OFFICE OF THE COMMISSIONER

CUSTOM HOUSE, KANDLA

NEAR BALAJI TEMPLE, NEW KANDLA

Phone : 02836-271468/469 Fax: 02836-271467

DIN- 20250771ML000000E0CF		
A	File No.	GEN/ADJ/COMM/46/2024-ADJN
B	Order-in-Original No.	KND-CUSTM-000-COM-10-2025-26
C	Passed by	M. Ram Mohan Rao, Commissioner of Customs, Custom House, Kandla.
D	Date of Order	30.06.2025
E	Date of Issue	04.07.2025
F	SCN No. & Date	GEN/ADJ/COMM/46/2024-ADJN dated 25.01.2024
G	Noticee / Party / Importer / Exporter	M/s. DIL EXIM and others

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

2. Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

Customs Excise & ServiceTax AppellateTribunal, West Zonal Bench,

2ndFloor, Bahumali Bhavan Asarwa,

Nr.Girdhar Nagar Bridge,GirdharNagar,Ahmedabad-380004

3. Appeal shall be filed within three months from the date of communication of this order.

4. Appeal should be accompanied by a fee of Rs.1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/-in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh(Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs. 10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs(Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. 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 CourtFees Act, 1870.

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

7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.

8. An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise if penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

The information gathered by the Directorate of Revenue Intelligence(referred as 'DRI' hereinafter) indicated that M/s. Tata International Limited, Office No. 11, Ground Floor, Plot No. 40, Sector 8, Gandhidham, Kachchh-370201 (IEC 388024291), (herein after referred as 'M/s TIL' for sake of brevity), have imported 20300 MTs goods consisting of 75% RBD Olein (i.e. Refined Bleached and Deodorised Palm Olein) by mis-declaring the same as "Crude Palm Oil (Edible Grade) in Bulk" (herein after referred to as 'CPO') in the vessel "MT-Distya Pushti", at Deendayal Port, Kandla with intent to evade Customs duty. The intelligence also indicated that a Singapore based trading entity M/s. Glentech Ventures PTE Ltd. Singapore (referred as 'M/s. GVPL' hereinafter) (Indian sister concern M/s. Glentech Industries Private Limited(referred as 'M/s. GIPL')),whose operations were managed by Shri Sudhanshu Agarwal and was looking into purchase of the said cargo from Indonesian Mill Owners and sell to M/s. TIWA, UAE(referred as 'M/s. TIWA' hereinafter) who in turn would sell the consignment to its Indian Counterpart/sister concern M/s. TIL, India. It was also gathered that Master of the vessel along with the Chief Officer of the vessel had manipulated the documents related to the said consignment on the vessel for mis-declaration of the goods.

2. Acting on the said intelligence, the vessel "MT-Distya Pushti" was boarded by the Officers of DRI, Gandhidham Regional Unit along with officers of Customs House, Kandla and Chemical Examiner, CRCL, Kandla under Panchnama dated 02/03.01.2022 **[RUD No. 01]**. During the course of search/rummaging of the vessel, various documents such as (1) Pre cargo meeting documents, (2) Manifest, (3) Mate receipt, (4) Tanker Bill of Lading at Port of Kuala Tanjung, Indonesia, (6) Statement of the Facts, (7) Notice of readiness, (8) Letter of Protest showing 69 MTs shortage of loaded RBD Olein, (9) Testing and sampling reports were taken and placed in a file marked as "Made up file containing e-mail printouts and print outs of ledgers, Pro-forma Invoices, Sales Contract etc." and the same were retrieved alongwith other documents, as mentioned in the Panchnama dated 02/ 03.01.2021.

2.1 Shri Bhaskar, Master of the Vessel "MT-Distya Pushti" also provided the STOWAGE plan of the vessel and informed that there were 16 Tanks for storage of the cargo in the Vessel. Out of the 16 tanks only 15 were loaded with cargo having quantity around 20300 MT and one tank was empty. During the course of Panchnama, printouts of documents/files available in computer system installed in ship's office were taken. During scrutiny of the files available in the ship's office of the vessel, two documents namely pre cargo meeting for Dumai Port, Indonesia and Kuala Tanjung port, Indonesia which were containing description of cargo as CPO and RBD Palmolein & PFAD respectively were found. Shri Jyotiyana Kulmohit, Chief Officer of the vessel MT Distya Pushti confirmed that the said documents pertained to the cargo loaded on the vessel. During search, the Master of the vessel, Shri Bhaskar informed that their management team of M/s. Phelix Shipping Ventures Pvt. Ltd had directed them not to disclose the actual load port documents to anyone. During the course of rummaging, a sealed packet was found in the cabin of the Chief Officer who stated that the said packet contained the actual load port documents having

correct description and other particulars. The said envelope was marked as "VOY-07/2021, DUMAI & KUALA TANJUNG, CPO, RBD & PFAD, NOT TO BE USED, FOR REFERENCE ONLY". The documents contained in the said sealed packet were having description of goods as CPO for Dumai Port and RBD Palm Olein & PFAD for Kuala Tanjung port. The documents contained in the sealed packet were placed in a made-up file marked as Made-Up File-2.

2.2 The DRI and Customs officers again boarded the vessel 'MT-Distya Pushti' and examined the cargo in the presence of master of the vessel and others under Panchnama dated 03/04.01.2022 **[RUD No. 02]** to draw representative samples from each of the 15 tanks in triplicate in which the cargo imported by M/s. TIL., had been stored. During Panchnama total 45 representative samples (03 from each tank) from 15 tanks were drawn and sealed with CUSTOM lac seal.

2.3 Another simultaneous search was carried out by DRI officers on 02.01.2022 under running Panchnama dated 02.01.2022 **[RUD No.03]** at the residence premises of Shri Sudhanshu Agarwal situated at House No. 801, Earth Court-1, Jaypee Greens, Greater Noida, Gautam Budh Nagar - 201308 (UP) and office premises of M/s. GIPL, situated at No. 508, 5th Floor, Wegmans Business Park, Plot No. 3, Sector-Knowledge Park-III, Surajpur Kasna Main Road, Greater Noida, Gautam Budh Nagar-201308 (UP). During the course of search, various documents as mentioned in the Panchnama were withdrawn for further investigation.

2.4 During Panchnama proceeding Shri Sudhanshu Agarwal informed that he looks after the work of four companies namely M/s.GIPL (engaged in trading of Mentha Oil and Palm Oil), M/s. GVPL (engaged in facilitating activity related to charter vessel to M/s. TIL), M/s. Glentech Global Ltd. and M/s. Pt Glentech Global Resources, Indonesia.

2.5 Another simultaneous search was carried out by DRI officers on 03.01.2022 under Panchnama dated 03.01.2022 **[RUD No.04]** at the office premises of M/s. Midas Tankers Pvt. Ltd & M/s. Phelix Shipping Ventures Pvt. Ltd., both situated at 617, the Great Eastern Galleria, Nerul Sector 4, Navi Mumbai 400706. During the Panchnama proceedings the e-mail id accounts@phelixship.com in respect of the office correspondence of M/s. Midas Tankers Pvt. Ltd was opened and print outs of certain emails were taken and placed in two made up files.

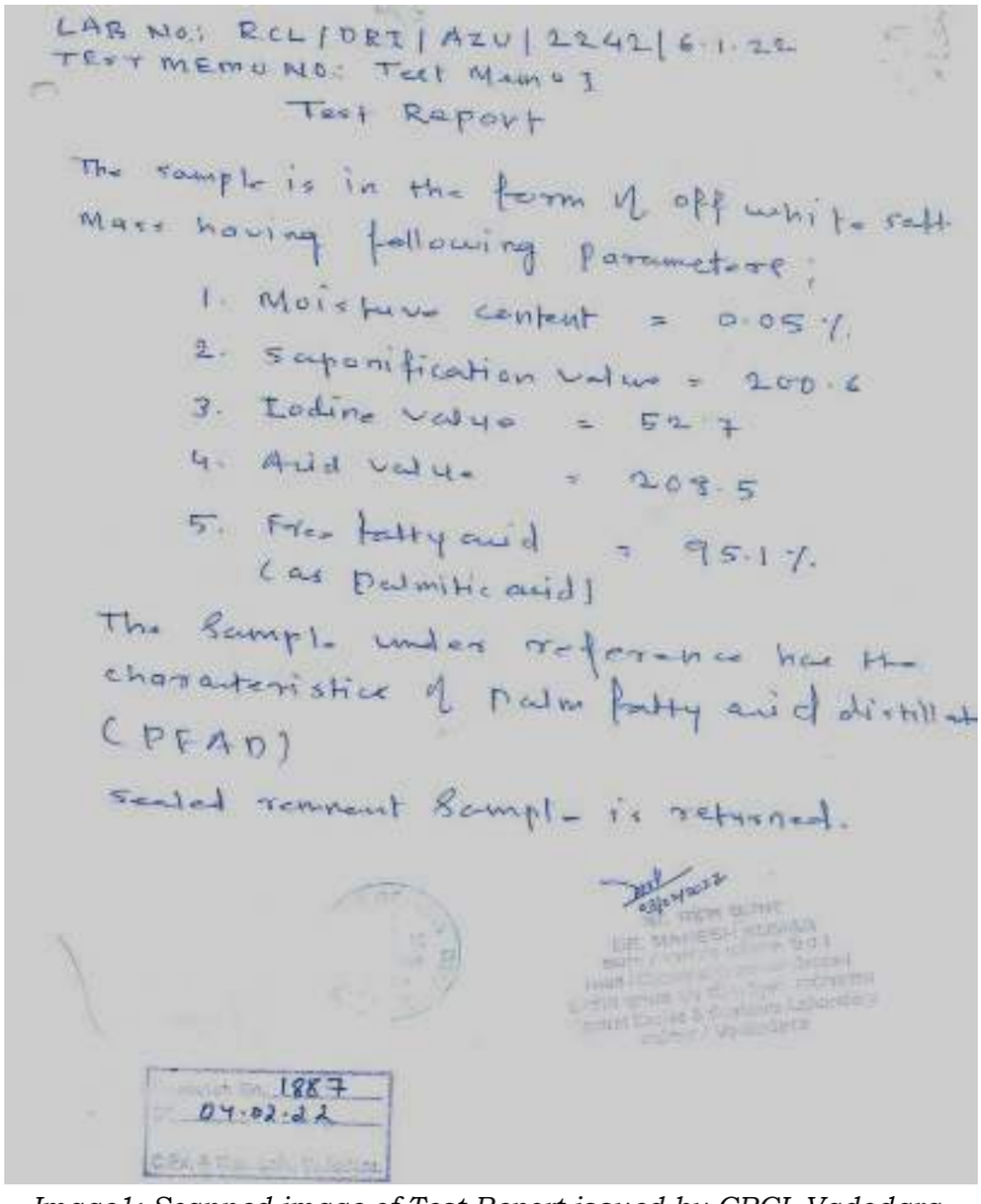
2.5.1 During the Panchnama proceedings, on being inquired about the documents viz. Bill of Lading and other shipping documents, Shri Sanjay Ganpat Shedekar informed that the same are available at the premises of M/s. Phelix Shipping Ventures Pvt Ltd., situated at 207 of The Great Eastern Galleria. The premises of M/s. Phelix Shipping Ventures Pvt. Ltd., situated at 207 of The Great Eastern Galleria were also searched. During the Panchnama proceedings, printouts relevant to the inquiry were taken from the mail id: technical@phelixships.com. During the Panchnama, printouts relevant to the inquiry were taken out from the mail id operations@midasship.com and the same were resumed under Panchnama dated 03.01.2022.

2.6 TESTING OF SAMPLES:

2.6.1 The said vessel contained 15 tanks of imported goods. The samples from each tank were systematically drawn under above Panchnama dated 03/04.01.2022. These samples along with the samples handed over by the captain of the vessel 'MT Distya Pushti', during his statement dated 02/03.01.2022 were sent to CRCL, Vadodara for testing. After analysis of the samples, test reports No. RCL/2242 to RCL/2260 of samples were submitted by the Chemical Examiner. **[RUD No. 05]**.

2.6.2 On perusal of the test report of the sample "Slop P" **[RUD No. 06]**, which was handed over by the Captain of the vessel during his statement dated 02/03.01.2022, describing the same as "PFAD", it appears that the goods have the characteristics of Palm Fatty Acid Distillate (PFAD).The parameters are as under: -

1.	***Moisture content***	***= 0.05%***
2.	***Saponification value***	***= 200.6***
3.	***Iodine Value***	***= 52.7***
4.	***Acid Value***	***= 208.5***
5.	***Free Fatty Acid (As Palmitic Acid)***	***= 95.1%***



LAB No.: RCL/DRI/AZU/2242/6.1.22
TEST MEMO NO.: Test Memo 1

Test Report

The sample is in the form of off white soft Mass having following parameters:

1. Moisture content = 0.05 %
2. Saponification value = 200.6
3. Iodine value = 52.7
4. Acid value = 208.5
5. Free fatty acid = 95.1 %
   (as Palmitic acid)

The sample under reference has the characteristics of Palm fatty acid distillate (PFAD)

Sealed remnant sample is returned.

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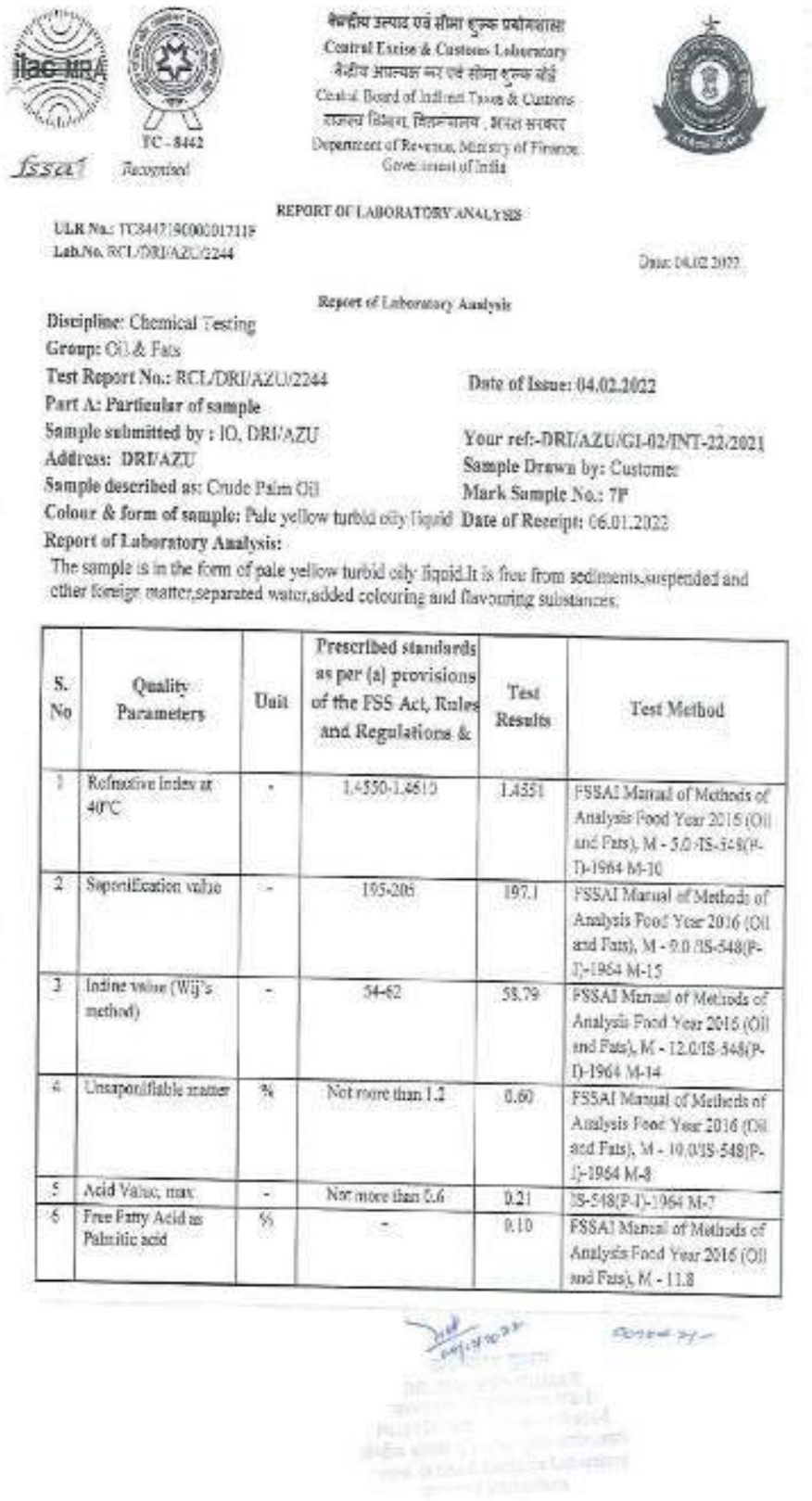
04.02.22

Image1: Scanned image of Test Report issued by CRCL Vadodara.

Perusal of the above test report confirms that PFAD was loaded on the vessel at load port.

2.6.3 Similarly, on perusal of the test report of the sample "7P" **[RUD No. 07]**, which was handed over by the captain of the vessel during his statement dated 02/03.01.2022, describing the same as "RBD", it appears that the goods meet the requirement of RBD Palmolein.

The scanned image of the above said test report is reproduced herein below:



केन्द्रीय उत्पाद एवं सीमा शुल्क प्रयोगशाला
Central Excise & Customs Laboratory
केंद्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड
Central Board of Indirect Taxes & Customs
राजस्व विभाग, वित्त मंत्रालय, भारत सरकार
Department of Revenue, Ministry of Finance
Government of India

TC - 8442
Accredited

REPORT OF LABORATORY ANALYSIS

ULR No.: TC844718000201711F
Lab.No. RCL/DRI/AZU/2244
Date: 04.02.2022

Report of Laboratory Analysis

Discipline: Chemical Testing
Group: Oil & Fats
Test Report No.: RCL/DRI/AZU/2244 **Date of Issue:** 04.02.2022
Part A: Particular of sample
Sample submitted by : IO, DRI/AZU **Your ref:-**DRI/AZU/GI-02/INT-22/2021
Address: DRI/AZU **Sample Drawn by:** Customs
Sample described as: Crude Palm Oil **Mark Sample No.:** 7P
Colour & form of sample: Pale yellow turbid oily liquid **Date of Receipt:** 06.01.2022
Report of Laboratory Analysis:
The sample is in the form of pale yellow turbid oily liquid.It is free from sediments,suspended and other foreign matter,separated water,added colouring and flavouring substances.

S. No	Quality Parameters	Unit	Prescribed standards as per (a) provisions of the FSS Act, Rules and Regulations &	Test Results	Test Method
1	Refractive Index at 40°C	-	1.4550-1.4610	1.4551	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 5.0 /IS-548(P-I)-1964 M-10
2	Saponification value	-	195-205	197.1	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 9.0 /IS-548(P-I)-1964 M-15
3	Iodine value (Wij's method)	-	54-62	58.79	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 12.0/IS-548(P-I)-1964 M-14
4	Unsaponifiable matter	%	Not more than 1.2	0.60	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 10.0/IS-548(P-I)-1964 M-8
5	Acid Value, max	-	Not more than 0.6	0.21	IS-548(P-I)-1964 M-7
6	Free Fatty Acid as Palmitic acid	%	-	0.10	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 11.8

UI.R No.: TC844219000001711F
Lab.No. RCL/DRI/AZU/2244 Date: 04.02.2022

7	Test for Mineral oil	-	Negative	Negative	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M-28.0/IS-548(P-II)-1964
8	Test for Argemone oil	-	Negative	Negative	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M – 30/IS-548(P-II)-1964
9	Test for Rancidity	-	Negative	Negative	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M-37.0/IS-548(P-II)-1964
10	Cloud Point	°C	Not more than 18	10	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M–17.0
11	Carotenoids	mg/kg	-	Below detectable limits	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M – 36
12	Moisture & insoluble impurities, max	% by mass	0.25	0.09	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 3.0 /IS-548(P-I)-1964 M-5&6

Opinion: Above analyzed parameters reveals that the sample s/r meets the requirement of RBD Palmolein as per the standards laid down under regulation 2.2.1 (16) of food safety and standards (food products standards and food additives) Regulation, 2011 and provision of food safety and standards act 2006.

Sealed remnant sample returned herewith.

Note 1. Tested Sample(s) not drawn by the laboratory.
2. Test results relate to the submitted sample(s) only.
3. Test report shall not be reproduced except in full, without written approval of the laboratory.

