 2003 (2) SCC 111, the Hon'ble Apex Court** observed *"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."*

17.10.3 I rely upon following judgments from various courts:-

The **Hon'ble Supreme Court in CC Madras V/s D Bhuramal – [1983 (13) ELT 1546 (SC)]** has held that "The department is not required to prove the case with mathematical precision but what is required is the establishment of such a degree of probability that a prudent man may on its basis believe in the existence of the facts in issue." Further in the case of **K.I. International Vs Commissioner of Customs, Chennai reported in 2012 (282) E.L.T. 67 (Tri. - Chennai)** the Hon'ble CESTAT, South Zonal Bench, Chennai has held as under: -

> *"Enactments like Customs Act, 1962, and Customs Tariff Act, 1975, are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives. Evidence Act not being applicable to quasi-judicial proceeding, preponderance of probability came to rescue of Revenue and Revenue was not required to prove its case by mathematical precision. Exposing entire modus operandi through allegations made in the show cause notice on the basis of evidence gathered by Revenue against the appellants was sufficient opportunity granted for rebuttal. Revenue discharged its onus of proof and burden of proof remained un-discharged by appellants. They failed to lead their evidence to rule out their role in the offence committed and prove their case with clean hands. No evidence gathered by Revenue were demolished by appellants by any means".*

17.11 As per my detailed findings in above paras, the impugned goods did not fulfill the condition outlined as per the provisions of notification no. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category. However, evidence established that the importer intentionally submitted manipulated/forged Bills of Lading in a deliberate attempt to facilitate the customs clearance of restricted goods unlawfully.

17.12 I have also examined the other grounds recorded in said Order-in-Appeal dated 07.07.2026, to the extent relevant to the facts of the present case. As regards the contention that the panchnama proceedings are vitiated, I find that the specific infirmity alleged qua the panchnama dated 12.09.2024 has already been examined and addressed in Para 17.7 above; no further infirmity in the panchnama proceedings has been demonstrated on record, and a bald allegation of vitiation, without more, cannot invalidate the seizure or the consequent proceedings. As regards the contention that the shipping line's own tracking data supports the noticee and has been selectively ignored by the Department, I find that it is this very tracking data, read together with the other documentary evidence discussed in the preceding paragraphs, that forms the very foundation of the finding of manipulation of the Bills of Lading; the said evidence has, therefore, been duly relied upon and not ignored. As regards the contention that the investigation is incomplete for want of verification from overseas offices of the supplier/shipping line, I find that the evidence on record — the shipping line's own tracking data, documents furnished/recovered during the course of investigation, and voluntary statements recorded under Section 108 of the Customs Act, 1962 — is direct and sufficient to establish the charge, and no material has been placed on record to show how any overseas verification would alter this finding. As regards the contention founded on the IGM(s) having been filed in conformity with the Bills of Lading, and non-invocation of Section 30 of the Customs Act, 1962 against the shipping line, I find that the IGM(s), having themselves been filed on the strength of the very Bills of Lading found to be manipulated, cannot be relied upon to validate those documents, and the correctness of the Bills of Entry cannot be tested merely by their conformity with an equally tainted IGM. As regards the contention that the Department's case rests on an unproved assumption regarding the actual date of loading, I find, for the reasons discussed in the preceding paragraphs, that the said dates stand established on the basis of documentary evidence and admissions on record, and not on mere assumption. Accordingly, I find that none of the aforesaid common grounds urged in the batch of connected appeals detracts from the findings recorded in this order.

17.13 I also find that it is a fact that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011; ‘Self-Assessment’ has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of the Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make proper & correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and after self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

17.14 From the above, I find that the Noticee has violated Sub-Section (4) and 4(A) of Section 46 of the Customs Act as they have mis-declared and mis-classified the goods and evaded the payment of applicable duty. I find that the Noticee was required to comply with Section 46 which mandates that the importer filing the Bill of Entry must make true and correct declarations and ensure the following:

(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.