(Dr. MAHESH KUMAR)
Head/Chemical Examiner Gr. I
Central Excise & Customs Laboratory,
Vadodara

"End of Report"

Test Memo No. 1887
04.02.22
C.Ex. & Cus. Lab., Vadodara

Image2: Scanned Image of Test Report issued by Head/ Chemical Examiner, C.Ex. & Customs Laboratory, Vadodara

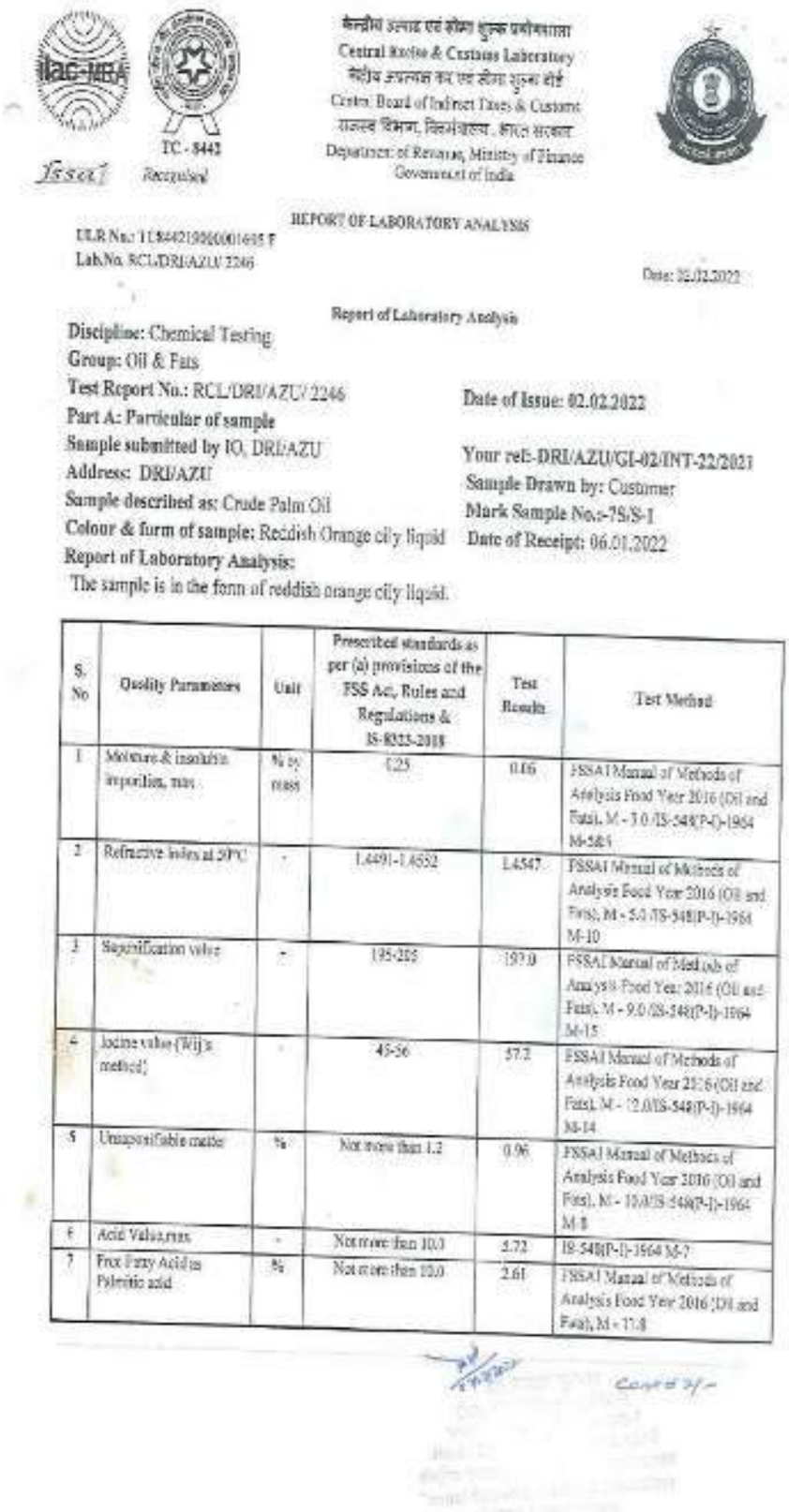
As per the opinion offered in the aforementioned test report submitted by the Head/ Chemical Examiner, C.Ex.& Customs Laboratory i.r.o. sample "7P", reveals that "*the sample meets the requirement of RBD Palmolein".* Perusal of the above test report confirms that the sample meets the requirement of RBD Palmolein and accordingly it appears that the RBD Palmolein was loaded on the vessel at load port.

2.6.4 The samples of the goods imported by declaring the same as CPO were drawn under Panchnama dated 03/04.01.2022. As per the opinion offered by the Head/ Chemical Examiner, C.Ex.,& Customs Laboratory Vadodara in the test report of the sample "7S/S-1" [RUD No. 08], *"the sample does not meet the requirement of Crude Palm Oil & Palm Oil (Raw)".* It is further submitted that the "*Carotenoids content in the sample is below the limit; Palm Oil normally contains 500-700 ppm carotenoids. In view of the above it is concluded that*

sample u/r is an admixture of Crude Palm Oil, Palmolein and other palm based oil".

It is pertinent to mention here that the same opinion was offered by the Head/ Chemical Examiner, CRCL in respect of other samples drawn from the respective 15 tanks under Panchnama dated 03/04.01.2022.

Therefore, it is safe to conclude that all the samples are admixture of Crude Palm Oil, Palmolein and other palm-based oil in the test report. For better comprehension, the scanned image of one of the test reports is reproduced below:



केन्द्रीय उत्पाद एवं सीमा शुल्क प्रयोगशाला
Central Excise & Customs Laboratory
केंद्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड
Central Board of Indirect Taxes & Customs
राजस्व विभाग, वित्त मंत्रालय, भारत सरकार
Department of Revenue, Ministry of Finance
Government of India

TC - 8442
Received

REPORT OF LABORATORY ANALYSIS

ULR No.: TL842105600016 95 F
Lab.No. SCL/DRI/AZU/ 2246

Date: 02.02.2022

Report of Laboratory Analysis

Discipline: Chemical Testing
Group: Oil & Fats
Test Report No.: RCL/DRI/AZU/ 2246 **Date of Issue:** 02.02.2022
Part A: Particular of sample
Sample submitted by IO, DRI/AZU **Your ref:**-DRI/AZU/GI-02/INT-22/2021
Address: DRI/AZU **Sample Drawn by:** Customer
Sample described as: Crude Palm Oil **Mark Sample No.:**-7S/S-1
Colour & form of sample: Reddish Orange oily liquid **Date of Receipt:** 06.01.2022
Report of Laboratory Analysis:
The sample is in the form of reddish orange oily liquid.

S. No	Quality Parameters	Unit	Prescribed standards as per (a) provisions of the FSS Act, Rules and Regulations & IS-8033-2018	Test Results	Test Method
1	Moisture & insoluble impurities, max	% by mass	0.25	0.06	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 3.0 /IS-548(P-I)-1964 M-5&6
2	Refractive Index at 50°C	-	1.4491-1.4552	1.4547	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 5.0 /IS-548(P-I)-1964 M-10
3	Saponification value	-	195-205	197.0	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 9.0 /IS-548(P-I)-1964 M-15
4	Iodine value (Wij's method)	-	45-56	57.2	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 12.0/IS-548(P-I)-1964 M-14
5	Unsaponifiable matter	%	Not more than 1.2	0.96	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 10.0/IS-548(P-I)-1964 M-8
6	Acid Value,max	-	Not more than 10.0	5.72	IS-548(P-I)-1964 M-7
7	Free Fatty Acid as Palmitic acid	%	Not more than 10.0	2.61	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M - 17.0

Contd P/-

ULR No.: TC844219000001695F Date: 02.02.2022
Lab.No. RCL/DRI/AZU/7246

8	Test for Mineral oil	-	Negative	Negative	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M-28.0/IS-548(P-II)-1964
9	Test for Argemone oil	-	Negative	Negative	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M – 30/IS-548(P-II)-1964
10	Test for Rancidity	-	Negative	Negative	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M-37.0/IS-548(P-II)-1964
11	Melting Point	°C	Not more than 39.0	35.0	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M – 8.0/IS-548(P-I)-1964 M-9
12	Cloud Point	°C	---	14.0	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M–17.0
13	Carotenoids	mg/kg	500-700 Ref. Bailey's Industrial Oil and Fat Products ,Vol. 2	106.3	FSSAI Manual of Methods of Analysis Food Year 2016 (Oil and Fats), M – 36
14	Deterioration of Bleachability Index (DOBI)	–	1.68-2.30=Poor grade 2.31 -2.92=Fair grade 2.93-3.24=Good grade >3.24 =Excellent grade	0.57	ISO-17932:2011(EN)

Opinion: Above analysed parameters reveals that the sample u/r does not meet the requirement of Crude Palm Oil & Palm Oil (Raw) as per norms under the regulation 2.2.1 (16) of food safety and standards (food products and food additive) Regulation, 2011 and provision of food safety and standards act 2006 and rules made there under & IS-8323-2018 respectively.

2. Carotenoids content in the sample u/r is below the limit. However, crude palm oil normally contains 500-700 ppm carotenoids (Ref. Bailey's Industrial Oil and Fat Products, Vol.-2 page 348).

In view of the above, it is concluded that sample u/r is an admixture of Crude Palm Oil, Palmolein and other palm based oil.

Sealed remnant sample returned herewith.

Note 1. Tested Sample(s) not drawn by the laboratory.
2. Test results relate to the submitted sample(s) only.
3. Test report shall not be reproduced except in full, without written approval of the laboratory.

(Dr. MAHESH KUMAR)
Head/Chemical Examiner Gr. I
Central Excise & Customs Laboratory,
Vadodara

"End of Report"

1887
4/2/22
C.Ex. & Cus. Lab., Vadodara.

2 | Page

Image3: - Scanned image of one of test reports given by Head/ Chemical Examiner Gr.I, C.Ex. & Customs, Vadodara.(remaining all reports attached in RUDs)

The perusal of the test reports suggest that the goods imported by M/s. TIL, by declaring the same as Crude Palm Oil, do not conform to the parameters of Crude Palm Oil & Palm Oil (raw), but is an admixture of Crude Palm Oil, Palmolein and other palm based oil. The test reports of other samples drawn under Panchnama dated 03/04.01.2022 confirms that in all the samples, the Carotenoid content is below the limit. Thus, from the test reports, it appears that M/s. TIL have mis-declared the goods imported by them as Crude Palm Oil.

2.6.5 From the test reports as discussed hereinabove, it appears that the goods imported by M/s. TIL by declaring the same as Crude Palm Oil do not possess the characteristics of Crude Palm Oil, but, is an admixture of Crude Palm Oil, Palmolein and other palm based oil. On the contrary, from the test report of samples handed over by the Captain of the vessel, it appears that RBD and PFAD were also loaded on the vessel at load ports. Thus, it appears that the goods imported by M/s. TIL is not Crude Palm Oil but is an admixture of Crude Palm Oil, Palmolein and other palm-based oil, but, in order to escape from the payment of duties at higher rates, M/s. TIL have knowingly declared the goods as CPO.

2.7. FILING OF BILLS OF ENTRY:

2.7.1 M/s. TIL filed 83 Bills of Entry all dated 16.12.2021. On perusal of the details of Bills of Entry it appears that M/s. TIL have filed above Bills of Entry by declaring the goods as “CRUDE PALM OIL (EDIBLE GRADE) IN BULK” and have classified the product under CTH 15111000. The declared quantity is 20300.234 MT and assessable value was Rs. 203,84,62,207/-.

2.8 Seizure and Provisional Release of imported goods vide ‘MT Distya Pushti’:

2.8.1 The evidences/documents, gathered/recovered during Panchnama dated 02/03.01.2022, prima-facie suggest that 4999.869 MT CPO was loaded from Dumai Port, Indonesia and 15000.225 MT Refined Bleached Deodorised Palmolein (RBD Palmolein) and 300.140 MT Palm Fatty Acid Distillate (PFAD) were loaded from Kuala Tanjung Port, Indonesia on the said vessel “MT Distya Pushti”. The preliminary investigation revealed that blending of the above goods was done on the vessel during its voyage from Kuala Tanjung Port, Indonesia to Kandla Port, India in the ratio of 24.7% CPO, 74.1% RBD and 1.2% PFAD.

2.8.2 Thus, it appeared that the importer M/s. TIL have mis-declared the goods as "Crude Palm Oil (Edible Grade) and imported by classifying the same under CTH 15111000. However, on preliminary investigation, it appeared that the goods imported by M/s. TIL fall under CTH 15119090 and not under 15111000. Thus, it appeared that the goods imported by M/s. TIL, imported vide 83 Bills of Entry, by mis-declaring the same as CPO were in contravention of provisions of the Customs Act, 1962 and therefore rendered the goods (non-seized- cleared) in past liable for confiscation under Section 111 of the Customs Act, 1962. Further, the said vessel MT Distya Pushti (IMO No. 9179127), which was used for transportation of the said mis-declared cargo also became liable for confiscation under the provisions of Section 115(2) of the Customs Act, 1962. Therefore, the said 20300.234 MT goods, having declared assessable value of Rs. 203,84,62,207/-, imported by M/s. TIL, under the said 83 Bills of Entry and also the vessel MT Distya Pushti, having insured value of Rs. 57,35,40,000/- were placed under seizure under Section 110(1) of the Customs Act, 1962, vide Seizure Memo F. No. CUS/SIIB/FUP/1/2022-SIIB-O/o Commr-Cus-Kandla dated 14.01.2022, issued by the Preventive Officer, Custom House, Kandla.

2.8.3 The goods imported and seized under Panchnama dated 02/03.01.2022 under section 110 of the Customs Act, 1962 were provisionally released on execution of PD Bond of an amount of Rs. 206,73,59,038/- and

Bank Guarantee of an amount of Rs. 20,67,35,904/- on the request of the importer M/s. TIL, vide letter F. No. CUS/SIIB/FUP/1/2022-SIIB-O/o Commr-Cus-Kandla dated 03.02.2022.

2.9. SCRUTINY OF DOCUMENTS/RECORDS:

During investigation searches were conducted at various premises and statements of various persons were recorded. During searches incriminating documents were recovered/retrieved. During recording of statements also some documents were produced. The scrutiny of the records/documents revealed that the importer had imported 15000 MT RBD, 5000 MT CPO and 300 MT PFAD, which were procured/purchased from the suppliers in Indonesia.

The scrutiny of relevant documents is discussed herein below: -

2.9.1 SCRUTINY OF DOCUMENTS RESUMED FROM THE OFFICE PREMISES OF M/S. GLENTECH INDUSTRIES PVT. LTD:

The office premises of M/s. GIPL, 508, 5th Floor, Wegmans Business Park, Plot No. 3, Knowledge Park-III, Greater Noida, UP was searched under Panchnama dated 02.01.2022 and documents as mentioned in the Panchnama were resumed.

These documents contained purchase and sales invoices and various other documents such as COO certificates etc.

SCRUTINY OF INVOICES

2.9.1.2 File marked at Sr. No. 7 of the Annexure-A to the above Panchnama dated 02.01.2022 **[RUD NO.3]** contains documents pertaining to purchase of imported goods in Indonesia. M/s. TIWA had purchased 4999.868 MT CPO, 15000 MT RBD and 300 MT PFAD in Indonesia.

The details of the few invoices is as under: -

2.9.1.3 Page No. 85 of the above mentioned file is an invoice bearing No. CPO/I/004 showing purchase of 2499.869 MT Crude Palm Oil (Edible Grade) in Bulk. The above goods were purchased by M/s. GVPL, Singapore from M/s. PT. Kharisma Pemasaran Bersama Nusantara, Indonesia (referred as 'M/s. KPBN' hereinafter) for USD 3294827.34.

For better comprehension, the scanned image of the above invoice is reproduced below: -

INVOICE No. CPO/I/004

Messrs : Glentech Ventures Pte Ltd
101 Cecil Street, #sx23-12
Tong Eng Building, Singapore 069533

Comm. No.
Lot No.
S/C No.
Draft. No. CPO/W/004

Delivery to PT. KHARISMA PEMASARAN BERSAMA NUSANTARA, (PT. KPB NUSANTARA), MEDAN BRANCH ON BEHALF OF PT. PERKEBUNAN NUSANTARA-V JALAN BALAI KOTA NO. 9 MEDAN 20111, INDONESIA as per specification below

Marks of Number	Description of goods	Amount
	Shipped per ss ms: MT. Distya Pushti Voy. MID-DP-07/21 From Dumai Port, Indonesia 01.12.2021 Destination Deendayal (Kandla) Port, India	
Without mark	CRUDE PALM OIL (EDIBLE GRADE) IN BULK Parameter : Specifications : FFA (As Palmitic) : 4.5 Pct Max M And I : 0.5 Pct Max Incoterms : FOB Dumai Port, Indonesia Quantity shipped as per B/L Nr. DUM/DEE/02 dated 01.12.2021 : 2,499.869 metric tons at US$ 1,318.00 per tons net shipped weight FOB Dumai Port, Indonesia	US$ 3,294,827.34
	L/C No. DC OCB212655 dd. November 26, 2021 HSBC Singapore Certifying that merchandise is of Indonesia origin Commingling of cargo of same grade and specification is allowed	

Sales Contract No. : 1001/HOLDING/CPO-EXP-VIII/2021
Date W/ : -
Measurements : -
Import Licence : -
Export Decl. : -

Ref. Nr. CPO/004
Cargo 2021
PTPN V

Medan, December 01, 2021
PT. KHARISMA PEMASARAN BERSAMA NUSANTARA, (PT. KPB NUSANTARA), MEDAN BRANCH ON BEHALF OF PT. PERKEBUNAN NUSANTARA-V JALAN BALAI KOTA NO. 9 MEDAN 20111, INDONESIA

AKHLAK – Amanah, Kompeten, Harmonis, Loyal, Adaptif, Kolaboratif

PT KHARISMA PEMASARAN BERSAMA NUSANTARA CABANG MEDAN
Jl. Balai Kota No. 9, Medan 20111, Indonesia
P +62 61 4558455 | F +62 61 4524106
www.inacom.co.id

Image4: Scanned copy of invoice bearing No. CPO/I/004 showing purchase of 2499.869 MTs of CPO shipped under B/L No. DUM/DEE/02 from Dumai, Indonesia 01.12.2021 on MT Distya Pushti Voy.07/21.

2.9.1.4 Similarly, Page No. 84 of the above mentioned file is an invoice No. CPO/I/003 showing purchase of 2500 MT Crude Palm Oil (Edible Grade) in Bulk. The above goods were purchased by M/s. GVPL, Singapore from M/s. KPBN, Indonesia for USD 3295000.

2.9.1.5 Page No. 97 of the above mentioned file is an invoice bearing No. GVPL/2021-22/13 dated 06.12.2021, issued by M/s. GVPL, Singapore to M/s. TIWA, showing sale of 4999.869 MT Crude Palm Oil (Edible Grade) in Bulk which were purchased under invoices discussed herein above for USD 6589827.34.

2.9.1.6 Further, Page No. 116 of the above mentioned file is an invoice No. 110A/INV-E/INL/XI/2021 dated 25.11.2021, showing purchase of 15000.225 MT Refined Bleached and Deodorised Palm Olein (Edible Grade) in Bulk. The above goods were purchased by M/s. TIWA from M/s. PT Industri Nebati Lestari, Indonesia (referred as 'M/s. INL' hereinafter) for USD 19175293.85. The scanned image of the above invoice is reproduced below:

COMMERCIAL INVOICE

1. Shipper/Exporter PT INDUSTRI NABATI LESTARI KOMP. KAWASAN EKONOMI KHUSUS - SEI MANGKEI KAV 2-3 KEL SEI MANGKEI, KEC BOSAR MALIGAS KAB SIMALUNGUN,SUMATERA UTARA, 21184 INDONESIA.	3. No. & Date of Invoice 110A/INV-E/INL/XI/2021 DATED : 25 NOV 2021 9. Term Of Payment LC No. 5942604429 Dated. 19 NOV 2021 10. Billing to Party
2. Consignee TO ORDER OF CITIBANK N.A SINGAPORE BRANCH	11. Contract Number : 148/SC/FOB/INL/X/2021 151/SC/FOB/INL/X/2021 154/SC/FOB/INL/X/2021
4. Notify Party / Applicant TATA INTERNATIONAL WEST ASIA DMCC, 2001 TO 2005 JUMEIRAH BAY X3 TOWER, CLUSTER X, JLT, UNITED ARAB EMIRATES	12. Remarks FINAL DESTINATION: DEENDAYAL (KANDLA) PORT, INDIA FOR KUALA TANJUNG PORT, INDONESIA
5. Port of Loading KUALA TANJUNG PORT, INDONESIA	5. Port of Discharge DEENDAYAL (KANDLA) PORT, INDIA
6. Pre-Carriage By M/T. DESTYA PUSHTI VOY. 07/21	7. Shipped on Board Date 06 DEC 2021

13. Marks and Nos.	14. Description of Goods	15. Quantity (in M/T)	16. Unit Price	17. Amount
	5000.000 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK AT USD 1263.00 PER MT	5,000.000	USD 1,263.00	USD 6,315,000.00
	5000.000 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK AT USD 1266.00 PER MT	5,000.000	USD 1,266.00	USD 6,330,000.00
	5000.225 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK AT USD 1306.00 PER MT	5,000.225	USD 1,306.00	USD 6,530,293.85
	INCOTERM: FOB KUALA TANJUNG PORT, INDONESIA MERCHANDISE IS OF INDONESIA ORIGIN M.V NO /DATE: DP-KTG-DEE-01 DATED 05TH DEC 2021			
	TOTAL	15,000.225		USD 19,175,293.85

In word : US Dollar
NINETEEN MILLION ONE HUNDRED SEVENTY FIVE THOUSAND TWO HUNDRED NINETY THREE AND EIGHTY FIVE CENT

NOTE :
Payment please transfer to below account :
Bank Name : BANK MANDIRI
Beneficiary Name : PT INDUSTRI NABATI LESTARI
Account no : 105.001.326.1940 (USD)
Swift Code : BMRIIDJA
Address : Jalan Imam Bonjol No : 160

SIGNED BY

ERNI YASRIANTI
SALES EXPORT

Image5: Scanned copy of the invoice No. 110A/INV-E/INL/XI/2021 dated 25.11.2021, showing purchase of 15000.225 MT Refined Bleached and Deodorised Palm Olein (Edible Grade) in Bulk.

From the above invoice, it can be seen that 15000.225 MT Refined Bleached and Deodorised Palm Olein (Edible Grade) in Bulk were purchased by M/s. TIWA from M/s. INL, Indonesia for USD 19175293.85. It is pertinent to mention here that in the present case, the importer M/s. TIL had purchased the goods from M/s. TIWA.