17.15 I find that the Show Cause Notices propose confiscation of goods under the provisions of Section 111 (d), 111(f), 111(m) and 111(o) of the Customs Act, 1962. Provisions of Sections are re-produced herein below:

> **111. Confiscation of improperly imported goods, etc.-** goods are liable for confiscation:-

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

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an 1[arrival manifest or import manifest] or import report which are not so mentioned;

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

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

In the present case, the importer failed to comply with the condition of DGFT notification no. 05/2023-Cus dated 05.04.2024, which rendered the subject goods prohibited, hence, contravened the provisions of Section 46 of the Customs Act, 1962. I find that Bills of lading provided were forged /manipulated to meet the requirement of notification no. 05/2023-Cus dated 05.04.2024. This deliberate manipulation confirms malafide intention of noticees. These acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111 (d), 111(m), 111(f) and 111(o) of the Customs Act, 1962.

18. Option of redemption under Section 125 of the Customs Act, 1962:

18.1 I find that vide the said OIO No. MCH/ADC/ZDC/453/2025-26 dated 20.12.2025, the impugned goods i.e. Watermelon Seeds imported by M/s. Vinaykumar and Co. under (i) Bill of Entry No. 5278246 dated 27.08.2024, B/L No. OSLSBL-981/24 / OSLPZUMUN3056024, and (ii) B/L No. OSLPZUMUN3171424/ OSLPZUNSA3056024 and IGM No. 2387542 dated 08.09.2024, were ordered to be absolutely confiscated under Section 111(d), 111(m)/111(f) and 111(o) of the Customs Act, 1962, without extending any option of redemption under Section 125 of the Customs Act, 1962.

18.2 Being aggrieved, the importer preferred an appeal before the Commissioner of Customs (Appeals), Ahmedabad, who, vide the OIA, remanded the matter for de novo adjudication, specifically on the ground that the said OIO did not contain any examination or findings on the contention regarding the option of redemption, particularly in light of the outcome in the case of M/s. Shreeshiv Agri Impex LLP. This is the specific aspect on which the matter has been remanded, and on which the noticees have placed reliance.

18.3 I find that in the case of M/s. Shreeshiv Agri Impex LLP, the Hon'ble High Court of Gujarat, vide Common Oral Order dated 29.01.2026 passed in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025, directed the undersigned to reconsider the matter in light of the judgment of the Hon'ble Punjab & Haryana High Court in *Shree Balaji Industries*, and pass appropriate orders. The relevant portion of the said order dated 29.01.2026 is reproduced below for reference:

> *"3. Prima facie we are of the considered opinion that the said order runs contrary to the decision of the Punjab and Haryana High Court. The petitioners in their reply have categorically referred to the various decisions including the decision in the case of Shree Balaji Industries (supra) however, the respondent authorities have still proceeded with proceedings of confiscation of goods.*
>
> *4. While passing the order dated 17.12.2025, a statement was made before this Court that the auction of the goods, which was scheduled to be held tomorrow i.e. on 18.12.2025, is postponed and the same will be held on 15.01.2026. The matter was thereafter listed on 08.01.2026. In the order dated 08.01.2026, a statement of learned Senior Standing Counsel was recorded that auction will be conducted till 30.01.2026. Thus, during pendency of the writ petition, the respondents have proceeded further by passing order of confiscating the goods, which appears to be prohibited and not restricted.*
>
> *5. Hence, we direct that till further orders are passed by this Court, no auction proceedings shall be held. We also further direct the respondent to reconsider the matter in light of the judgement of the Punjab and Haryana High Court and pass appropriate orders and place the same on record by the next date of hearing."*

18.4 I find that the Hon'ble Punjab & Haryana High Court, in *Shree Balaji Industries v. Additional/Joint Commissioner of Customs* [2024 (387) E.L.T. 294 (P&H)], vide order dated 06.06.2023, has directed release of watermelon seeds. The relevant portion of that order is reproduced below for reference:

> *"23. In the present case, the Watermelon seeds are restricted goods but they cannot be treated as prohibited goods and in the absence of any permission/authorization for DGFT, provisional release can be*

done as per the judgment of the Hon'ble Supreme Court passed in Commissioner of Customs's case (supra). Moreover, during the pendency of this writ petition, report from Plant and Quarantine Department has come in favour of the petitioner as regards Watermelon Seeds and in the case of Red Kidney Beans, they have been ordered to be released provisionally subject to conditions as per order dated 23.02.2023 (Annexure P-1). The order with the same conditions can be passed in this case as well as the Watermelon Seeds do not fall under the "prohibited" category and they fall under the "restricted" category as per notifications dated 26.04.2021 and 21.06.2022. The provisional release can be ordered subject to final decision taken by the Adjudicating Authority under Section 105 of the Customs Act, 1962.