2.9.1.7 Similarly, Page No. 115 of the above mentioned file is an invoice No. 110B/INV-E/INL/XI/2021 dated 25.11.2021, showing purchase of 250 MT Palm Fatty Acid Distillate in Bulk. The above goods were purchased by M/s. TIWA from M/s. INL, Indonesia for USD 294000. The scanned image of the above invoice is reproduced below: -

COMMERCIAL INVOICE

3. Shipper/Exporter PT INDUSTRI NABATI LESTARI JLN P. GUNARSA KAV.6,KAWASAN INDUSTRI MANDAL KM 2.5 KEL SEI MANGKEI, KEC. BOSAR MALIGAS KAB.SIMALUNGUN, SUMATERA UTARA, 21184, INDONESIA		4. No. & Date of Invoice 110B/INV-E/INL/XI/2021	DATED:25/NOV/2021
		5. Mode Of Payment L/C No: 9543604493 Dated: 19/NOV/2021	20. S.B. No/Ex Party
6. Consignee TO ORDER OF CITIBANK NA SING MCBC BRANCH		11. Contract Number(s) 110/D/CPO/INL/X/2021 110/D/CPO/INL/X/2021	
9. Notify Party / Applicant TATA INTERNATIONAL WEST ASIA DMCC, [illegible] CLUSTER X, JLT, UNITED ARAB EMIRATES		12. Remarks FINAL DESTINATION: DEENDAYAL (KANDLA) PORT, INDIA FOR KUALA TANJUNG PORT, INDONESIA	
4. Port of Loading KUALA TANJUNG PORT, INDONESIA	5. Port of Discharge DEENDAYAL (KANDLA) PORT, INDIA		
8. Pre-Carriage By M/T. S STAR PUSHPA V.07/21	7. Shipped on Board Date 25 DEC 2021		

13. Marks and Nos.	14. Description of Goods	15. Quantity (in MT)	16. Unit Price	17. Amount
	200.000 MTS PALM FATTY ACID DISTILLATE (PFAD) IN BULK AT USD 1181.00 PER MT	200.00	USD 1,181.00	USD 236,200.00
	50.000 MTS PALM FATTY ACID DISTILLATE (PFAD) IN BULK AT USD 1235.00 PER MT	50.00	USD 1,235.00	USD 57,800.00
	IN CONTAINER FOR KUALA TANJUNG PORT, INDONESIA MERCHANDISE IS OF INDONESIA ORIGIN			
	BL NO /DATE DPI-CTG-DEC-01 DATED 25TH DEC 2021			
TOTAL		250.00		USD 294,000.00

In words : US Dollar
TWO HUNDRED NINETY FOUR THOUSAND ONLY

NOTE :
As per our basis transfer to below account :
Bank Name : [illegible]
Beneficiary Name : PT. INDUSTRI NABATI LESTARI
Account no : 165-007-326-1940 (USD)
Swift Code : [illegible]
Address : Jalan Imam Bonjol No. 160

SIGNED BY

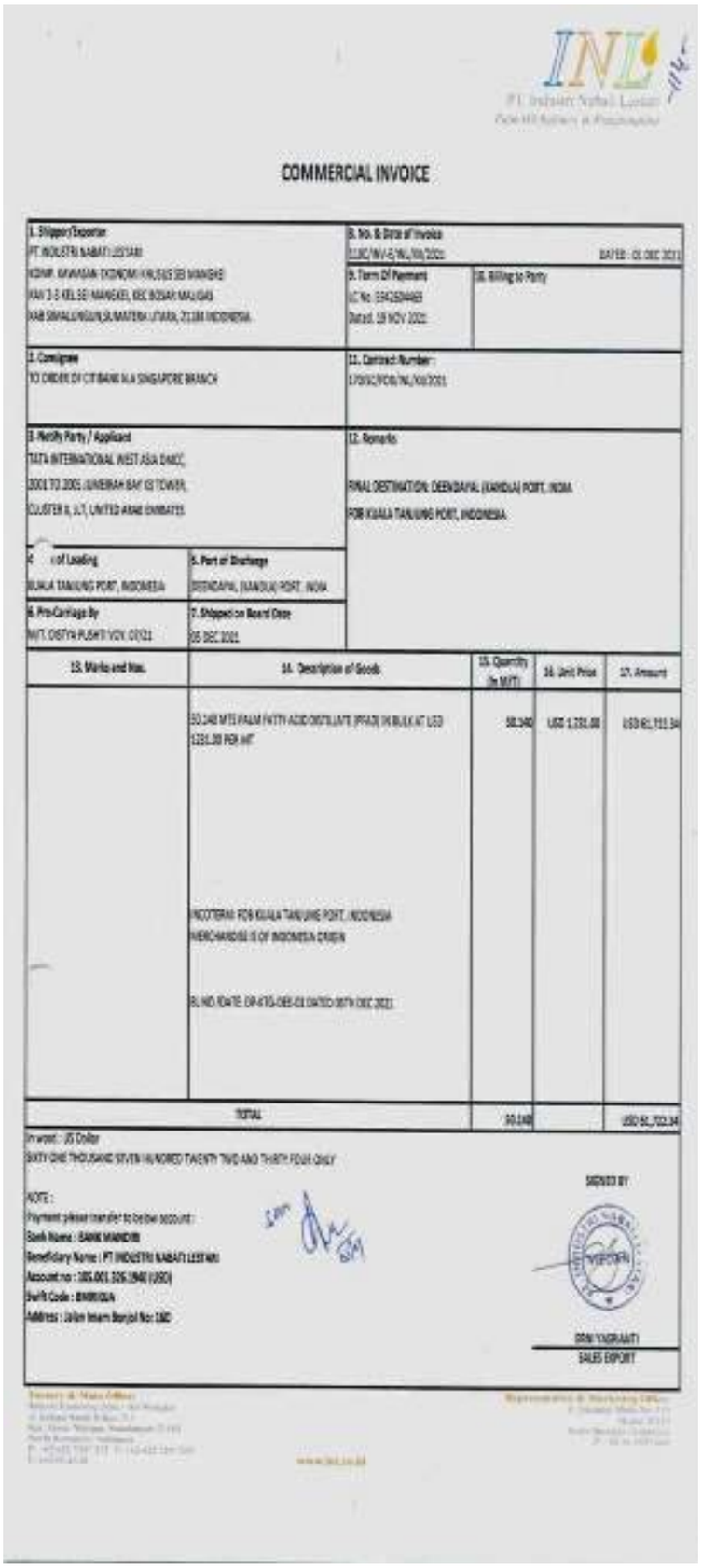
ERIK YASRIANTO
SALES EXPORT

Image6: - Scanned copy of invoice No. 110B/INV-E/INL/XI/2021 dated 25.11.2021, showing purchase of 250 MT Palm Fatty Acid Distillate in Bulk.

From the above invoice, it can be seen that 250 MT Palm Fatty Acid Distillate in Bulk were purchased by M/s. TIWA from M/s. INL, Indonesia for USD 294000. In the present case the, supplier of the goods is M/s. TIWA.

2.9.1.8 Similarly, Page No. 114 of the above mentioned file is an invoice No. 110C/INV-E/INL/XI/2021 dated 05.12.2021, showing purchase of 50.140 MT Palm Fatty Acid Distillate in Bulk. The above goods were purchased by

M/s. TIWA from M/s. INL, Indonesia for USD 61722.34. The scanned image of the above invoice is reproduced below:



COMMERCIAL INVOICE

1. Shipper/Exporter PT. INDUSTRI NABATI LESTARI KOMP. WAHANA EKONOMI KAV.5,6,7,8,9 SEI MANGKE KAV 3-5 KEL.SEI MANGKEI, KEC. BOSAR MALIGAS KAB.SIMALUNGUN,SUMATERA UTARA, 21184 INDONESIA	3. No. & Date of Invoice 110C/INV-E/INL/XII/2021 DATED : 05 DEC 2021 9. Term Of Payment L/C No. 0042004665 Dated. 18 NOV 2021 10. Billing to Party
2. Consignee TO ORDER OF CITIBANK N.A SINGAPORE BRANCH	11. Contract Number LT/0/SC/PO/SL/INL/XII/2021
3. Notify Party / Applicant TATA INTERNATIONAL WEST ASIA DMCC, 2001 TO 2005 JUMEIRAH BAY X2 TOWER, CLUSTER X, J.L.T, UNITED ARAB EMIRATES	12. Remarks FINAL DESTINATION: DEENDAYAL (KANDLA) PORT, INDIA FOB KUALA TANJUNG PORT, INDONESIA
4. Port of Loading KUALA TANJUNG PORT, INDONESIA	5. Port of Discharge DEENDAYAL (KANDLA) PORT, INDIA
6. Pre-Carriage By M/T. OSTYN PUSHTI VOY. 07/21	7. Shipped on Board Date 05 DEC 2021

13. Marks and Nos.	14. Description of Goods	15. Quantity (In MT)	16. Unit Price	17. Amount
	50.140 MTS PALM FATTY ACID DISTILLATE (PFAD) IN BULK AT USD 1231.00 PER MT INCOTERM: FOB KUALA TANJUNG PORT, INDONESIA MERCHANDISE IS OF INDONESIA ORIGIN B/L NO. /DATE: DPXTG-DBS-03 DATED 30TH DEC 2021	50.140	USD 1,231.00	USD 61,722.34
TOTAL		50.140		USD 61,722.34

In word : US Dollar
SIXTY ONE THOUSAND SEVEN HUNDRED TWENTY TWO AND THIRTY FOUR ONLY

NOTE :
Payment please transfer to below account :
Bank Name : BANK MANDIRI
Beneficiary Name : PT INDUSTRI NABATI LESTARI
Account no : 105.001.326.1940 (USD)
Swift Code : BMRIIDJA
Address : Jalan Imam Bonjol No: 18D

SIGNED BY

DENI YADRIANTI
SALES EXPORT

Image7: - Scanned copy of invoice No. 110C/INV-E/INL/XI/2021 dated 05.12.2021, showing purchase of 50.140 MT Palm Fatty Acid Distillate in Bulk.

From the above invoice, it can be seen that 50.140 MT Palm Fatty Acid Distillate in Bulk were purchased by M/s. TIWA from M/s. INL, Indonesia for USD 61722.34. In the present case, the supplier of the goods is M/s. TIWA.

2.9.1.9 Page No. 103 of the above mentioned file is an invoice bearing No. SINDK03285/SINDK03286 dated 16.12.2021, issued by M/s. TIWA, Dubai to M/s. TIL., Mumbai, showing sale of 15300.365 MT CPO and 4999.869 MT CPO for USD 20365397.83 USD and 6860970.24 USD, respectively. The scanned image of the above invoice is reproduced below:-

INVOICE

TATA

Sell to:
Tata International Ltd
7th Floor, Trent House, G –
Bandra-Kurla Complex, Bandra
India

TATA INTERNATIONAL WEST ASIA DMCC
Office No: 2001 to 2003, 20th
X-3 Tower, 'X' Cluster,JLT,PO
Dubai

Delivered to:
Tata International Ltd
7th Floor, Trent House, G –
Bandra-Kurla Complex, Bandra
India

Terms Of Delivery: Cost & Freight
Reference: LCUNDKRUS17
Vessel Info: MT DISTYA PUSHTI VOY. MID-DP-07/21

BL NO. KTG/DEE/01 TO KTG/DEE/20 DT. 28/11/2021
KTG/DEE/21 TO KTG/DEE/45 DT. 30/11/2021

Customer P.O. CONDK00517
Sales Order: Customer C002359

Date: 16. December 2021
Invoice: SINDK03285/SINDK03286
Terms of: 90 DAYS FROM BL DT.
Due Date: 16. December 2021

Item	Description	Pieces	Quantity	Price	Amount
	Shipment No. PSBD403903:				
IT254	CRUDE PALM OIL		15300.365 MT	1331.04 MT	20365397.83
	CRUDE PALM OIL		4999.869 MT	1372.23 MT	6860970.24

Specifications
Grade: CRUDE PALM OIL

Total MT 20300.234
Total USD 27226368.07

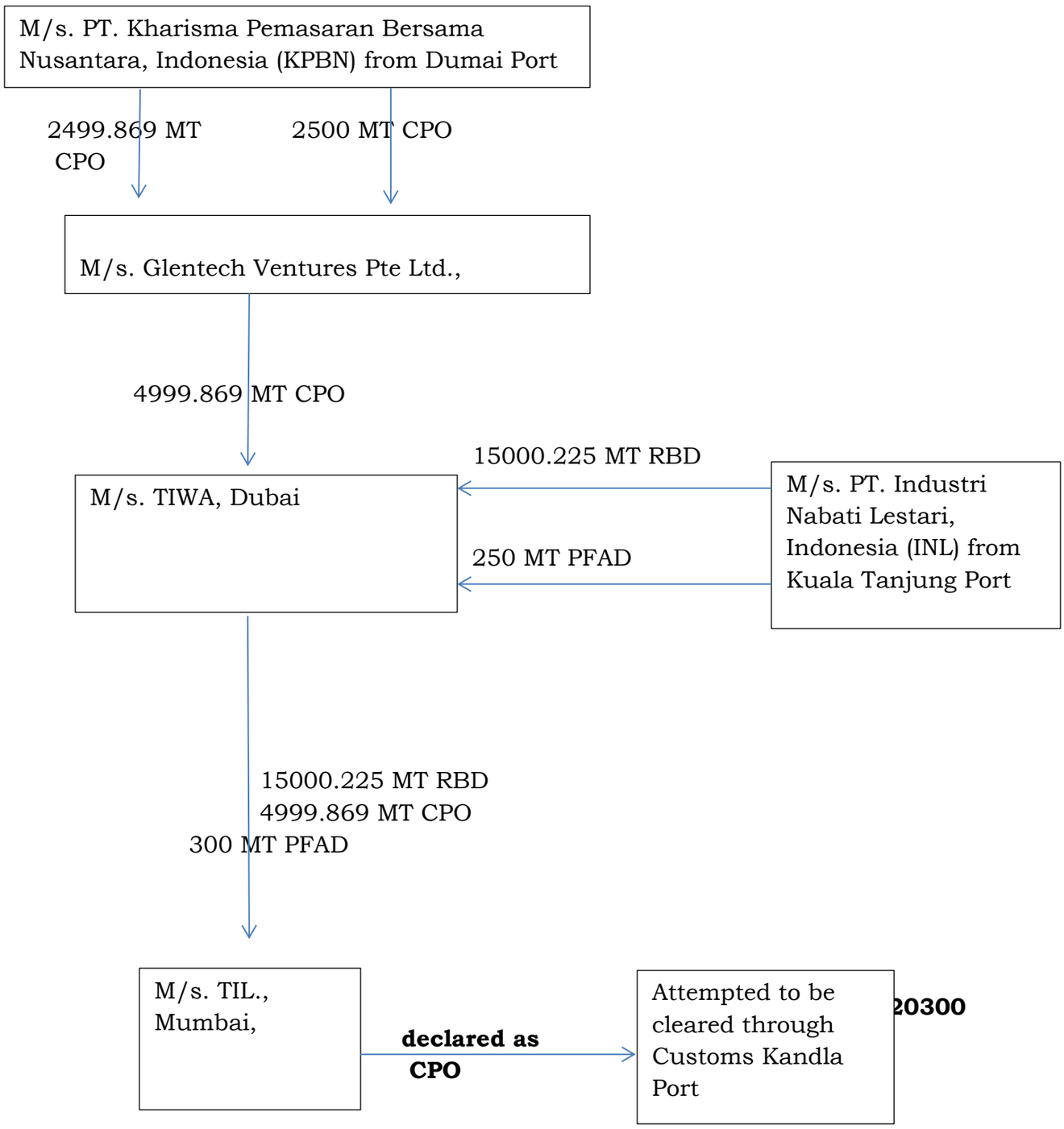
PRATAP KUMAR JENA

LIC No. DMCC 087222

COO #: 21117495
COO Date: 20-Dec-2021
Invoice #: SINDK03285-SINDK03286

Image8: Scanned copy of invoice bearing No. SINDK03285/SINDK03286 dated 16.12.2021

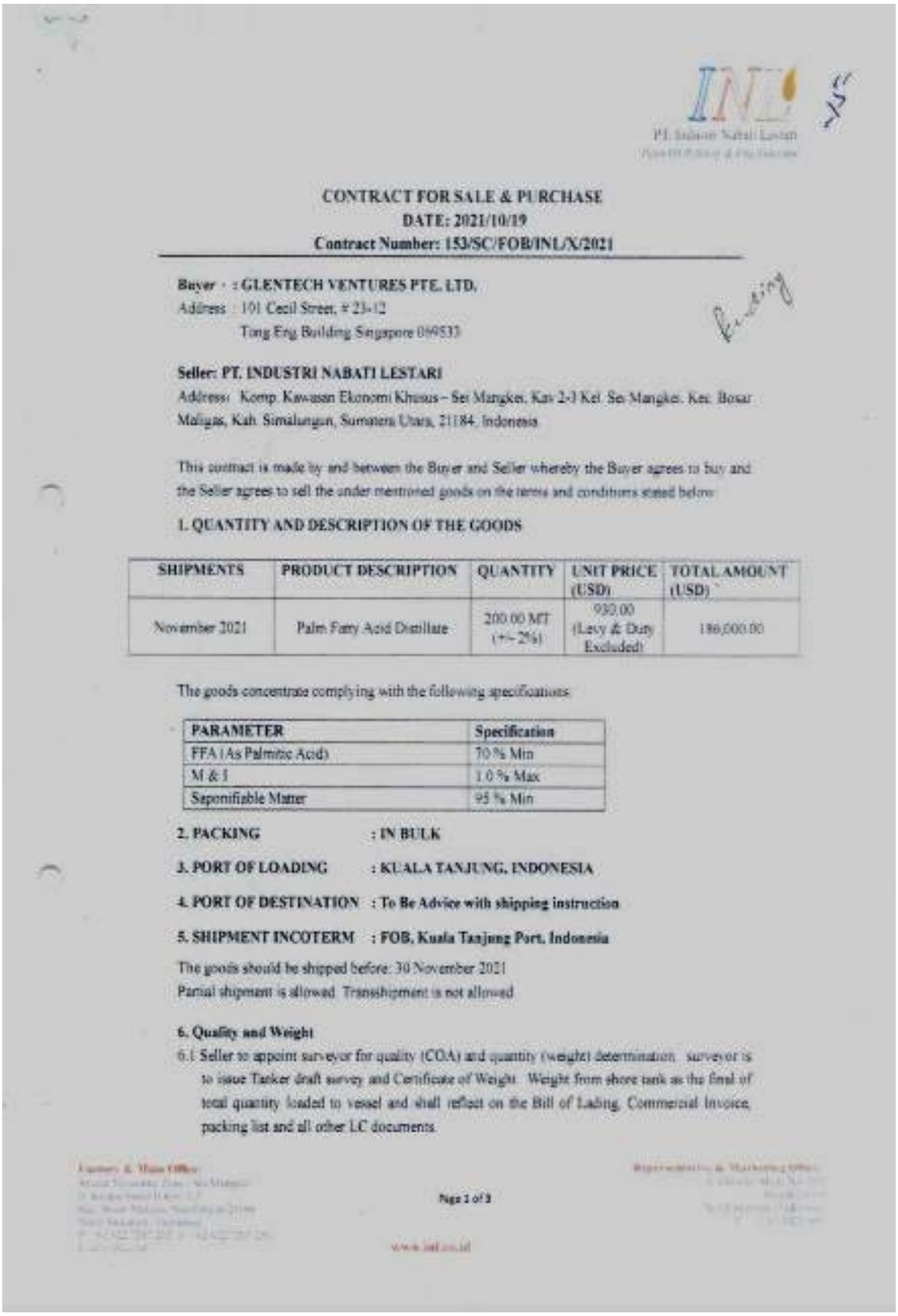
M/s. TIWA had purchased 4999.868 MT CPO, 15000 MT RBD and 300 MT PFAD in Indonesia. However, in the sales invoice, they have shown sale of 15300.365 MT CPO and 4999.869 MT CPO to M/s. TIL. Thus, it appears that in order to hide the actual identity of the goods, the importer has manipulated the documents to show import of CPO instead of CPO, RBD and PFAD, actually imported by them, in order to escape from the payment of higher rate of Customs duties. For better comprehension, a flowchart depicting movement of goods under different invoices i.r.o. consignment imported vide vessel 'MT Distya Pushti V.MID-DP-07/21' is as below: -



Picture depicting movement of Goods and invoices' declaration i.r.o consignment imported vide vessel MT Ditya Pushti MID-DP-07/21

SCRUTINY OF SALES/ PUCHASE CONTRACTS

2.9.1.13 Page Nos. 15-13 of the above mentioned file is Contract Number 153/SC/FOB/INL/X/2021 dated 19.10.2021 between M/s. GVPL, Singapore (Buyer) and M/s. INL, Indonesia (Seller). The contract is for purchase of 200 MT Palm Fatty Acid Distillate @ USD 930.00 for total amount of USD 1,86,000.00 by M/s. GVPL, Singapore. The scanned image of the above contract is reproduced below:



PT. Industri Nabati Lestari

CONTRACT FOR SALE & PURCHASE
DATE: 2021/10/19
Contract Number: 153/SC/FOB/INL/X/2021

Buyer : GLENTECH VENTURES PTE. LTD.
Address : 101 Cecil Street, # 23-12
Tong Eng Building Singapore 069533

Seller: PT. INDUSTRI NABATI LESTARI
Address: Komp. Kawasan Ekonomi Khusus – Sei Mangkei, Kav 2-3 Kel. Sei Mangkei, Kec. Bosar Maligas, Kab. Simalungun, Sumatera Utara, 21184, Indonesia

This contract is made by and between the Buyer and Seller whereby the Buyer agrees to buy and the Seller agrees to sell the under mentioned goods on the terms and conditions stated below:

1. QUANTITY AND DESCRIPTION OF THE GOODS

SHIPMENTS	PRODUCT DESCRIPTION	QUANTITY	UNIT PRICE (USD)	TOTAL AMOUNT (USD)
November 2021	Palm Fatty Acid Distillate	200.00 MT (+/- 2%)	930.00 (Levy & Duty Excluded)	186,000.00

The goods concentrate complying with the following specifications:

PARAMETER	Specification
FFA (As Palmitic Acid)	70 % Min
M & I	1.0 % Max
Saponifiable Matter	95 % Min

2. PACKING : IN BULK

3. PORT OF LOADING : KUALA TANJUNG, INDONESIA

4. PORT OF DESTINATION : To Be Advice with shipping instruction

5. SHIPMENT INCOTERM : FOB, Kuala Tanjung Port, Indonesia

The goods should be shipped before: 30 November 2021
Partial shipment is allowed. Transshipment is not allowed

6. Quality and Weight
6.1 Seller to appoint surveyor for quality (COA) and quantity (weight) determination. surveyor is to issue Tanker draft survey and Certificate of Weight. Weight from shore tank as the final of total quantity loaded to vessel and shall reflect on the Bill of Lading, Commercial Invoice, packing list and all other LC documents.

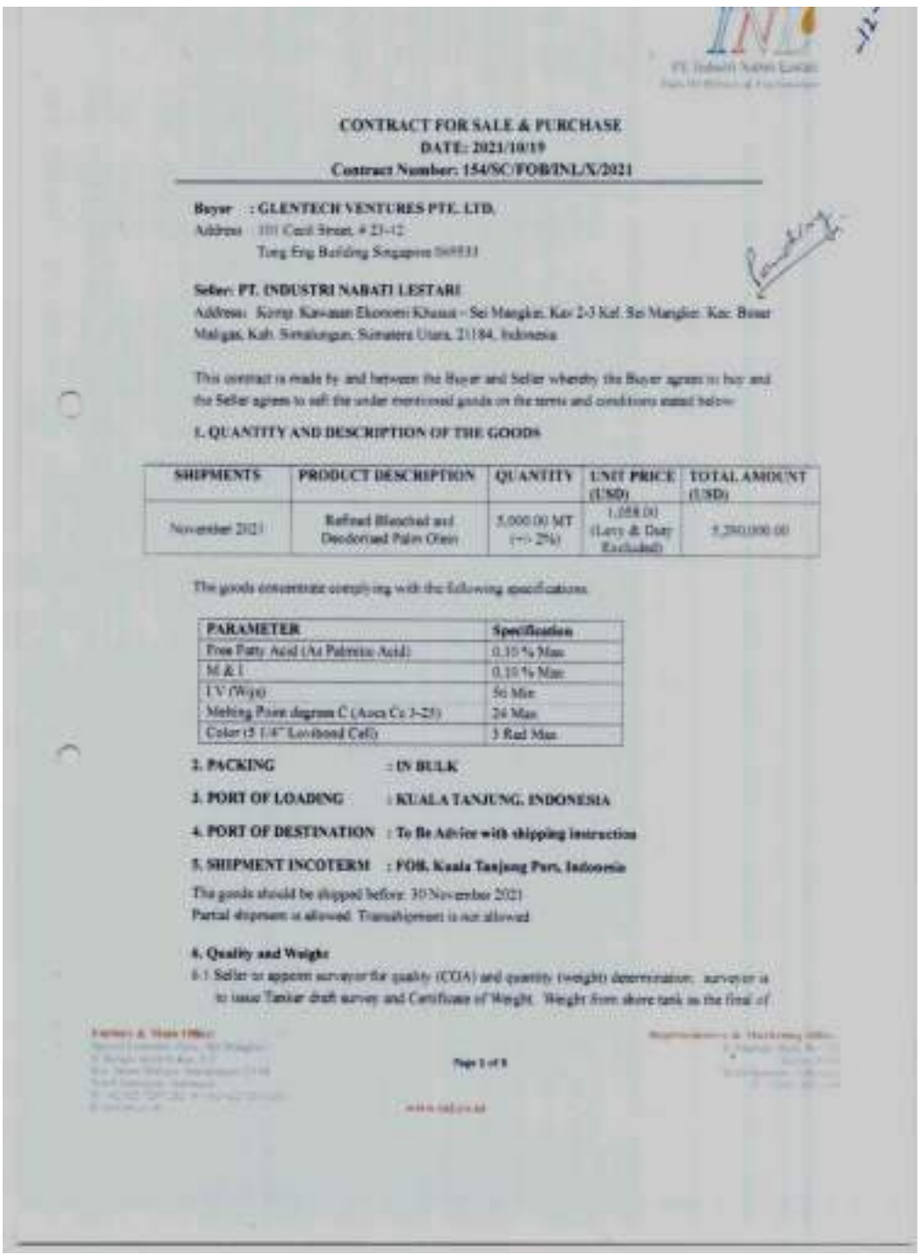
Factory & Main Office: ... Representative & Marketing Office: ...

Page 1 of 3

www.inl.co.id

Image12: Scanned image of contractNo. 153/SC/FOB/INL/X/2021 dated 19.10.2021 for illustration purpose.

2.9.1.14 Page Nos. 12-4 of the above mentioned file are three Contracts bearing No. 154/SC/FOB/INL/X/2021 dated 19.10.2021, Contract No.146/SC/FOB/INL/ X/2021 dated 06.10.2021 and Contract No. 151/SC/FOB/INL/X/2021 dated 07.10.2021 between M/s. GVPL., Singapore (Buyer) and M/s. INL, Indonesia (Seller). Each contract is for purchase of 5000 MT RBD. The scanned image of the above contract is reproduced below: -



CONTRACT FOR SALE & PURCHASE
DATE: 2021/10/19
Contract Number: 154/SC/FOB/INL/X/2021

Buyer : GLENTECH VENTURES PTE. LTD.
Address : 101 Cecil Street, # 21-12
Tong Eng Building Singapore 069533

Seller: PT. INDUSTRI NABATI LESTARI
Address: Komp. Kawasan Ekonomi Khusus - Sei Mangkei, Kav 2-3 Kel. Sei Mangkei, Kec. Buntu Malgas, Kab. Simalungun, Sumatera Utara, 21184, Indonesia

This contract is made by and between the Buyer and Seller whereby the Buyer agrees to buy and the Seller agrees to sell the under mentioned goods on the terms and conditions stated below:

1. QUANTITY AND DESCRIPTION OF THE GOODS

SHIPMENTS	PRODUCT DESCRIPTION	QUANTITY	UNIT PRICE (USD)	TOTAL AMOUNT (USD)
November 2021	Refined Bleached and Deodorised Palm Olein	5,000.00 MT (+/- 2%)	1,058.00 (Levy & Duty Excluded)	5,290,000.00

The goods concentrate comply ing with the following specifications:

PARAMETER	Specification
Free Fatty Acid (As Palmitic Acid)	0.10 % Max
M & I	0.10 % Max
I.V (Wijs)	56 Min
Melting Point degree C (Aocs Cc 3-25)	24 Max
Color (5 1/4" Lovibond Cell)	3 Red Max

2. PACKING : IN BULK
3. PORT OF LOADING : KUALA TANJUNG, INDONESIA
4. PORT OF DESTINATION : To Be Advice with shipping instruction
5. SHIPMENT INCOTERM : FOB, Kuala Tanjung Port, Indonesia

The goods should be shipped before: 30 November 2021
Partial shipment is allowed. Transshipment is not allowed

6. Quality and Weight
6.1 Seller to appoint surveyor for quality (COA) and quantity (weight) determination, surveyor is to issue Tankar draft survey and Certificate of Weight. Weight from shore tank as the final of

Page 1 of 8

Image13: Scanned image of aforementioned contracts for purchase of 5000MT RBD Palmolein (for illustrative purpose)

The perusal of the abovementioned contracts reveals that M/s. GVPL, Singapore (Buyer) had entered into contract with M/s. INL, Indonesia (Seller) for purchase of 15000 MT RBD. Besides other particulars, the contracts also contain parameters of the goods to be purchased i.e. RBD, packing details, port of loading etc.

SCRUTINY OF SHIPPING CERTIFICATE

2.9.1.15 Page No. 81 of the above mentioned file is a Shipping Certificate dated 02.12.2021, issued by PT. Urban Shipping Agency (USA), Indonesia. As per the above certificate 2499.869 MT CPO was shipped through vessel MT Distya Pushti, Voyage No. MID-DP-07/21 from Dumai port, Indonesia. The port of discharge is Deendayal (Kandla) port, India and BL No. DUM/DEE/02 dated 01.12.2021. The scanned image of the above Shipping Certificate is reproduced below:

PT. URBAN SHIPPING AGENCY (U.S.A)

Komplek Bumi Dasar Permai
Jln. Sempurna No.3, RT 007 Kel. Relu Sima,
Kec. Dumai Selatan, Dumai 28825, Riau - Indonesia
Telp. +62-765-9910644 / +62-765-4370692
Email : dumai@agencyurban.net

Website : agencyurban.net

DATE: 02/12/2021

SHIPPING CERTIFICATE

TO WHOM IT MAY CONCERN

VESSEL AND VOYAGE NUMBER	: MT DISTYA PUSHTI VOY. MID-DP-07/21
COMMODITY	: CRUDE PALM OIL (EDIBLE GRADE) IN BULK
QUANTITY SHIPPED	: 2,499.869 MTS
PORT OF LOADING	: DUMAI PORT, INDONESIA
PORT OF DISCHARGE	: DEENDAYAL (KANDLA) PORT, INDIA
B/L NUMBER	: DUM/DEE/02
B/L DATE	: 01/12/2021
FLAG	: INDIA
YEAR BUILT	: 1998
CLASSIFICATION SOCIETY	: IRS – INDIAN REGISTER OF SHIPPING

WE HEREBY CERTIFYING THAT THE CARRYING VESSEL "MT DISTYA PUSHTI VOY. MID-DP-07/21" IS A SEAWORTHY VESSEL, NOT MORE THAN 25 YEARS OLD, AND HAS BEEN REGISTERED WITH AN APPROVED CLASSIFICATION SOCIETY (IRS – INDIAN REGISTER OF SHIPPING).

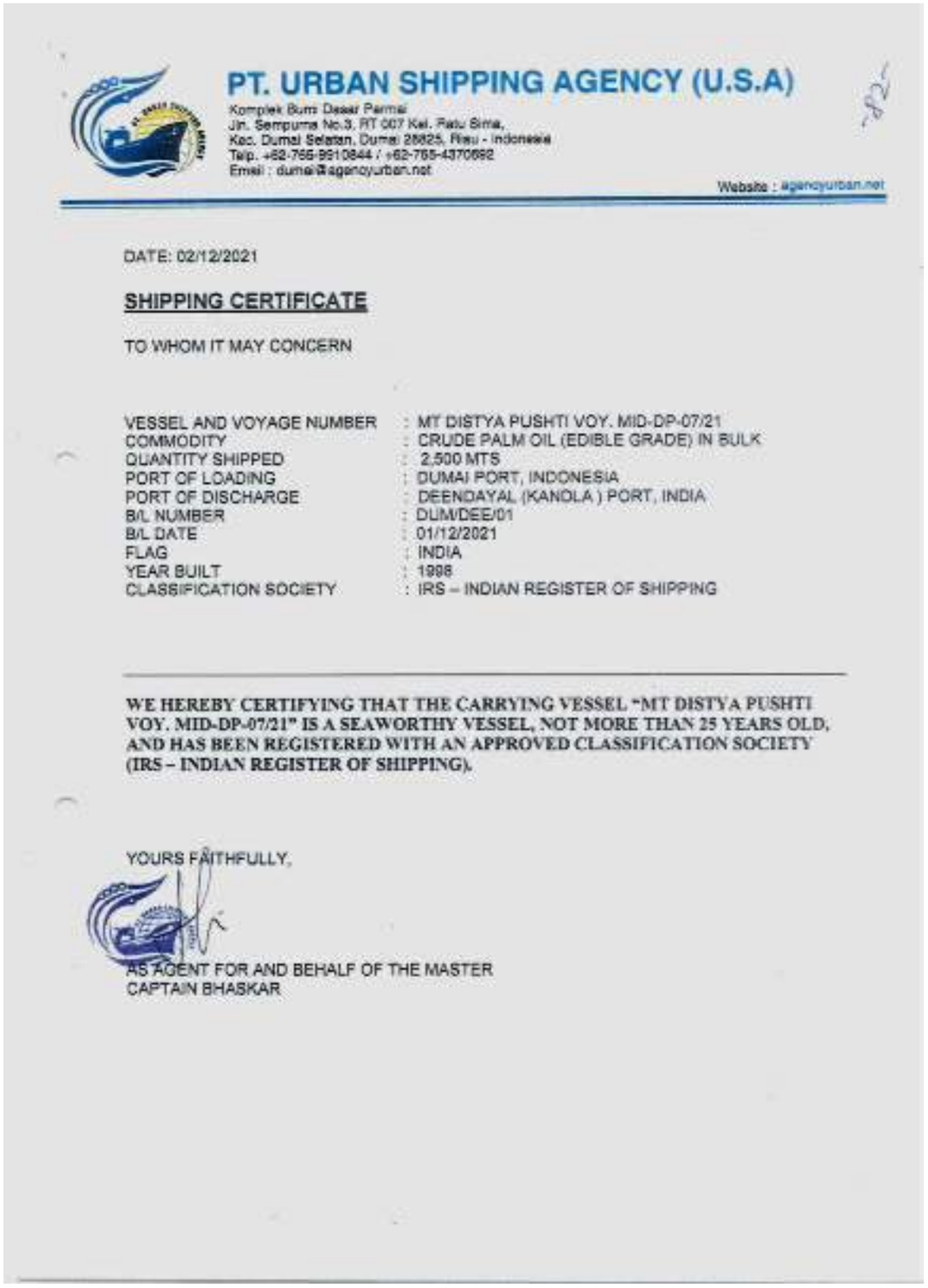
YOURS FAITHFULLY,

AS AGENT FOR AND BEHALF OF THE MASTER
CAPTAIN BHASKAR

Image14: Scanned image of Shipping Certificate dated 02.12.2021, issued by PT. Urban Shipping Agency (USA), Indonesia i.r.o. 2499.869 MT CPO from Dumai Port, Indonesia

The perusal of the above certificate reveals that 2499.869 MTs of CPO were loaded from Dumai port, Indonesia in subject vessel MT Distya Pushti Voy. MID-DP-07/21.

2.9.1.16 Similarly, Page No. 82 of the above mentioned file is also a Shipping Certificate dated 02.12.2021, issued by PT. Urban Shipping Agency (USA), Indonesia. As per the above certificate 2500 MT CPO was shipped through vessel MT Distya Pushti, Voyage No. MID-DP-07/21 from Dumai port, Indonesia. The port of discharge is Deendayal (Kandla) port, India and BL No. DUM/DEE/01 dated 01.12.2021. The scanned image of the above Shipping Certificate is reproduced below:



PT. URBAN SHIPPING AGENCY (U.S.A)

Komplek Bumi Dasar Permai
Jln. Sempurna No.3, RT 007 Kel. Ratu Sima,
Kec. Dumai Selatan, Dumai 28825, Riau - Indonesia
Telp. +62-765-9910844 / +62-765-4370692
Email : dumai@agencyurban.net

Website : agencyurban.net

DATE: 02/12/2021

SHIPPING CERTIFICATE

TO WHOM IT MAY CONCERN

VESSEL AND VOYAGE NUMBER	: MT DISTYA PUSHTI VOY. MID-DP-07/21
COMMODITY	: CRUDE PALM OIL (EDIBLE GRADE) IN BULK
QUANTITY SHIPPED	: 2,500 MTS
PORT OF LOADING	: DUMAI PORT, INDONESIA
PORT OF DISCHARGE	: DEENDAYAL (KANDLA) PORT, INDIA
B/L NUMBER	: DUM/DEE/01
B/L DATE	: 01/12/2021
FLAG	: INDIA
YEAR BUILT	: 1998
CLASSIFICATION SOCIETY	: IRS – INDIAN REGISTER OF SHIPPING

WE HEREBY CERTIFYING THAT THE CARRYING VESSEL "MT DISTYA PUSHTI VOY. MID-DP-07/21" IS A SEAWORTHY VESSEL, NOT MORE THAN 25 YEARS OLD, AND HAS BEEN REGISTERED WITH AN APPROVED CLASSIFICATION SOCIETY (IRS – INDIAN REGISTER OF SHIPPING).

YOURS FAITHFULLY,

AS AGENT FOR AND BEHALF OF THE MASTER
CAPTAIN BHASKAR

Image 15: Scanned image of Shipping Certificate dated 02.12.2021, issued by PT. Urban Shipping Agency (USA), Indonesia i.r.o. 2500 MT CPO from Dumai Port, Indonesia

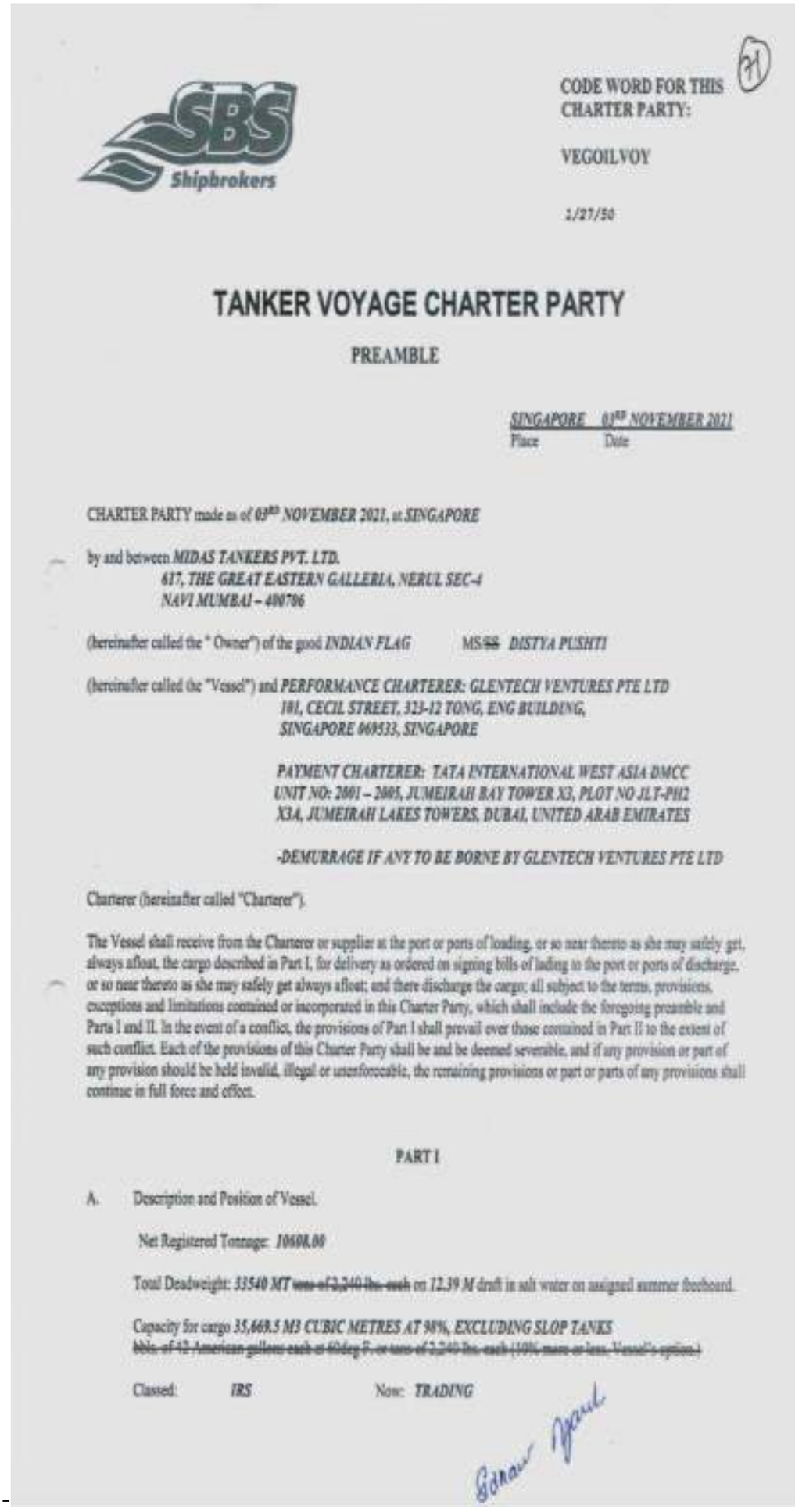
The perusal of the above certificate reveals that 2500 MT CPO was loaded from Dumai port, Indonesia in vessel MT Distya Pushti Voy MID-DP-07/21.

2.9.1.17 File marked at Sr. No. 6 of the Annexure-A to the Panchnama **[RUD NO. 3]** contains documents viz. charter agreement of vessel, purchase contract, e-mail correspondence, inspection report etc.

SCRUTINY OF CHARTER PARTY AGREEMENT, E-MAILS, VOYAGE ORDERS ETC.

2.9.1.18 Page Nos. 71-69 of the above mentioned file is charter agreement dated 03.11.2021 of the vessel 'MT Distya Pushti'. The agreement is between

M/s. Midas Tankers Pvt. Ltd., Mumbai (Owner) and Performance Charterer M/s. GVPL, Singapore/Payment Charterer M/s. TIWA. The scanned image of the charter agreement is reproduced below: -



SBS Shipbrokers

CODE WORD FOR THIS CHARTER PARTY:

VEGOILVOY

1/27/50

TANKER VOYAGE CHARTER PARTY

PREAMBLE

SINGAPORE *03RD NOVEMBER 2021*
Place Date

CHARTER PARTY made as of *03RD NOVEMBER 2021*, at *SINGAPORE*

by and between *MIDAS TANKERS PVT. LTD.*
617, THE GREAT EASTERN GALLERIA, NERUL SEC-4
NAVI MUMBAI – 400706

(hereinafter called the " Owner") of the good *INDIAN FLAG* MS~~SS~~ *DISTYA PUSHTI*

(hereinafter called the "Vessel") and *PERFORMANCE CHARTERER: GLENTECH VENTURES PTE LTD*
101, CECIL STREET, 323-12 TONG, ENG BUILDING,
SINGAPORE 069533, SINGAPORE

PAYMENT CHARTERER: TATA INTERNATIONAL WEST ASIA DMCC
UNIT NO: 2001 – 2005, JUMEIRAH BAY TOWER X3, PLOT NO JLT-PH2
X3A, JUMEIRAH LAKES TOWERS, DUBAI, UNITED ARAB EMIRATES

-DEMURRAGE IF ANY TO BE BORNE BY GLENTECH VENTURES PTE LTD

Charterer (hereinafter called "Charterer").

The Vessel shall receive from the Charterer or supplier at the port or ports of loading, or so near thereto as she may safely get, always afloat, the cargo described in Part I, for delivery as ordered on signing bills of lading to the port or ports of discharge, or so near thereto as she may safely get always afloat; and there discharge the cargo; all subject to the terms, provisions, exceptions and limitations contained or incorporated in this Charter Party, which shall include the foregoing preamble and Parts I and II. In the event of a conflict, the provisions of Part I shall prevail over those contained in Part II to the extent of such conflict. Each of the provisions of this Charter Party shall be and be deemed severable, and if any provision or part of any provision should be held invalid, illegal or unenforceable, the remaining provisions or part or parts of any provisions shall continue in full force and effect.