24. Keeping in view the above observations, writ petition is allowed and order dated 23.02.2023 (Annexure P-1) is set aside qua Watermelon Seeds with direction to the respondent to pass provisional release order of Watermelon Seeds as per conditions imposed in the case of "Red Kidney Beans" under order dated 23.02.2023, within a period of one week."

18.5 In compliance with the aforesaid directions of the Hon'ble High Court of Gujarat, vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 issued to M/s. Shreeshiv Agri Impex LLP, the option of redemption of the confiscated goods was extended under Section 125(1) of the Customs Act, 1962, specifically observing that the issue therein was related to the violation of the DGFT Notification governing import of watermelon seeds by producing a forged Bill of Lading, but the goods were declared correctly as Watermelon Seed, and accordingly the goods were allowed to be redeemed on payment of redemption fine.

18.6 I find that the facts of the present case are similar to the case of M/s. Shreeshiv Agri Impex LLP. Accordingly, I allow the importer M/s. Vinaykumar and Co. to redeem the confiscated goods of (i) Bill of Entry No. 5278246 dated 27.08.2024, B/L No. OSLSBL-981/24 / OSLPZUMUN3056024, and (ii) B/L No. OSLPZUMUN3171424/ OSLPZUNSA3056024 and IGM No. 2387542 dated 08.09.2024, i.e. Watermelon Seeds covered under both the aforesaid consignments, on payment of redemption fine under Section 125 of the Customs Act, 1962.

19. Penalties on M/s. Vinaykumar and Co.:

19.1 I find that the Show Cause Notices propose penalty on M/s. Vinaykumar and Co. under the provisions of Section 112(a), 112(b) and 114AA of the Customs Act, 1962. Provisions of Sections are re-produced herein below:

"***SECTION 112. Penalty for improper importation of goods, etc. — Any person***, -

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

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

(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 5[not exceeding the value of the goods or five thousand rupees], 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 to a penalty not exceeding five times the value of goods.]*

19.2 Role and culpability of M/s. Vinaykumar & Co.:

M/s. Vinaykumar & Co. was well aware of the Import policy and Notification No. 05/2023 dated 5th April, 2024 issued by the DGFT. M/s Vinaykumar & Co. had imported first consignment of watermelon seeds covered under BL No. OSLPZUMUN3056024 replaced with new switch BL OSLSBL-981/24, second consignment of watermelon seed covered under BL No. OSLPZUMUN3171424 with new switch BL OSLPZUNSA3056024 by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of Lading is **840MTs** having Assessable value of **Rs. 21,41,84,289/-.** As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(f), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. I find that the evidences clearly indicating malafide intention on their part in respect of the imported goods warranting imposition of penalty under Section 112 (a) (i) as the fact of non-compliance of conditioned outlined in the Notification No. 05/2023-Cus dated 05.04.2024 issued by DGFT. Result is that proposal to impose penalty under Section 112 (a) (i) is correct and sustainable in law.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty; therefore, I refrain from imposition of penalty on M/s. Vinaykumar & Co. under Section 112(b) of the Customs Act, 1962.

I find that the SCN proposed imposition of penalty on the Importer under Section 114AA of the Customs Act, 1962. I find that in spite of well aware of import policy and conditioned outlined in the notification no. 05/2023-Cus dated 05.04.2024 issued by DGFT. As it is the obligation of the firm to ensure that proper and correct documents are maintained and as forged Bill of Lading was created which constitutes the violation, thus renders themselves liable to penalty under Sec 114AA of Customs Act, 1962. These acts of omission and commission on the part of the importer made the provisions of Section 114AA invokable. Therefore, I agree with the proposal of imposition of penalty on the importer under Section 114AA *ibid.*

20. I find it pertinent to mention that the present de novo adjudication is confined to M/s. Vinaykumar and Co. alone, since the appeal culminating in the OIA dated 07.07.2026 was filed by the importer, M/s. Vinaykumar and Co., against Order-in-Original No. MCH/ADC/ZDC/453/2025-26 dated 20.12.2025. The penalties imposed vide the said Order-in-Original on M/s. Paramount Sealink Pvt. Ltd. and Shri Bharat Himmatlal Parmar are not affected by the OIA.