PART I

A. Description and Position of Vessel.

Net Registered Tonnage: *10608.00*

Total Deadweight: *53540 MT* ~~tons of 2,240 lbs. each~~ on *12.39 M* draft in salt water on assigned summer freeboard.

Capacity for cargo *35,668.5 M3 CUBIC METRES AT 98%, EXCLUDING SLOP TANKS*
~~bbls. of 42 American gallons each at 60deg F. or tons of 2,240 lbs. each (100% more or less, Vessel's option.)~~

Classed: *IRS* Now: *TRADING*

-

+/- 3 GRADES OF MIN 20,000 MT PALM OIL PRODUCTS (EXCLUDING STEARIN/PALM ACID BUT INCLUDING ABOUT 400 MT PFAD WHICH WILL BE BLENDED) WITH 2% MORE IN CHOPT AWYNS

INTENDED BREAKDOWN:

5,000 MT CPO – INTENDED PORT: DUMAI

15,600 MT PALM OLEIN – INTENDED PORT: KUALA TANJUNG

ABOUT 400 MT PFAD – INTENDED PORT: KUALA TANJUNG

CHARTERERS WARRANTS THAT MIN CARGO WILL BE 20,000 MTS AND ABOVE BREAKUP CAN BE CHANGED AS PER CHARTERERS REQUIREMENT

CHARTERER HAS OPTION TO DO ITT BLENDING IN PORT KLANG/TANJUNG BRUAS AT CHARTERER'S TIME AND COSTS – OWNER IS TO PROVIDE MINIMUM 2000 MT SPACE FOR BLENDING PURPOSE

OWNER WARRANTS LAST 3 CARGOES ARE CLEAN, UNLEADED AND NOT ON FOSFA BANNED LIST LAST CARGO – OWNER CONFIRMS

OWNER WARRANTS LAST 3 CARGOES ARE LOADED WITH MINIMUM 60% VOLUME CAPACITY – OWNER CONFIRMS

CHARTERER WILL BLEND 10,000MT OLEIN WITH 5000 MT CPO AND 200MT PFAD, AND REMAINING 5000MT OLEIN WILL BE IMPORTD /MANIFESTED TO INDIA AS OLEIN ONLY – OWNER CONFIRMS

HEATING INSTRUCTIONS: CHARTERER AND OWNER CONFIRM

DURING VOYAGE FOR CPO AND OLEIN: 32 to 40 DEG C

MAINTAIN 45 TO 50 DEG C UNTIL BLENDING IS COMPLETED

DISCHARGE TEMPERATURE: 50 TO 55 DEG C AS PER FOSFA'S RECOMMENDED HEATING INSTRUCTIONS

If this Charter Party is for a full cargo, then it shall be the quantity the Vessel can carry if loaded to her minimum permissible freeboard for the voyage, but not exceeding what the Vessel can, in the Master's judgment, reasonably stow and carry over and above her tackle, apparel, stores, and furniture, sufficient space to be left in the expansion tanks to provide for the expansion of the cargo. In no event shall Charterer be required to furnish cargo in excess of the quantity stated as the Vessel's capacity for cargo plus 10% of that quantity. If less than a full cargo is to be carried, the quantity stated shall be the minimum quantity which the Charterer is required to supply.

C. Loading Port.

2SP/1SB DUMAI AND KUALA TANJUNG, INDONESIA (DUMAI FOLLOWED BY KUALA TANJUNG AS PER LAYCAN/ CHARTERER HAS WITH SHIPPERS)

Readiness Date: *20TH NOVEMBER 2021* Cancelling Date: *29TH NOVEMBER 2021 (2359)*

D. Discharging Port.

1-2SP/1SB NEW MANGALORE AND/OR JNPT AND/OR KANDLA, INDIA (WCI RANGE) OR
1-2SP/1SB MYXX, INDIA (ECI RANGE)

CHARTERER SHALL CONFIRM DISCHARGE PORT PRIOR LOADING

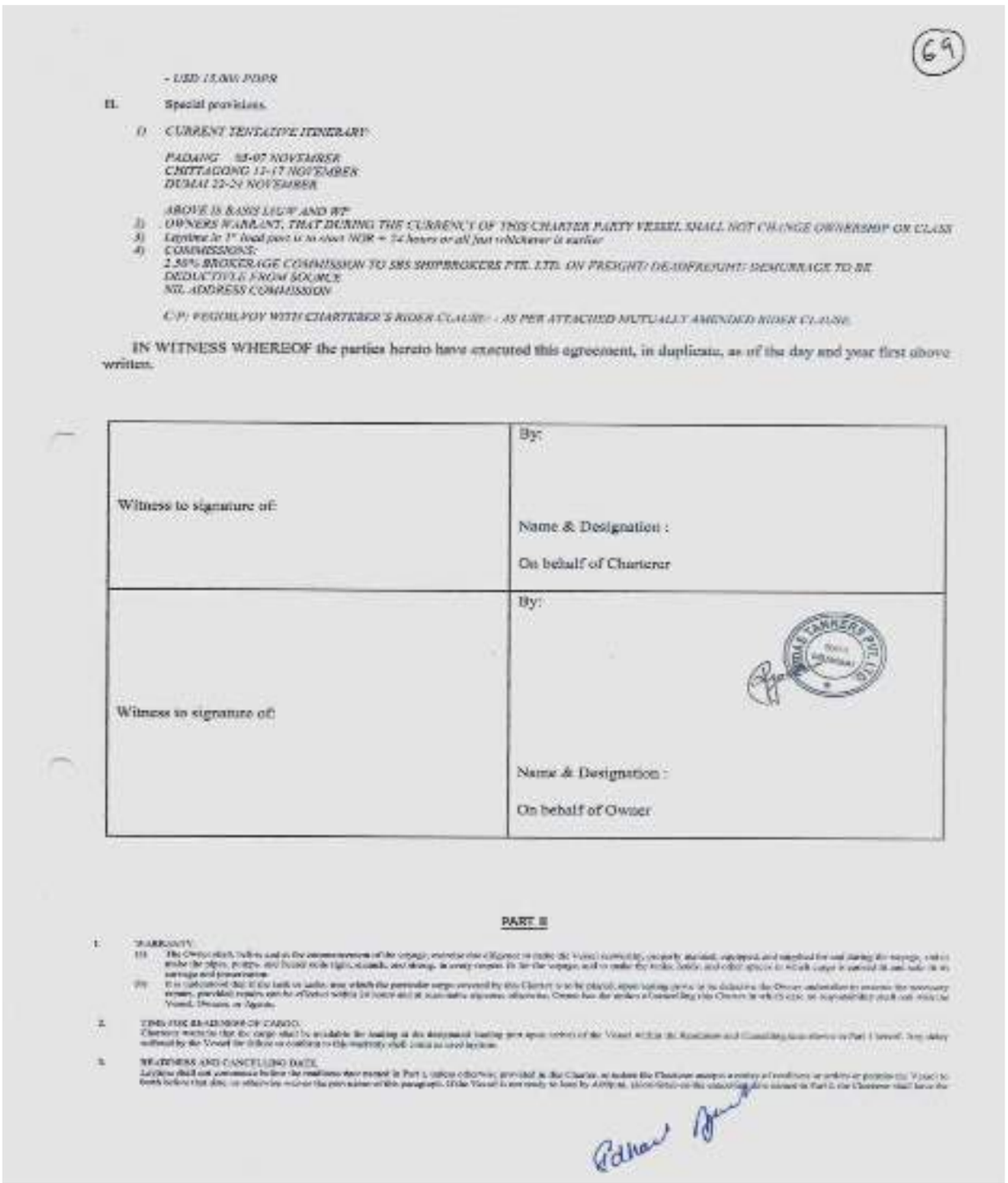
E. Toal Laytime.

125/80 MTPH SHINC REV

F. Freight Rate.

USD 40.00 PMT BASIS 2/1 FOR JNPT OR KANDLA
USD 39.00 PMT BASIS 2/1 FOR NEW MANGALORE ONLY
USD 42.00 PMT BASIS 2/2 FOR WCI RANGE
USD 37.00 PMT BASIS 2/1 FOR MYXX RANGE
USD 38.50 PMT BASIS 2/2 FOR MYXX RANGE

Freight Payable at:



(69)

- USD 15,000 PDPR

II. Special provisions.

i) CURRENT TENTATIVE ITINERARY:

PADANG 05-07 NOVEMBER
CHITTAGONG 12-17 NOVEMBER
DUMAI 22-24 NOVEMBER

ABOVE IS BASIS LEO/W AND WP
3) OWNERS WARRANT, THAT DURING THE CURRENCY OF THIS CHARTER PARTY VESSEL SHALL NOT CHANGE OWNERSHIP OR CLASS
5) Laytime is 1/1 load port is to start NOR + 24 hours or all fast whichever is earlier
6) COMMISSIONS:
2.50% BROKERAGE COMMISSION TO SBS SHIPBROKERS PTE. LTD. ON FREIGHT/ DEADFREIGHT/ DEMURRAGE TO BE DEDUCTIVELY FROM SOURCE
NIL ADDRESS COMMISSION

C/P/ FIXED/POF WITH CHARTERER'S RIDER CLAUSE: - AS PER ATTACHED MUTUALLY AMENDED RIDER CLAUSE

IN WITNESS WHEREOF the parties hereto have executed this agreement, in duplicate, as of the day and year first above written.

Witness to signature of:	By: Name & Designation : On behalf of Charterer
Witness to signature of:	By: Name & Designation : On behalf of Owner

PART II

1. WARRANTY

2. TIME FOR DESPATCH OF CARGO.

3. WEATHERS AND CANCELLING DATE

Image16: Scanned images of samples from Tanker Voyage Charter Party Agreement dated 03.11.2021

As per the above agreement, 5000 MT CPO was to be loaded from Dumai port, Indonesia; 15000 MT Palm Olein and about 400 MT PFAD from Kuala Tanjung port, Indonesia. Further, as per the agreement, the Charterer has option of blending in port Klang/ Tanjung Bruas. The clause reads as under:

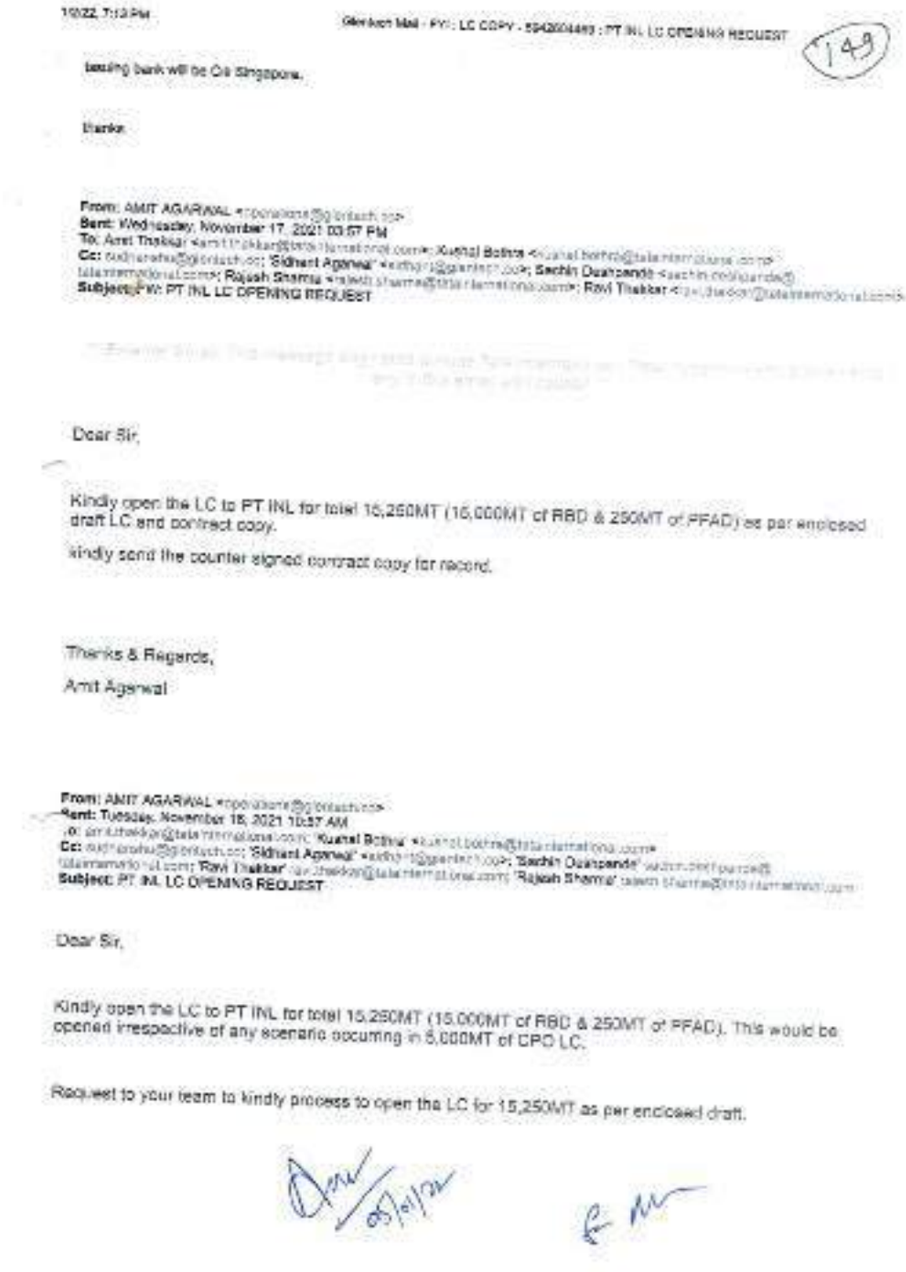
> "*Charterer has option to do ITT of blending in port Klang/TanjungBruas at Charterer's time and costs – owner is to provide minimum 2000 MT space for blending purpose.*"

Another clause regarding blending of goods reads as under:

> "*Charterer will blend 10,000 MT Olein with 5000 MT CPO and 200 MT PFAD, and remaining 5000 MT Olein will be imported/manifested to India as Olein only – Owner confirms.*"

Thus, as per the above clauses, the Charterer will blend the goods viz. Olein, CPO and PFAD.

2.9.1.19 Page No. 149 of the above file is print out of an e-mail correspondence dated 17.11.2021 from Amit Agarwal (operations@glentech.co) to Amit Thakkar (amit.thakkar@tatainternational.com) and others. Vide above mail, it has been instructed to open LC to PT INL for total 15250 MT (15,000 MT RBD & 250 MT PFAD). The scanned image of the above page is reproduced below:



10/22, 7:13 PM Gmail - FW: LC COPY - 5943004489 : PT INL LC OPENING REQUEST

149

issuing bank will be Citi Singapore.

thanks

From: AMIT AGARWAL
Sent: Wednesday, November 17, 2021 03:57 PM
To: Amit Thakkar; Kushal Bothra; Sachin Dukhande
Cc: Siddhant Agarwal; Rajesh Sharma; Ravi Thakkar
Subject: FW: PT INL LC OPENING REQUEST

Dear Sir,

Kindly open the LC to PT INL for total 15,250MT (15,000MT of RBD & 250MT of PFAD) as per enclosed draft LC and contract copy.

kindly send the counter signed contract copy for record.

Thanks & Regards,
Amit Agarwal

From: AMIT AGARWAL
Sent: Tuesday, November 16, 2021 10:57 AM
To:
Cc: Kushal Bothra; Siddhant Agarwal; Sachin Dukhande; Ravi Thakkar; Rajesh Sharma
Subject: PT INL LC OPENING REQUEST

Dear Sir,

Kindly open the LC to PT INL for total 15,250MT (15,000MT of RBD & 250MT of PFAD). This would be opened irrespective of any scenario occuring in 5,000MT of CPO LC.

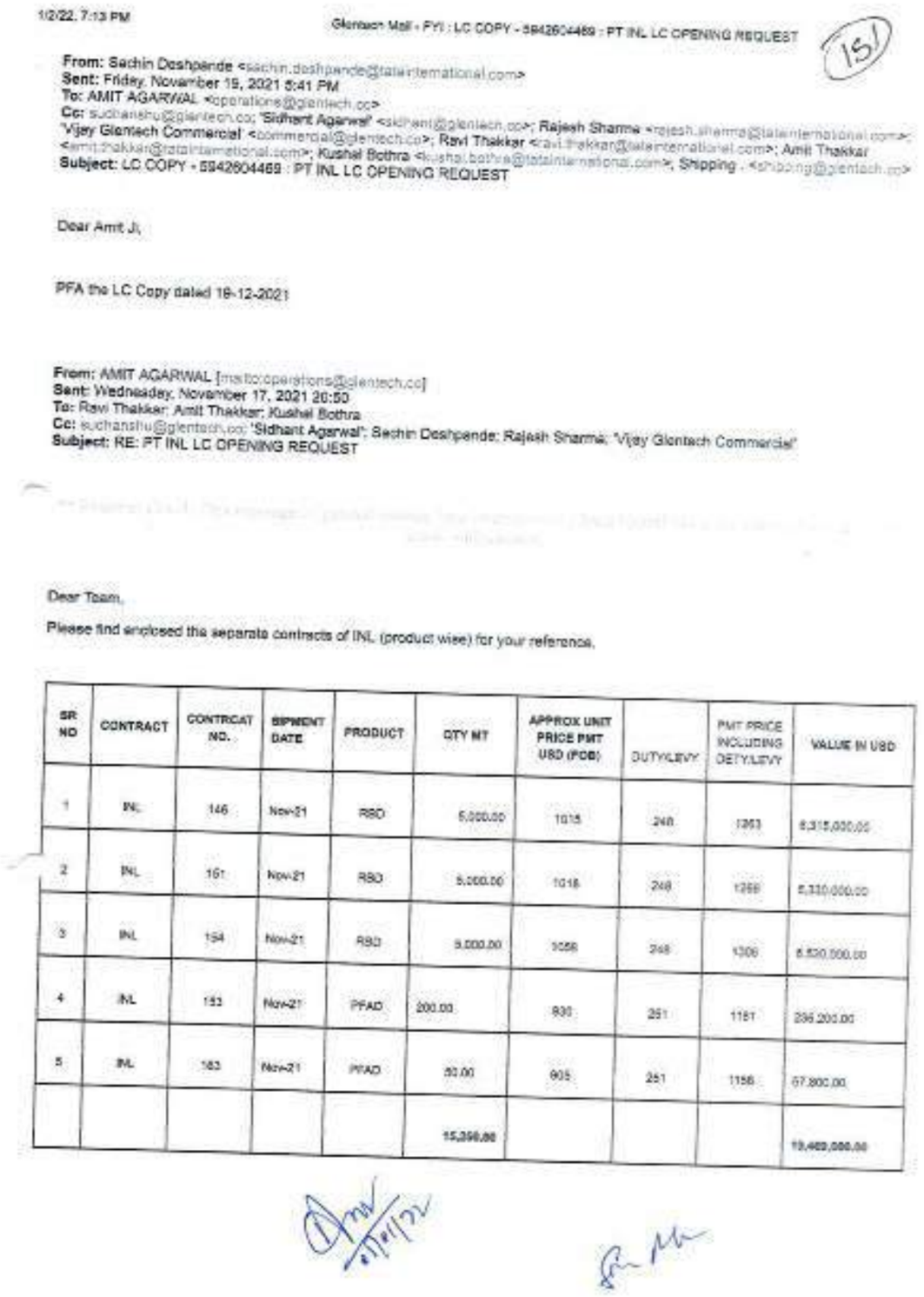
Request to your team to kindly process to open the LC for 15,250MT as per enclosed draft.

Image17: E-mail from operations@glentech.co to amit.thakkar@tatainternational.com regarding opening of LC

It is pertinent to mention here that 15000 MT RBD and 300 MT PFAD was purchased from M/s.INL, Indonesia. This e-mail confirms the fact that 15000 MT RBD and 300 MT PFAD were purchased by the supplier in Indonesia.

2.9.1.20 Page No. 151 of the above mentioned file is print out of an e-mail correspondence dated 17.11.2021 from Amit Agarwal (operations@glentech.co)

to Ravi Thakkar, Amit Thakkar of M/s.TIL. The mail suggests that details of contracts with INL have been enclosed. The details pertain to 15,000 MT RBD & 250 MT PFAD. The scanned image of the above page is reproduced below:



1/2/22, 7:13 PM Glentech Mail - FYI : LC COPY - 5942604469 : PT INL LC OPENING REQUEST

151

From: Sachin Deshpande <sachin.deshpande@tatainternational.com>
Sent: Friday, November 19, 2021 5:41 PM
To: AMIT AGARWAL <operations@glentech.co>
Cc: suchanshu@glentech.co; 'Sidhant Agarwal' <sidhant@glentech.co>; Rajesh Sharma <rajesh.sharma@tatainternational.com>; 'Vijay Glentech Commercial' <commercial@glentech.co>; Ravi Thakkar <ravi.thakkar@tatainternational.com>; Amit Thakkar <amit.thakkar@tatainternational.com>; Kushal Bothra <kushal.bothra@tatainternational.com>; Shipping . <shipping@glentech.co>
Subject: LC COPY - 5942604469 : PT INL LC OPENING REQUEST

Dear Amit Ji,

PFA the LC Copy dated 16-12-2021

From: AMIT AGARWAL [mailto:operations@glentech.co]
Sent: Wednesday, November 17, 2021 20:50
To: Ravi Thakkar; Amit Thakkar; Kushal Bothra
Cc: suchanshu@glentech.co; 'Sidhant Agarwal'; Sachin Deshpande; Rajesh Sharma; 'Vijay Glentech Commercial'
Subject: RE: PT INL LC OPENING REQUEST

Dear Team,

Please find enclosed the separate contracts of INL (product wise) for your reference.

SR NO	CONTRACT	CONTRCAT NO.	SHMENT DATE	PRODUCT	QTY MT	APPROX UNIT PRICE PMT USD (FOB)	DUTY/LEVY	PMT PRICE INCLUDING DETY/LEVY	VALUE IN USD
1	INL	146	Nov-21	RBD	5,000.00	1015	248	1263	6,315,000.00
2	INL	151	Nov-21	RBD	5,000.00	1018	248	1266	6,330,000.00
3	INL	154	Nov-21	RBD	5,000.00	1058	248	1306	6,530,000.00
4	INL	153	Nov-21	PFAD	200.00	930	251	1181	236,200.00
5	INL	163	Nov-21	PFAD	50.00	905	251	1156	57,800.00
					15,250.00				19,469,000.00

Image18: E-mail from Sachin.deshpande@tatainternational.com (Executive of M/s. TIL) to operations@glentech.co (VP, M/s. GIPL) regarding request for opening of LC.

It is pertinent to mention here that the name of the party for 15000 MT RBD and 250 MT PFAD is mentioned as “INL”, which is nothing but M/s. INL, Indonesia, from whom 15000 MT RBD and 300 MT PFAD were purchased in Indonesia.

2.9.1.21 Page Nos. 40-34 of the above mentioned file are print out of an e-mail correspondence dated 22.11.2021 from mail id shipping@glentech.co to

sbs@sbstanker.com and voyage order, enclosed with the above mail. The scanned image of the same is reproduced below: -

1/2/22, 6:35 PM Glentech Mail - MT DISTYA PUSHTI CLEAN FIXED ON 03112021 TO LOAD 20K AROUND PALM PRODUCTS // VOYAGE ORDE...

Gmail

Sidhant Agarwal <sidhant@glentech.co>

MT DISTYA PUSHTI CLEAN FIXED ON 03112021 TO LOAD 20K AROUND PALM PRODUCTS // VOYAGE ORDERS //

1 message

shipping@glentech.co <shipping@glentech.co> 22 November 2021 at 12:06
To: SBS <sbs@sbstanker.com>
Cc: Sudhanshu <sudhanshu@glentech.co>, Sidhant Agarwal <sidhant@glentech.co>, Danish Faisal <shipping@glentech.co>

Dear Mr. Dharmadi and Mr. Sheolong,

Good day !!

Please find attached herewith voyage orders .

Thanks & Regards,
Mitesh Joshi

(General Manager - Shipping & Logistics)

Glentech Ventures Pte Ltd.

<https://www.google.com/maps/search/101+Cecil+Street,+%2323?entry=gmail&source=g> 101 Cecil Street, #23-12
Tong Eng Building,
Singapore.

M: +91- 75674 00382
M: +91- 75674 00382 (whats app)
website: <http://www.glentech.co/> www.glentech.co
SINGAPORE I INDIA I HONG KONG I INDONESIA

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(39)

Voyage Orders MT DISTYA PUSHTI.pdf
583K

(38)

WE ADVISE HEREWITH VOYAGE INSTRUCTION FOR THE ABOVE VESSEL.
PLEASE CONFIRM MASTER IS INSTRUCTED ACCORDINGLY

MTIME, PLEASE KINDLY ASK MASTER/ AGENT START TO UPDATE ETA TO ALL CONCERNED PARTIES.

Aa) LOAD PORT(S)
CHARTERERS ADVISE THE VESSEL IS IMMEDIATELY TO PROCEEDTO LOAD PORT(S) AND PLEASE ENSURE ALL CARGO TANKS, PUMPS AND PIPES ARE CLEANED AND SUITABLY FIT TO LOAD THE GRADE AS FOLLOWS:

LAYCAN: 23 – 26th Nov, 2021
LOADPORT: DUMAI &KALA TANJUNG, INDONESIA & LINGGI/MELAKA, MALAYSIA
CARGO TO LOAD: CRUDE PALM OIL / RBD PALMOLEIN / PFAD
QUANTITY: 5000 Mts CPO / 15000 Mts Olein / 250 Mts PFAD

PLEASE ADVISE LOADING PLAN (STOWAGE PLAN) TANK BY TANK, AND ESTIMATED INTAKEBOTH METRIC TONNES AND BBLS AND EXPECTED SAILING DRAFT AFTER LOADING.

IF THE SHIP'S FIGURES DIFFER FROM SHORE FIGURES BY AN AMOUNT IN EXCESS OF 0.3 PCT, MASTER IS NOT TO SIGN BILL OF LADING AND IN SUCH CASE, MASTER IS TO CONTACT CHARTERERS IMMEDIATELY.

MASTER IS TO ENSURE THAT THE VESSEL WILL COMPLY AT ALL TIMES WITH INTERNATIONAL LO ADLINES REGULATIONS. IN THIS RESPECT, MASTER SHOULD ENSURE THAT THE VESSEL IS LOADE D SO AS TO MEET THE LOADLINES REQUIREMENTS OF ALL THE DISCHARGE RANGES OF THE GO VERNING CHARTER PARTY.

VESSEL TO ARRIVE AT LOADPORT WITH SUITABLE BALLAST IN ACCORDANCE WITH TERMINAL REGULATIONS AND WITH ALL CARGO TANKS/LINES/PUMPS THOROUGHLY CLEANED, STRIPPED, DRAINED, FREE OF ALL RESIDUES FROM PREVIOUS CARGO AND TO BE ACCEPTABLE TO INSPECTORS FOR THE LOADING OF DESIGNATED CARGO/GRADE(S).

IF FREE PRATIQUE IS NOT GRANTED PROMPTLY ON ARRIVAL MASTER MUST IMMEDIATELY PROT EST IN WRITING TO PORT AUTHORITIES AND OWNERS SHALL ATTACH SUCH PROTEST TO THEIR DEMURRAGE CLAIM.

VESSEL SHOULD ARRIVE AT LOADPORT WITH SUFFICIENT BUNKERS TO PERFORM THE COMPL ETE VOYAGE UNDER OUR CHARTER. IF OWNERS REQUIRE ADDITIONAL BUNKERING ARRANG EMENTS, OWNERS ARE REQUIRED TO NOTIFY CHARTERERS OF THEIR INTENTIONS WELL IN ADVANCE.

BB) DISCHARGE PORTS
MAX ARRIVAL DRAFT RESTRICTION AT DISCHARGE PORT: XXXX

CC) NOTIFYING PARTIES – LOAD PORT(S)
MASTER IS TO NOTIFY ETA AT LOADPORT
(IN LOCAL TIME) IMMEDIATELY ON SAILING FROM PREVIOUS DISPORT, AND 96 / 72 / 48 / 24 HOURS PRIOR TO ARRIVAL, ADDRESSED TO THE FOLLOWING:

(1) CHARTERERS:
a) Performance charter : GLENTECH VENTURES PTE LTD
101, Cecil Street, 325-12 Tong,Eng Building,
Singapore 069533,Singapore
shipping@glentech.sg
operations@glentech.sg

Payment Charter : Tata International west asia DMCC
Unit no: 1001 – 1005, Jumeirah Bay Tower X3, Plot no JLT-PH2 X3A, Jumeirah Lakes Towers, Dubai, United Arab Emirates

(37)

Tel: +9714 5149206
email: ravi.thakkar@transinternational.com;
amit.thakkar@transinternational.com;

-DEMURRAGE IF ANY TO BE BORNE BY GLENTECH VENTURES PTE LTD

(2) SUPPLIERS:

DUMAI:
PT. KHARISMA PEMASARAN BERSAMA NUSANTARA
(PT. KPB NUSANTARA) MEDAN BRANCH ON BEHALF
OF PT. PERKEBUNAN NUSANTARA – III
JALAN BALAI KOTA NO. 8 MEDAN 20111
kpbnsw3@cbn.net.id
divisi.pemasaran3@holding-perkebunan.com

KUALA TANJUNG:
PT INDUSTRI NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS-SEI MANGKEI, KAV 2-3, KEL. SEI MANGKEI KEC. BOSAR
MALIGAS, KAB. SIMALUNGUN,
SUMATRERA UTARA, 21184, INDONESIA
mika_r_adha@inl.co.id; bayu_ibrahim@inl.co.id;
Contact : +62 813-6372-948

3) OTHERPARTIES:

(4) BROKERS:

MASTER TO ADVISE IMMEDIATELY ANY CHANGE IN ETA AT LOADPORT OR DISPORT EXCEEDIN G 6 HOURS WHILST ON PASSAGE WITH REASON FOR SAME.

DD) NOTIFYING PARTIES – DISCHARGE PORT(S)
MASTER IS TO NOTIFY ETA AT DISCHARGE PORT (IN LOCAL TIME) IMMEDIATELY ON SAILING FR OM PREVIOUS PORT, AND 96 / 72 / 48 / 24 HOURS PRIOR TO ARRIVAL, ADDRESSED TO THE FOLLOW ING:

1) CHARTERERS : GLENTECH VENTURE PTE LTD
commercial@glentech.co; operations@glentech.co; chartering@glentech.co;
(2) RECEIVERS : TBA
(3) OTHER PARTIES:
(4) BROKERS:

EE) NOMINATED AGENTS

LOADPORT AGENT: The Details of the Load Port Vessel Agent is As :-

DUMAI:
PT.URBAN SHIPPING AGENCY (USA)
BARAKOMINDO SHIPPING PT.
komplek bumi dasar permai
Jalan senpurna no. 3 rt 007 kel. Rata rima kec. Dumai selatan
Dumai 28825 - Riau - Indonesia
Tlp. +62-765-6378692 / +62-765-9918844

(36)

Plc. Ajat sudrajat
Mob. +62-813-7195-9243
WA. +62-813-6404-4825
Email : dumai@barakomindo.com (general),
Ajatsdr2nd@yahoo.com (private)
Backup email : dumai@agencyurban.net

KUALA TANJUNG:
PT. Usde Seroja jaya – Batam Head Office.
Dapur 12, kel. Sei Pelunggut Kec. Sagulung,
Kota Batam, Provinsi Kepulauan Riau
Mob/Wa: 0812 621 7879, 0821 64352102 : PIC Iskandar.Z.
Private: iskandar@usdeseroja.com, iskandar.usde@gmail.com

LINNGI MELAKA:

" MARITIME NETWORK SDN BHD
NO.11-G, JALAN RAMIN 2/KS7,
BANDAR BOTANIC, 41200 KLANG,
SELANGOR DARUL EHSAN
MOBILE - +6016 6643828 / +6014 3613828 RK MORTHY
+6012 2336978 DATO SERI JAYA
Fax : +60(3) 33190585
E-mail : enquiry@maritime-net.com; jaya@maritime-net.com "

DISPORT AGENT : Details of the Discharge Port Agent.
KANDLA :

KANDLA :
Samudra Marine Services Pvt. Ltd., (Agency Division)
Level 2, La-Shewa Building, 233,
P D'Mello Road, Opposite G.P.O
Fort , Mumbai 400 001
Tel : +91 22 2270 1125 / 26 / 27
Fax: +91 22 2270 1128
Email : agency@samudramarine.com
Website : www.samudramarine.com
PIC :
Ketan +91 8879005881 Skype: ketan_smspl
Nitin +91 8879005886 Skype: nitin_smspl
Mathew +91 8879005882 Skype: mninan_smspl
Girish +91 8879765039 Skype: girish_smspl
Hari Shyam - +91 94268 19533 / +91 76980 91999

THE ETA'S AS ABOVE SHOULD BE SENT EVEN IF
THE VESSEL HAS NOT YET SAILED FROM THE PREVIOUS PORT. IN THIS EVENT, THE ETA SHOULD BE S
ENT BY OWNERS OR AGENTS ON THE MASTER'S BEHALF.

ETA MSG TO ADVISE:
(1) POSITION IN LAT/LONG,
(2) SPEED,
(3) DISTANT TO GO,
(4) DISTANT MADE GOOD,
(5) WIND/SEA STATE,
(6) ANY ANTICIPATED DELAYS OR DIVERSION DUE TO ADVERSE WEATHER CONDITION. (IF APPLIC
ABLE)

Sohan Agarwal

(35)

(8) BERTHING SCHEDULE OR ANY ANTICIPATED DELAY FOR EACH PORT (MASTER TO CHECK AND LIAISE CLOSELY WITH AGENT)

(9) STATING CURRENT ETA LOAD THE VESSEL IS HEREBY AUTHORIZED TO TENDER NOTICE OF READINESS (TO ALL THE ABOVE PARTIES) AND TO BERTH PRIOR TO COMMENCEMENT OF LAYCAN AND IN ANY EVENT THE LAYCAN SPECIFIED IN THE CHARTER PARTY SHALL PREVAIL.

MASTER TO NOTIFY CONFIRMATION OF NOTICE OF READINESS TENDERED, INCLUDING DATE AND TIME, TO THE ABOVE PARTIES. PLEASE KEEP US FULLY ADVISED OF VESSEL'S MOVEMENTS AT LOADPORT.

MASTER TO ISSUE LETTERS OF PROTEST IF THE TERMINAL RESTRICTS THE LOADING RATE SIGNIFICANTLY LESS THAN THE CAPABILITY OF THE VESSEL TO RECEIVE CARGO. STATEMENT OF FACTS MUST BE SIGNED BY [LOADING TERMINAL/SUPPLIER'S] REPRESENTATIVE. IF THEY REFUSE TO SIGN, MASTER MUST ISSUE A CONTEMPORANEOUS PROTEST TO THEM. OWNER TO INSTRUCT AGENTS TO RELEASEPORT AND VESSEL'S MOVEMENT INFORMATION TO GLENTECH VENTURE PTE LTD.

BLENDING :

DUE TO COVID RESTRICTIONS AT PORT KLANG BLENDING OPERATION CAN NOT BE HAPPEN THERE. SO NOW BLENDING OPERATION TO BE PERFORMED IN LINNGI ,MELAKA PORT NEAR TO PORT KLANG MALAYSIA .
BLENDING OPERATION WILL BE HANDLED BY GEOCHEM SURVEYORS AND SURVEYORS WILL RAISE / ASSIST WITH STANDARD BLENDING OPS. AS PER OUR DECIDED., 10,000 MTS OLEIN WILL BLEND WITH 5000 MTS CPO + 250 MTS PFAD. REMAINING 5000 MTS OLEIN WILL IMPORT IN INDIA SEPARATELY.

IN SHORT, VESSEL WILL DISCHARGE 15000 MTS CPO AT KANDLA + 5000 MTS OLEIN AT KANDLA.

VESSEL TO ISSUE NON NEGOTIABLE COPY OF SWITCH BL IMMIDIATELY AFTER THE BLENDING AND SAILING OF VESSEL FROM MALAYSIA FOR FILING IGM AT DISCHARGE PORT.

IN ABSENCE OF THE OBL VESSL TO DISCHARGE THE CARGO BASIS CORPORATE LOI FROM GLENTECH VENTURES PVT LTD.

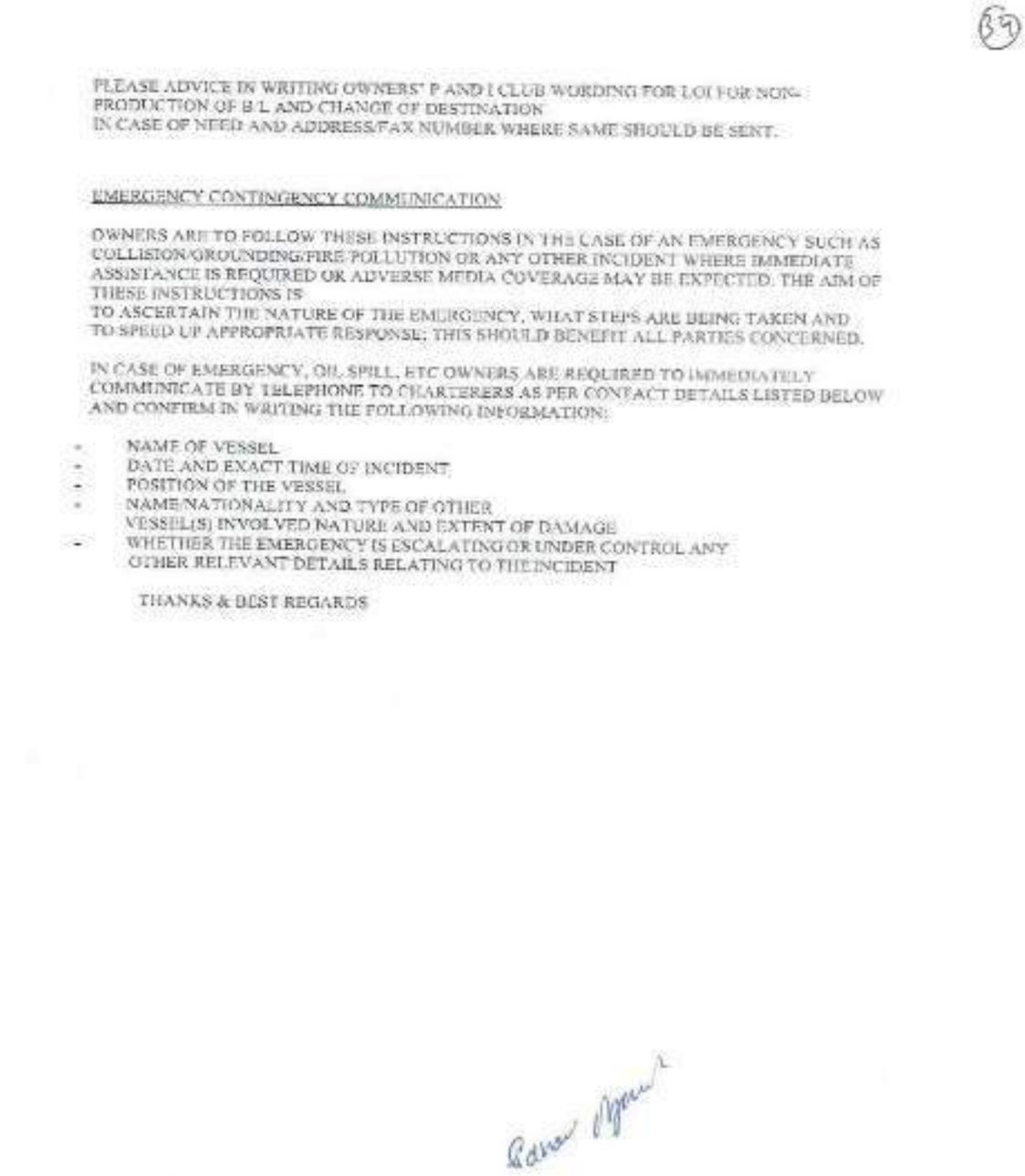
-SWITCHING B/L-

OWNER TO ISSUE SECOND SET (GLOBAL) BILLS OF LADING IN SINGAPORE OR ANY OTHER PLACE REQUIRED BY CHARTERERS. THROUGH AGENT NOMINATED BY OWNERS AT THE COST WHICH IS TO BE MUTUALLY AGREED WITH CHARTERERS. ONCE THE FULL FIRST SET (LOCAL) BILLS OF LADING ARE SURRENDERED TO VESSEL OWNERS ARE TO ISSUE/RELEASE THE SECOND SET (GLOBAL) BILLS OF LADING TO CHARTERER SIMULTANEOUSLY.

ON REQUEST AND TO FORWARD COPIES OF THE STATEMENT OF FACTS AND NOTICE OF READINESS AS SOON AS POSSIBLE AFTER VESSEL HAS COMPLETED LOADING.
UPON COMPLETION OF LOADING THE VESSEL IS TO PROCEED TO DISCHARGE PORT FOR ORDERS AND THE MASTER IS TO NOTIFY GLENTECH VENTURE PTE LTD THE ETA (IN LOCAL TIME) AT NEXT PORT AND FOLLOWING INFORMATION :

- B/L QUANTITY
- B/L DATE, SHIPPER, CONSIGNEE, CONSIGNOR, DESTINATION
- FULL TIME SHEET / REASONS FOR DELAY IF ANY
- LETTERS OF PROTEST ISSUED IF ANY
- SAMPLES ON BOARD
- SAILING DRAFT SPECIFYING WHETHER SEA, BRACKISH OR FRESH WATER
- FULL LIST OF CARGO DOCUMENTS ON BOARD STATING NUMBERS OF ORIGINALS AND COPIES.

ESTIMATED ARRIVAL DRAFT FORE AND AFT NEXT PORT SPECIFYING WHETHER CALCULATED FOR SEA, BRACKISH OR FRESH WATER.



PLEASE ADVICE IN WRITING OWNERS' P AND I CLUB WORDING FOR LOI FOR NON-PRODUCTION OF B/L AND CHANGE OF DESTINATION
IN CASE OF NEED AND ADDRESS/FAX NUMBER WHERE SAME SHOULD BE SENT.

EMERGENCY CONTINGENCY COMMUNICATION

OWNERS ARE TO FOLLOW THESE INSTRUCTIONS IN THE CASE OF AN EMERGENCY SUCH AS COLLISION/GROUNDING/FIRE/POLLUTION OR ANY OTHER INCIDENT WHERE IMMEDIATE ASSISTANCE IS REQUIRED OR ADVERSE MEDIA COVERAGE MAY BE EXPECTED. THE AIM OF THESE INSTRUCTIONS IS
TO ASCERTAIN THE NATURE OF THE EMERGENCY, WHAT STEPS ARE BEING TAKEN AND TO SPEED UP APPROPRIATE RESPONSE; THIS SHOULD BENEFIT ALL PARTIES CONCERNED.

IN CASE OF EMERGENCY, OIL SPILL, ETC OWNERS ARE REQUIRED TO IMMEDIATELY COMMUNICATE BY TELEPHONE TO CHARTERERS AS PER CONTACT DETAILS LISTED BELOW AND CONFIRM IN WRITING THE FOLLOWING INFORMATION:

- NAME OF VESSEL
- DATE AND EXACT TIME OF INCIDENT
- POSITION OF THE VESSEL
- NAME/NATIONALITY AND TYPE OF OTHER VESSEL(S) INVOLVED NATURE AND EXTENT OF DAMAGE
- WHETHER THE EMERGENCY IS ESCALATING OR UNDER CONTROL ANY OTHER RELEVANT DETAILS RELATING TO THE INCIDENT

THANKS & BEST REGARDS

Image19:*Scanned copy of E-mail from shipping@glentech.co to sbs@sbstanker.com enclosing voyage order of MT Distya Pushti.*

As per the voyage order, the load ports are Dumai, Kuala Tanjung, Indonesia and Linggi Melaka, Malaysia; Cargo to be loaded is Crude Palm Oil/RBD Palmolein/PFAD; Quantity 5000 MT CPO, 15000 MT Olein, 250 MT PFAD.