21. In view of the above facts of the case and findings on record, I pass the following order:-

ORDER

(i). I order to confiscate the impugned goods i.e. **420 MTS "Watermelon Seed"** imported vide Bill of Entry No. 5278246 dated 27.08.2024, B/L No. OSLSBL-981/24 / OSLPZUMUN3056024, having value **Rs. 10,65,26,716/-** (Rupees Ten Crore Sixty Five Lakh Twenty-Six Thousand Seven Hundred and Sixteen only) under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962. However, I give an option to the importer, M/s. Vinaykumar and Co., to redeem the confiscated goods on payment of redemption fine of **Rs. 1,00,00,000/-** (Rupees One Crore Only) under Section 125 of the Customs Act, 1962. In terms of Section 125(3) of the Customs Act, 1962, the option for redemption shall be exercised within a period of one hundred and twenty days from the date of receipt of this order, failing which the said option shall become void, unless an appeal against this order is pending.

(ii). I impose penalty of **Rs. 50,00,000/- (Rupees Fifty Lakh only)** on the importer M/s Vinaykumar & Co. for the consignment imported vide bill of entry no. 5278246 dated 27.08.2024 under Section 112 (a)(i) of the Customs Act, 1962.

(iii). I order to confiscate the impugned goods i.e. **420 MTS "Watermelon Seed"** imported vide B/L No. OSLPZUMUN3171424/ OSLPZUNSA3056024 and IGM No. 2387542 dated 08.09.2024, having value **Rs. 10,76,57,573/-** (Rupees Ten Crore Seventy Six Lakh Fifty-Seven Thousand Five Hundred and Seventy-Three only) under Section 111(d), 111(f) & 111(o) of the Customs Act, 1962. However, I give an option to the importer, M/s. Vinaykumar and Co., to redeem the confiscated goods on payment of redemption fine of **Rs. 1,00,00,000/-** (Rupees One Crore only) under Section 125 of the Customs Act, 1962. In terms of Section 125(3) of the Customs Act, 1962, the option for redemption shall be exercised within a period of one hundred and twenty days from the date of receipt of this order, failing which the said option shall become void, unless an appeal against this order is pending.

(iv). I impose penalty of **Rs. 50,00,000/- (Rupees Fifty Lakh only)** on the importer M/s Vinaykumar & Co. for the consignment imported vide B/L No. OSLPZUMUN3171424/ OSLPZUNSA3056024 under Section 112 (a)(i) of the Customs Act, 1962.

(v). I refrain from imposing penalty on the importer M/s Vinaykumar & Co. under Section 112(b) of the Customs Act, 1962.

(vi). I impose penalty of **Rs. 2,00,000/- (Rupees Two Lakh only)** on the importer M/s. Vinaykumar & Co. under Section 114AA of the Customs Act, 1962.

22. This order is passed in compliance with Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 and is issued without prejudice to any other action which may be contemplated against the importer or any other person under the provisions of the Customs Act, 1962 and the rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

23. The Show Cause Notice bearing no. GEN/ADJ/ADC/503/2025-Adjn dated 20.02.2025 stands disposed of in the above terms qua M/s. Vinaykumar and Co.

Digitally signed by
Dipakbhai Zala
Date: 19-08-2026
15:23:42

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra.

By Speed Post/Regd. Post/E-mail/Hand Delivery

To,

M/s. Vinaykumar and Co., located at 'E-323, New Market Yard, Unjha, Mahesana, Gujarat-384170' (IEC: 0805007865) (Proprietor: Shri Prahaladbhai Mohanbhai Patel) (vinaysortex@yahoo.com)

Copy to:

(1) The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).
(2) The DC/AC, (RRA, TRC, EDI), Mundra Customs.
(3) Guard File.