As regards blending, vide aforementioned e-mails, it is mentioned that due to covid restrictions, blending operation cannot happen at Klang port and blending operation to be performed at nearby port Linggi Melaka; Blending operation will be handled by Geochem Surveyors; 10000 MT Olein will be blended with 5000 MT CPO and 250 MT PFAD and remaining 5000 MT Olein will be imported in India separately; Vessel will discharge 15000 MT CPO and 5000 MT Olein at Kandla; vessel will issue switch BL immediately after blending and sailing of vessel from Malaysia for filing IGM at discharge port; owner to issue second set (Global) Bills of Lading in Singapore or any other place required by charterers, through agents nominated by owners at the cost

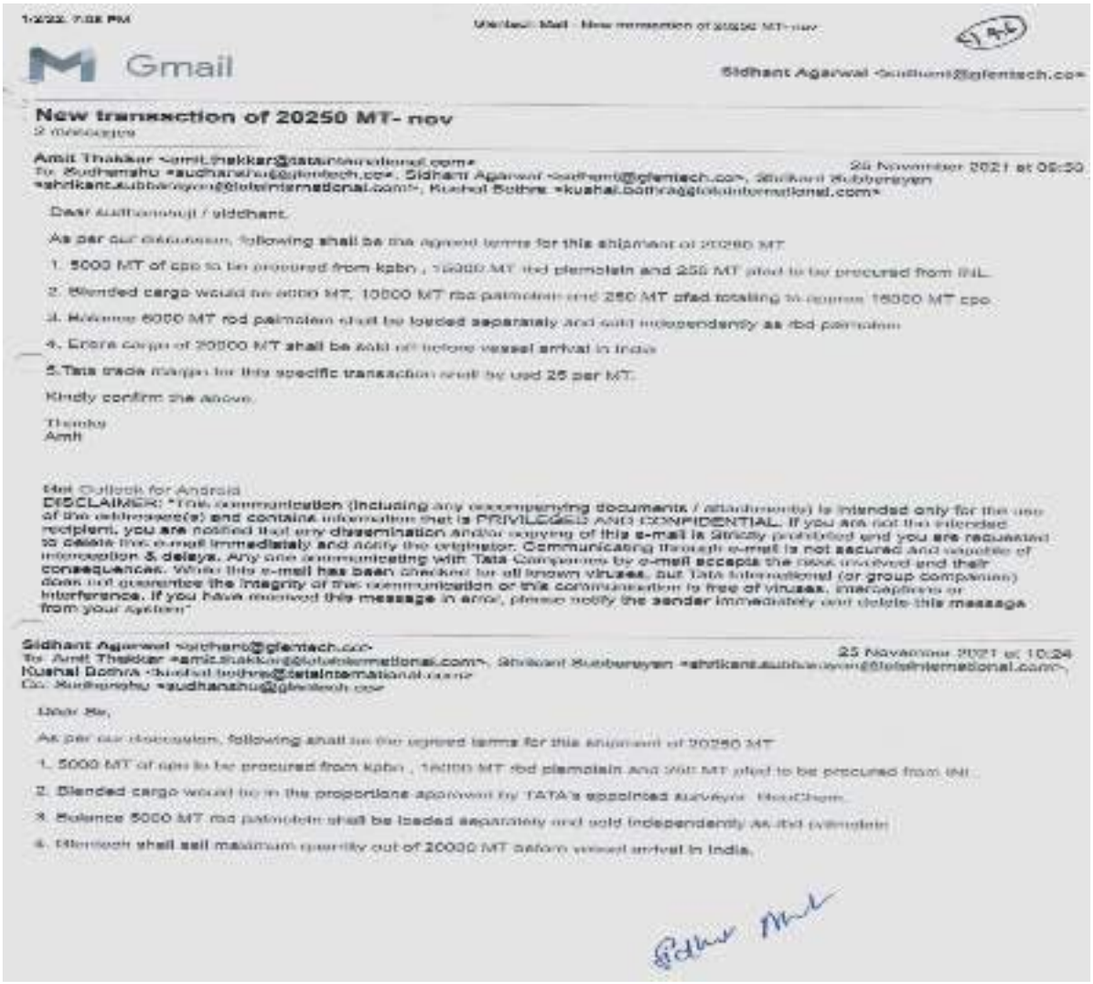
which is to be mutually agreed with charterers; once the first set of Bills of Lading are surrendered, vessel owners has to issue second set of Bills of Lading to charterer simultaneously.

From the foregoing, it is safe to conclude that 5000MT CPO, 10000MT RBD Palmolein and 250MT PFAD were loaded at different ports under different B/Ls and the blending operations of 5000MT CPO, 10000MT RBD Palmolein and 250MT PFAD was undertaken onboard vessel during the voyage. As per the Switching BL Cause of the Voyage Order and Charter Party, the original Bills of lading were switched to second set of Bills of Lading showing description as CPO only which otherwise, was admixture of CPO, RBD Palmolein and PFAD.

2.9.1.22 Page No.146 of the above mentioned file is print-out of an email correspondence dated 25.11.2021 from Mr. Amit Thakkar (amit.thakkar@tatainternational.com) to Shri Sudhanshu Agarwal of M/s Glentech (Sudhanshu@glentech.co) & Shri Sidhant Agarwal of M/s. Glentech (sidhant@glentech.co) wherein discussion w.r.t. the terms for 20250MT shipment have been conveyed by Mr Amit of M/s. TIL to M/s. GIPL, as per terms: -

5000 MT CPO to be procured from M/s. KPBN; 15000MT RBD Palmolein and 250 MT PFAD from INL; Blended cargo would be 5000 MT, 10000 MT RBD Palmolein and 250 MT PFAD totalling to 15000 MT approx.; Balance 5000 MT RBD Palmolein shall be loaded separately and sold independently as RBD Palmolein; Entire cargo of 20000 MT shall be sold off before arrival of the vessel in India; Tata trade margin shall be USD 25 per MT.

The scanned image of the above mail is reproduced below: -


1/2/22, 7:08 PM Gmail - New transaction of 20250 MT- nov

Gmail

Sidhant Agarwal <sidhant@glentech.co>

New transaction of 20250 MT- nov

2 messages

Amit Thakkar <amit.thakkar@tatainternational.com> 25 November 2021 at 09:30
To: Sudhanshu <sudhanshu@glentech.co>, Sidhant Agarwal <sidhant@glentech.co>, Shrikant Subbarayan <shrikant.subbarayan@tatainternational.com>, Kushal Bothra <kushal.bothra@tatainternational.com>

Dear sudhanshuji / sidchant,

As per our discussion, following shall be the agreed terms for this shipment of 20250 MT

1. 5000 MT of cpo to be procured from kpbn , 15000 MT rbd plamolein and 250 MT pfad to be procured from INL.
2. Blended cargo would be 5000 MT, 10000 MT rbd palmolein and 250 MT pfad totalling to approx 15000 MT cpo
3. Balance 5000 MT rbd palmolein shall be loaded separately and sold independently as rbd palmolein
4. Entire cargo of 20000 MT shall be sold off before vessel arrival in India
5. Tata trade margin for this specific transaction shall be usd 25 per MT.

Kindly confirm the above.

Thanks
Amit

Get Outlook for Android

DISCLAIMER: "This communication (including any accompanying documents / attachments) is intended only for the use of the addressee(s) and contains information that is PRIVILEGED AND CONFIDENTIAL. If you are not the intended recipient, you are notified that any dissemination and/or copying of this e-mail is strictly prohibited and you are requested to delete this e-mail immediately and notify the originator. Communicating through e-mail is not secured and capable of interception & delays. Any one communicating with Tata Companies by e-mail accepts the risks involved and their consequences. While this e-mail has been checked for all known viruses, but Tata International (or group companies) does not guarantee the integrity of this communication or this communication is free of viruses, interceptions or interference. If you have received this message in error, please notify the sender immediately and delete this message from your system"

Sidhant Agarwal <sidhant@glentech.co> 25 November 2021 at 10:24
To: Amit Thakkar <amit.thakkar@tatainternational.com>, Shrikant Subbarayan <shrikant.subbarayan@tatainternational.com>, Kushal Bothra <kushal.bothra@tatainternational.com>
Cc: Sudhanshu <sudhanshu@glentech.co>

Dear Sir,

As per our discussion, following shall be the agreed terms for this shipment of 20250 MT

1. 5000 MT of cpo to be procured from kpbn , 15000 MT rbd plamolein and 250 MT pfad to be procured from INL.
2. Blended cargo would be in the proportions approved by TATA's appointed surveyor, ResChem.
3. Balance 5000 MT rbd palmolein shall be loaded separately and sold independently as rbd palmolein
4. Glentech shall sell maximum quantity out of 20000 MT before vessel arrival in India.

Sidhant Agarwal

Image20: Scanned copy of the e-mail correspondence between M/s. TIL and M/s. GIPL

From the above e-mail and terms for the shipment, it is clear that it was pre-decided that 15000 MT RBD and 5000 MT CPO shall be procured separately and blended before arrival of the cargo into India.

2.9.2 SCRUTINY OF DOCUMENTS RESUMED FROM THE VESSEL MT DISTYA PUSHTI Voy. MID-DP-07/21:

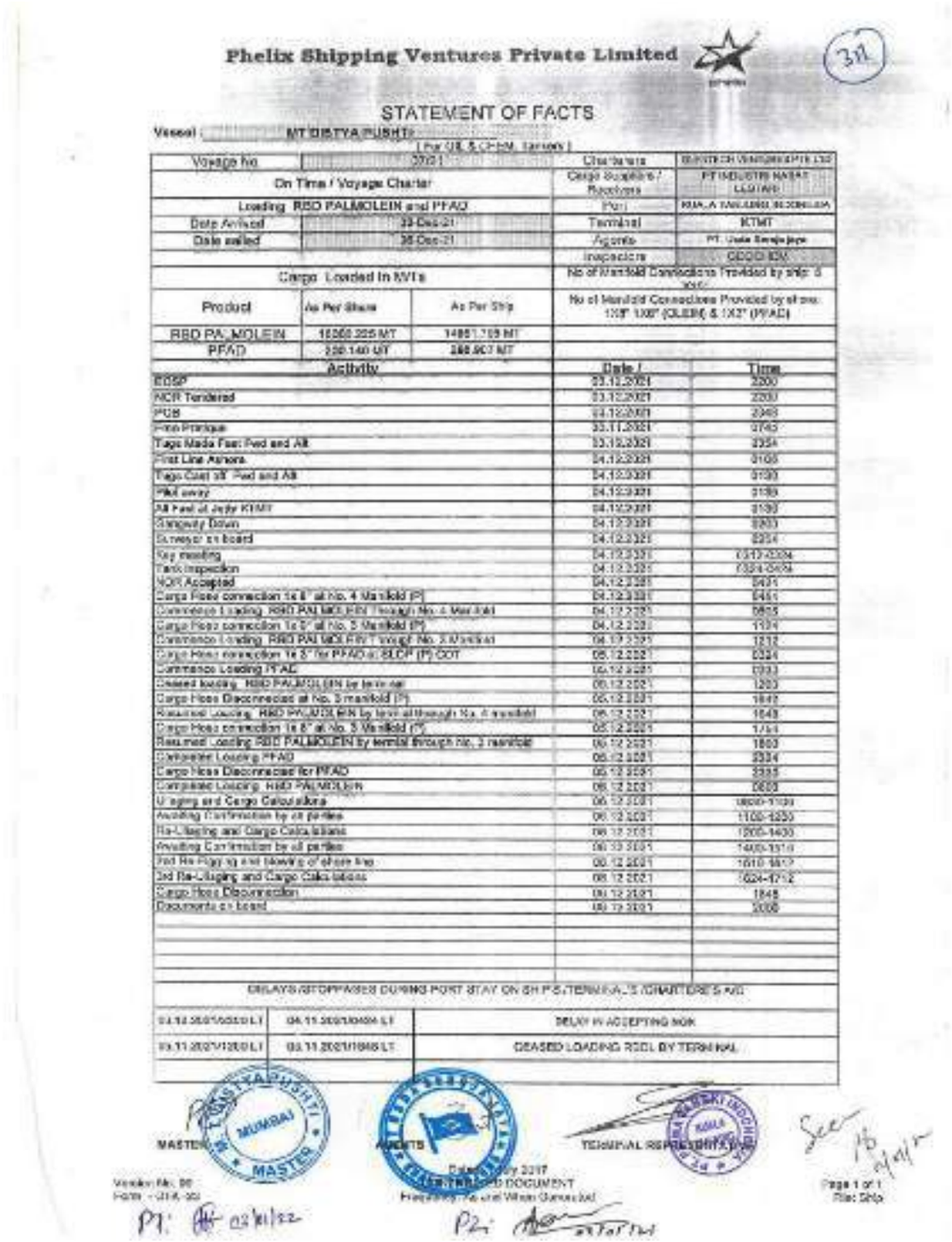
The vessel Distya Pushti was boarded by the Officers of DRI, Gandhidham Regional Unit along with officers of Customs House, Kandla under Panchnama dated 02/03.01.2022. **[RUD-1]**During the course of search / rummaging of the vessel under Panchnama dated 02/03.01.2022, documents/records were withdrawn.

2.9.2.1 During the course of rummaging, a sealed packet marked as "**VOY-07/2021, DUMAI & KUALA TANJUNG, CPO, RBD & PFAD, NOT TO BE USED, FOR REFERENCE ONLY**" was recovered from the cabin of Chief Officer. The Chief Officer informed that the said packet contained the actual load port documents having correct description and other particulars. The sealed packet was opened and the documents were placed in a file marked as **Made-Up File-2 of [RUD-1]**. The documents pertained to loading of goods CPO from Dumai Port and RBD Palm Olein & PFAD from Kuala Tanjung port.

The above file contains documents pertaining to loading of imported goods in Indonesia.

2.9.2.2 Page No. 311 of the above mentioned file is 'Statement of Facts', issued by M/s. Phelix Shipping Ventures Pvt. Ltd., showing details of loading of 15000.225 MT RBD Palmolein and 300.140 MT PFAD in vessel 'Distya Pushti' from 03.12.2021 to 06.12.2021 at Kuala Tanjung Port, Indonesia.

The scanned image of the above page is reproduced below: -



Phelix Shipping Ventures Private Limited

STATEMENT OF FACTS

Vessel : MT DISTYA PUSHTI

Voyage No	2021	Charterers	
On Time / Voyage Charter		Cargo Supplier / Receivers	PT INDUSTRI NABATI LESTARI
Loading RBD PALMOLEIN and PFAD		Port	
Date Arrived	03-Dec-21	Terminal	KTMT
Date sailed	06-Dec-21	Agents	
		Inspectors	GEOCHEM

Cargo Loaded In MTs

Product	As Per Shore	As Per Ship
RBD PALMOLEIN	15000.225 MT	14951.709 MT
PFAD	300.140 MT	298.907 MT

No of Manifold Connections Provided by ship: 6 nos

No of Manifold Connections Provided by shore: 10" 10" (OLEIN) & 12" (PFAD)

Activity	Date /	Time
EOSP	03.12.2021	2200
NOR Tendered	03.12.2021	2200
POB	03.12.2021	2240
Hose Pontoon	03.12.2021	2245
Tugs Made Fast Fwd and Aft	03.12.2021	2254
First Line Ashore	04.12.2021	0100
Tugs Cast off Fwd and Aft	04.12.2021	0120
Pilot away	04.12.2021	0139
All Fast at Jetty KTMT	04.12.2021	0139
Gangway Down	04.12.2021	0203
Surveyor on board	04.12.2021	0254
Key meeting	04.12.2021	0317-0324
Tank Inspection	04.12.2021	0324-0409
NOR Accepted	04.12.2021	0431
Cargo Hose connection 1x 8" at No. 4 Manifold (P)	04.12.2021	0451
Commence Loading RBD PALMOLEIN through No. 4 Manifold	04.12.2021	0515
Cargo Hose connection 1x 8" at No. 5 Manifold (P)	04.12.2021	1101
Commence Loading RBD PALMOLEIN through No. 5 Manifold	04.12.2021	1215
Cargo Hose connection 1x 8" for PFAD at SLOP (P) COT	05.12.2021	0324
Commence Loading PFAD	05.12.2021	0333
Ceased loading RBD PALMOLEIN by terminal	05.12.2021	1203
Cargo Hose Disconnected at no. 5 manifold (P)	05.12.2021	1847
Resumed Loading RBD PALMOLEIN by terminal through No. 4 manifold	05.12.2021	1849
Cargo Hose connection 1x 8" at No. 5 Manifold (P)	05.12.2021	1/51
Resumed Loading RBD PALMOLEIN by terminal through no. 5 manifold	05.12.2021	1853
Completed Loading PFAD	05.12.2021	2334
Cargo Hose Disconnected for PFAD	05.12.2021	2335
Completed Loading RBD PALMOLEIN	06.12.2021	0003
Unaging and Cargo Calculations	06.12.2021	0600-1100
Awaiting Confirmation by all parties	06.12.2021	1100-1330
Re-Unaging and Cargo Calculations	06.12.2021	1500-1400
Awaiting Confirmation by all parties	06.12.2021	1400-1510
2nd Re-Unaging and Heeling of ships line	06.12.2021	1510-1612
3rd Re-Unaging and Cargo Calculations	06.12.2021	1624-1715
Cargo Hose Disconnection	06.12.2021	1845
Documents on board	06.12.2021	2008

DELAYS/STOPPAGES DURING PORT STAY ON SHIP'S/TERMINAL'S/CHARTERER'S A/C

03.12.2021/0000 LT	04.12.2021/0434 LT	DELAY IN ACCEPTING NOR
05.12.2021/1203 LT	05.12.2021/1845 LT	CEASED LOADING RBD BY TERMINAL

MASTER

AGENTS

TERMINAL REPRESENTATIVE

Page 1 of 1

Image21: Scanned copy of 'Statement of Facts', issued by M/s. Phelix Shipping Ventures Pvt. Ltd.

2.9.2.3 The perusal of the above page shows that the Charterers are M/s. GVPL, date of arrival of vessel was 03.12.2021 and date of sailing was 06.12.2021. Name of Supplier is M/s. INL, Name of Inspectors was shown as 'Geochem'. As per the above statement of facts, 15000.225 MT RBD Palmolein and 300.140 MT PFAD were loaded in vessel 'Distya Pushti' at Kuala Tanjung Port, Indonesia from 03.12.2021 to 06.12.2021.

Thus, from the above details, it is crystal clear that 15000.225 MT RBD Palmolein and 300.140 MT PFAD were loaded in vessel 'Distya Pushti' at Kuala Tanjung Port, Indonesia.

2.9.2.4 Page No. 309 of the above mentioned file is 'Notice of Readiness, issued by Capt. Bhaskar, M/s. Phelix Shipping Ventures Pvt. Ltd., showing arrival of the vessel at Kuala Tanjung Port at 22.00 hrs of 03.12.2021 for loading of 15000 MT RBD Palmolein and 250 MT PFAD in vessel 'Distya Pushti'. The scanned image of the above page is reproduced below: -

Phelix Shipping Ventures Private Limited

309

Name of Vessel: DISTYA PUSHTI
Port of KUALA TANJUNG, INDONESIA
Date 03-12-21

NOTICE OF READINESS

To: LOADING MASTER
KTMT
TO WHOM EVER IT MAY CONSERN

Dear Sirs,

Please be advised of the arrival of the above vessel at the port of KUALA TANJUNG, INDONESIA at 22:00 hrs today the 03-12-21

The vessel is in all respects ready to commence LOADING~~/DISCHARGING~~ a full cargo of
15000 MT of RBD PALMOLEIN in bulk and
250 MT of PFAD in bulk

Time to commence in accordance with the terms and conditions of the Governing Charter Party

Date 03-12-21 Place KUALA TANJUNG, INDONESIA

Please acknowledge receipt of this Notice of Readiness by signing and returning duplicate

Yours truly,

Signature CAPT BHASKAR
Master

M.T. DISTYA PUSHTI MUMBAI

Received By/Accepted By:

Signature [Seal]

Date and Hour: 04.12.21 AT 04.24 HOURS

SUBJECT TO ALL TERMS CONDITIONS AND OR EXCEPTIONS OF THE GOVERNING CHARTER PARTY.

Version No: 00
FORM - OTK - 31

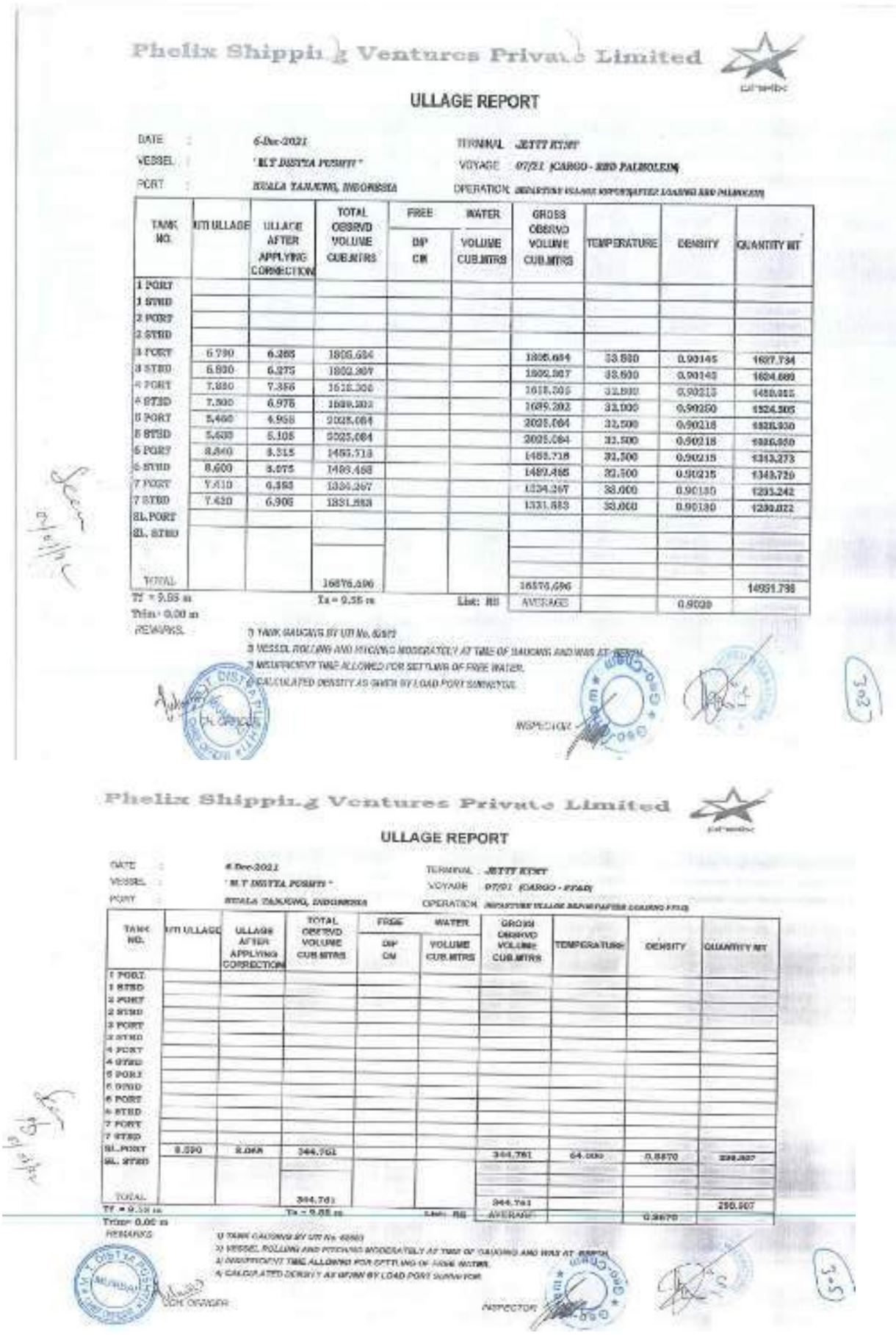
Dated: 1 July 2017
Phelix Shipping Ventures Pvt LTD

Page 1 of 1

Image22: Scanned copy of 'Notice of Readiness', issued by M/s. Phelix Shipping Ventures Pvt. Ltd.

The perusal of the above page shows that the vessel 'Distya Pushti' arrived at Kuala Tanjung Port, Indonesia on 03.12.2021 for loading of 15000 MT RBD Palmolein and 250 MT PFAD.

2.9.2.5 Page No. 305 of the above mentioned file is 'Ullage Report', issued by M/s. Phelix Shipping Ventures Pvt. Ltd., after loading PFAD. Similarly, Page No. 303 of the above file is 'Ullage Report', issued by M/s. Phelix Shipping Ventures Pvt. Ltd., after loading RBD Palmolein. The copies of Page No. 303 and 305 are as reproduced below: -



Phelix Shipping Ventures Private Limited

ULLAGE REPORT

DATE : 6-Dec-2021 TERMINAL : JETTY #1,2&3

VESSEL : "M.T DISTYA POSHTI" VOYAGE : 07/21 (CARGO - RBD PALMOLEIN)

PORT : KUALA TANJUNG, INDONESIA OPERATION : SIMULTANEOUS VOLUME MEASUREMENT LOADING AND PARCELING

TANK NO.	MTI ULLAGE	ULLAGE AFTER APPLYING CORRECTION	TOTAL OBSRVD VOLUME CUB.MTRS	FREE WATER DIP CM	FREE WATER VOLUME CUB.MTRS	GROSS OBSRVD VOLUME CUB.MTRS	TEMPERATURE	DENSITY	QUANTITY MT
1 PORT									
1 STBD									
2 PORT									
2 STBD									
3 PORT	6.730	6.385	1805.684			1805.684	33.800	0.90145	1627.734
3 STBD	6.830	6.275	1802.307			1802.307	33.800	0.90143	1624.689
4 PORT	7.080	7.356	1618.305			1618.305	33.800	0.90215	1459.915
4 STBD	7.300	6.976	1609.203			1609.203	33.000	0.90250	1524.305
5 PORT	5.460	4.958	2025.084			2025.084	33.500	0.90218	1826.930
5 STBD	5.600	5.105	2025.084			2025.084	33.500	0.90218	1826.930
6 PORT	8.040	8.315	1468.718			1468.718	33.500	0.90215	1313.273
6 STBD	8.000	8.075	1468.468			1468.468	33.500	0.90215	1313.720
7 PORT	7.410	6.363	1334.267			1334.267	33.000	0.90130	1203.242
7 STBD	7.430	6.906	1331.883			1331.883	33.000	0.90130	1200.822
SL.PORT									
SL. STBD									
TOTAL			16876.696			16876.696			14931.798
						AVERAGE		0.9039	

TT = 9.55 m Ta = 9.55 m List: Nil

Trim= 0.00 m

REMARKS

1) TANK GAUGING BY UTI No. 63/21
2) VESSEL ROLLING AND PITCHING MODERATELY AT TIME OF GAUGING AND WAS AT BERTH.
3) MEASUREMENT TAKE ALLOWED FOR SETTLING OF FREE WATER.
4) CALCULATED DENSITY AS GIVEN BY LOAD PORT SURVEYOR.

M.T. DISTYA POSHTI MUMBAI

MASTER

INSPECTOR

Phelix Shipping Ventures Private Limited

ULLAGE REPORT

DATE : 6-Dec-2021 TERMINAL : JETTY #1,2&3

VESSEL : "M.T DISTYA POSHTI" VOYAGE : 07/21 (CARGO - PFAD)

PORT : KUALA TANJUNG, INDONESIA OPERATION : SIMULTANEOUS VOLUME MEASUREMENT LOADING PFAD

TANK NO.	MTI ULLAGE	ULLAGE AFTER APPLYING CORRECTION	TOTAL OBSRVD VOLUME CUB.MTRS	FREE WATER DIP CM	FREE WATER VOLUME CUB.MTRS	GROSS OBSRVD VOLUME CUB.MTRS	TEMPERATURE	DENSITY	QUANTITY MT
1 PORT									
1 STBD									
2 PORT									
2 STBD									
3 PORT									
3 STBD									
4 PORT									
4 STBD									
5 PORT									
5 STBD									
6 PORT									
6 STBD									
7 PORT									
7 STBD									
SL.PORT	9.090	9.048	344.761			344.761	64.000	0.8670	298.807
SL. STBD									
TOTAL			344.761			344.761			298.807
						AVERAGE		0.8670	

TT = 9.10 m Ta = 9.05 m List: Nil

Trim= 0.05 m

REMARKS

1) TANK GAUGING BY UTI No. 63/21
2) VESSEL ROLLING AND PITCHING MODERATELY AT TIME OF GAUGING AND WAS AT BERTH.
3) MEASUREMENT TAKE ALLOWED FOR SETTLING OF FREE WATER.
4) CALCULATED DENSITY AS GIVEN BY LOAD PORT SURVEYOR.

M.T. DISTYA POSHTI MUMBAI

MASTER

INSPECTOR

Image23: Scanned copies of Ullage Reports.

2.9.2.6 Page No. 299 and 297 of the above mentioned file are 'Letter of Protest', issued by M/s. Phelix Shipping Ventures Pvt. Ltd., showing difference in quantity of RBD and PFAD as per ship's figures and Bill of Lading, respectively. This shows that RBD and PFAD were loaded at port Kuala Tanjung.

Phelix Shipping Ventures Private Limited

299

Letter of Protest

for

Difference in Cargo Quantity

Vessel: M.T DISTYA PUSHTI Voyage No. 07/21

At (Port) / Terminal/Berth / (Date): KUALA TANJUNG INDONESIA JETTY KTMT 5-Dec-21

To,

(Supplier / Terminal) OR 'TO WHOM IT MAY CONCERN'

Dear Sir

On completion of loading, differences were observed between ship's figures and bill of lading figures as per details given here under-

S No	PRODUCT	SHIP'S RECEIVED FIGURE MT (WITH OUT VEF)	SHIP'S RECEIVED FIGURE (WITH VEF)	B/L FIGURE	DIFFERENCE(WITH OUT VEF)	DIFFERENCE (WITH VEF)
1	RBD PALMOLEIN	14961.798	14973.969	15000.225	-48.427	-26.256
					-0.323%	-0.175%

I, therefore protest the above difference. Please note that this letter is in lieu of the Clausing by me of the Bill of Lading in respect of the above-mentioned difference. It is my understanding that this procedure is in accordance with your own request and in respect of any claims which may arise out of such difference, this letter shall be regarded by you as evidence of the quantity to dispute just as if the same had been endorsed in the Bill of Lading.

M.T. DISTYA PUSHTI MUMBAI MASTER

Master
MT Distya Pushti
Capt Bhaskar
(* Details if not applicable)
Acknowledged copies of this letter forwarded to-
CC: Owners –
CC: * Charterers -
CC: Port Agents
CC:
CC:

KUALA TANJUNG

For receipt only
Without prejudice

Seen 5/12/21

Version No: 00
Form - OTK- 19

Dated: 1 July 2017
CONTROLLED DOCUMENT
Frequency: As and When Generated

Page 1 of 1
File: Ship

Image24: Scanned copies of Letter of Protest i.r.o RBD Palmolein.

Phelix Shipping Ventures Private Limited

297

Letter of Protest

for

Difference In Cargo Quantity

Vess: M T DISTYA PUSHTI Voyage No. 07/21

At (Port) / Terminal/Berth / (Date): KUALA TANJUNG, INDONESIA JETTY KTMT 5 Dec 21

To,

(Supplier / Terminal) OR 'TO WHOM IT MAY CONCERN'

Dear Sir

On completion of loading, differences were observed between ship's figures and bill of lading figures as per details given here under-

S No	PRODUCT	SHIP'S RECEIVED FIGURE MT (WITH OUT VEF)	SHIP'S RECEIVED FIGURE (WITH VEF)	B/L FIGURE	DIFFERENCE(WITH OUT VEF)	DIFFERENCE (WITH VEF)
1	PFAD	298.907	299.350	300.140	-1.233	-0.790
					-0.411%	-0.263%

I, therefore protest the above difference. Please note that this letter is in lieu of the Clausing by me of the Bill of Lading in respect of the above-mentioned difference. It is my understanding that this procedure is in accordance with your own request and in respect of any claims which may arise out of such difference, this letter shall be regarded by you as evidence of the quantity to dispute just as if the same had been endorsed in the Bill of Lading.

M.T. DISTYA PUSHTI MUMBAI MASTER

Master
MT Dishya Pushti
Capt Bhasker
(* Delete if not applicable)
Acknowledged copies of this letter forwarded to-
CC: Owners –
CC: * Charterers -
CC: Port Agents
CC:
CC:

For receipt only
Without prejudice

Seen 2/12/21

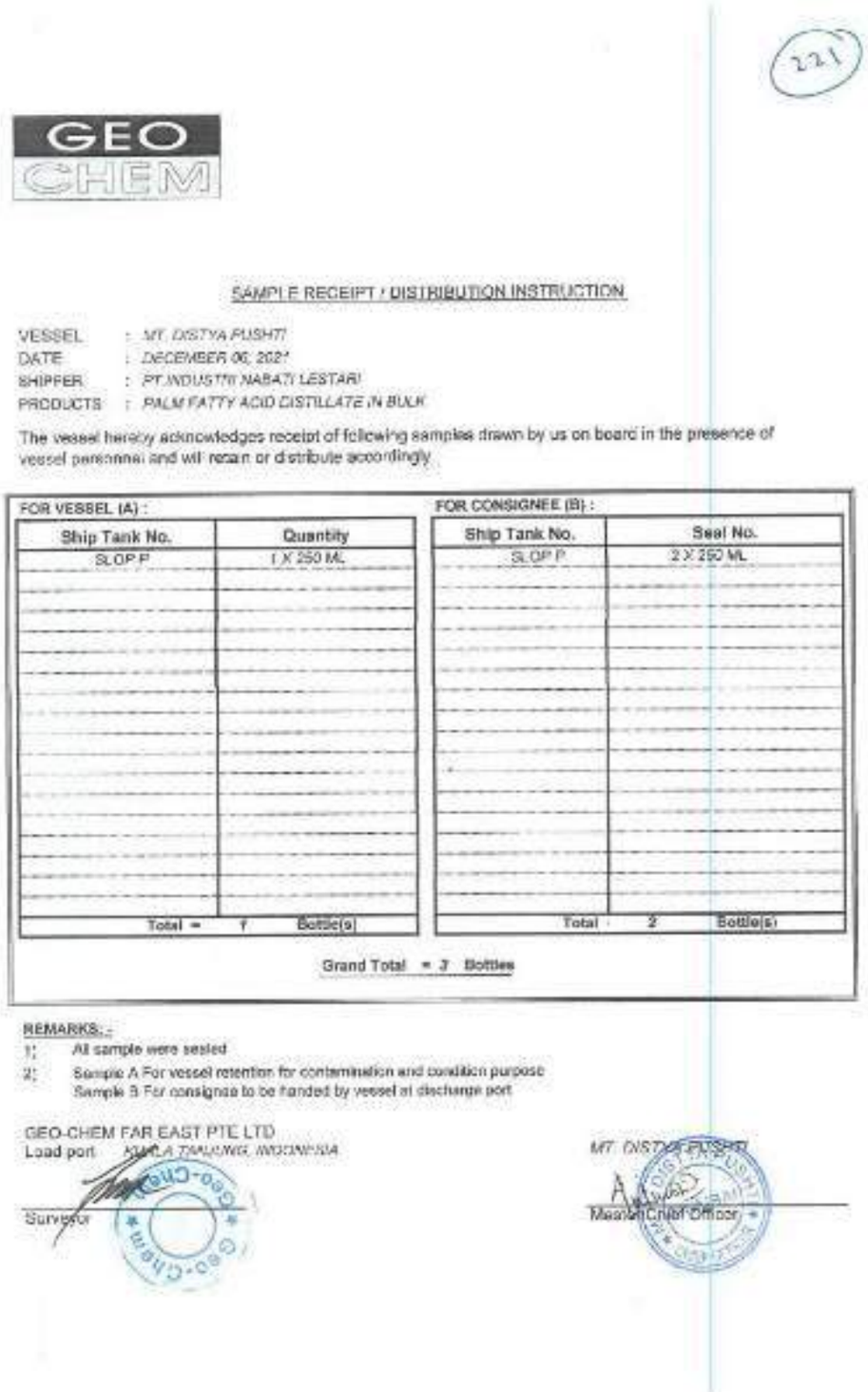
Version No. 00
Form - OTK- 19

Dated: 1 July 2017
CONTROLLED DOCUMENT
Frequency: As and When Generated

Page 1 of 1
File: Ship

Image25: Scanned copies of Letter of Protest i.r.o PFAD.

2.9.2.7 Page No. 221 of the above file is 'Sample Receipt/Distribution Instruction' dated 06.12.2021, issued by Geo-Chem Far East Pte Ltd., Indonesia. The scanned image of the above page is reproduced below:



221

GEO CHEM

SAMPLE RECEIPT / DISTRIBUTION INSTRUCTION

VESSEL : MT. DISTYA PUSHTI
DATE : DECEMBER 06, 2021
SHIPPER : PT.INDUSTRI NABATI LESTARI
PRODUCTS : PALM FATTY ACID DISTILLATE IN BULK

The vessel hereby acknowledges receipt of following samples drawn by us on board in the presence of vessel personnel and will retain or distribute accordingly

FOR VESSEL (A) :

Ship Tank No.	Quantity
SLOP P	1 X 250 ML
Total = 1	Bottle(s)

FOR CONSIGNEE (B) :

Ship Tank No.	Seal No.
SLOP P	2 X 250 ML
Total 2	Bottle(s)

Grand Total = 3 Bottles

REMARKS :-
1; All sample were sealed
2; Sample A For vessel retention for contamination and condition purpose
Sample B For consignee to be handed by vessel at discharge port

GEO-CHEM FAR EAST PTE LTD
Load port : KUALA TANJUNG, INDONESIA

Surveyor

MT. DISTYA PUSHTI

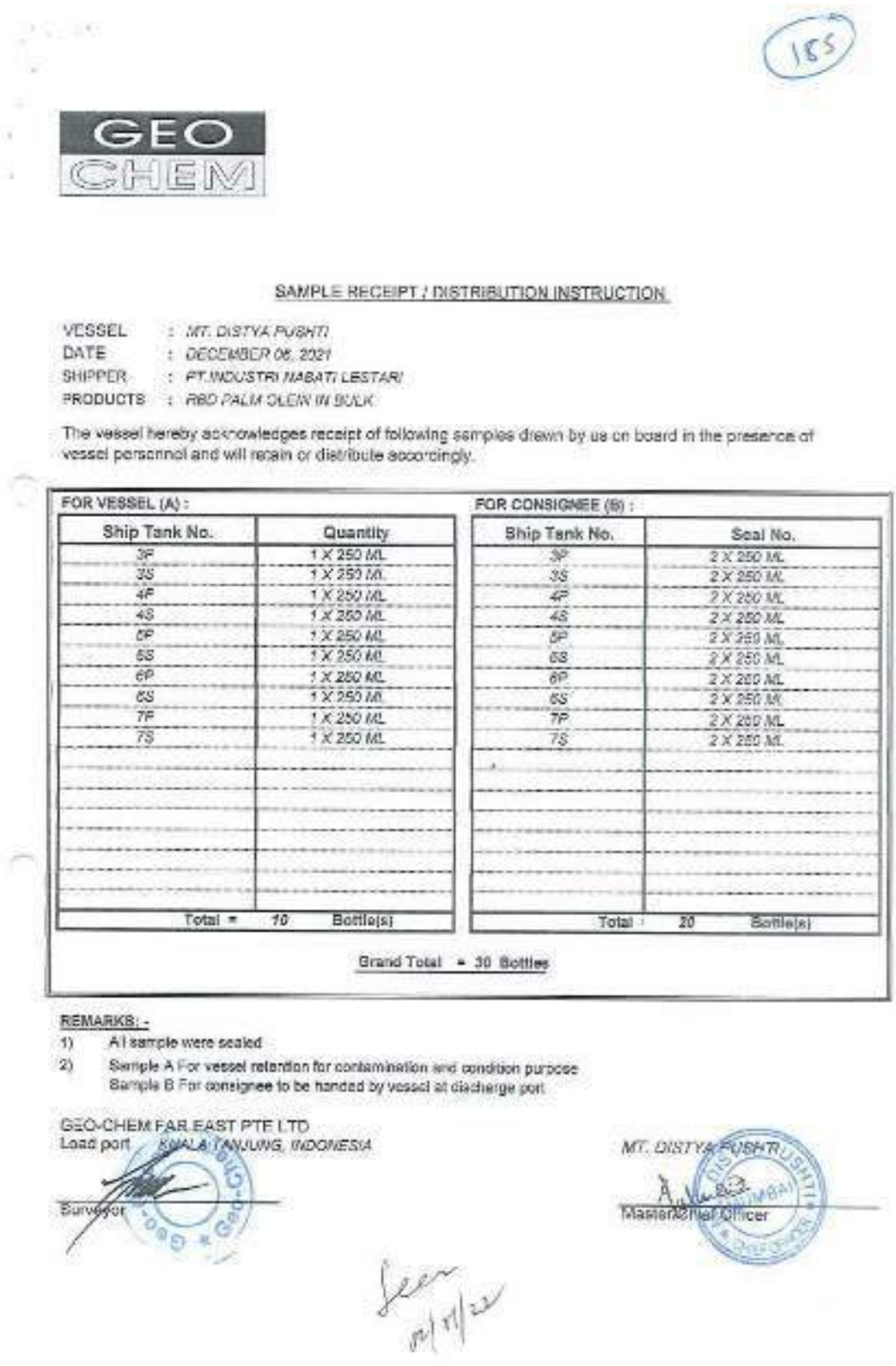
Master/Chief Officer

Image26: Scanned copy of 'Sample Receipt/Distribution Instruction' dated 06.12.2021 i.r.o. PFAD

The perusal of the above shows that total 03 samples, each of 250 ml of PFAD were drawn from Ship Tank No. 'Slop P' by Geo-Chem Far East Pte Ltd., Indonesia. Out of 03 samples, 01 sample was meant for vessel and 02 samples were meant for consignee. This shows that PFAD was loaded in tank 'Slop P' from the load port.

2.9.2.8 Similarly, page No. 185 of the above mentioned file is also 'Sample Receipt/Distribution Instruction' dated 06.12.2021, issued by Geo-Chem Far

East Pte Ltd., Indonesia. The scanned image of the above page is reproduced below: -



GEO CHEM

SAMPLE RECEIPT / DISTRIBUTION INSTRUCTION

VESSEL : MT. DISTYA PUSHTI
DATE : DECEMBER 06, 2021
SHIPPER : PT.INDUSTRI NABATI LESTARI
PRODUCTS : RBD PALM OLEIN IN BULK

The vessel hereby acknowledges receipt of following samples drawn by us on board in the presence of vessel personnel and will retain or distribute accordingly.

FOR VESSEL (A) :

Ship Tank No.	Quantity
3P	1 X 250 ML
3S	1 X 250 ML
4P	1 X 250 ML
4S	1 X 250 ML
5P	1 X 250 ML
5S	1 X 250 ML
6P	1 X 250 ML
6S	1 X 250 ML
7P	1 X 250 ML
7S	1 X 250 ML
Total =	10 Bottle(s)

FOR CONSIGNEE (B) :

Ship Tank No.	Seal No.
3P	2 X 250 ML
3S	2 X 250 ML
4P	2 X 250 ML
4S	2 X 250 ML
5P	2 X 250 ML
5S	2 X 250 ML
6P	2 X 250 ML
6S	2 X 250 ML
7P	2 X 250 ML
7S	2 X 250 ML
Total =	20 Bottle(s)

Grand Total = 30 Bottles

REMARKS: -
1) All sample were sealed
2) Sample A For vessel retention for contamination and condition purpose
Sample B For consignee to be handed by vessel at discharge port

GEO-CHEM FAR EAST PTE LTD
Load port KUALA TANJUNG, INDONESIA

Surveyor

MT. DISTYA PUSHTI

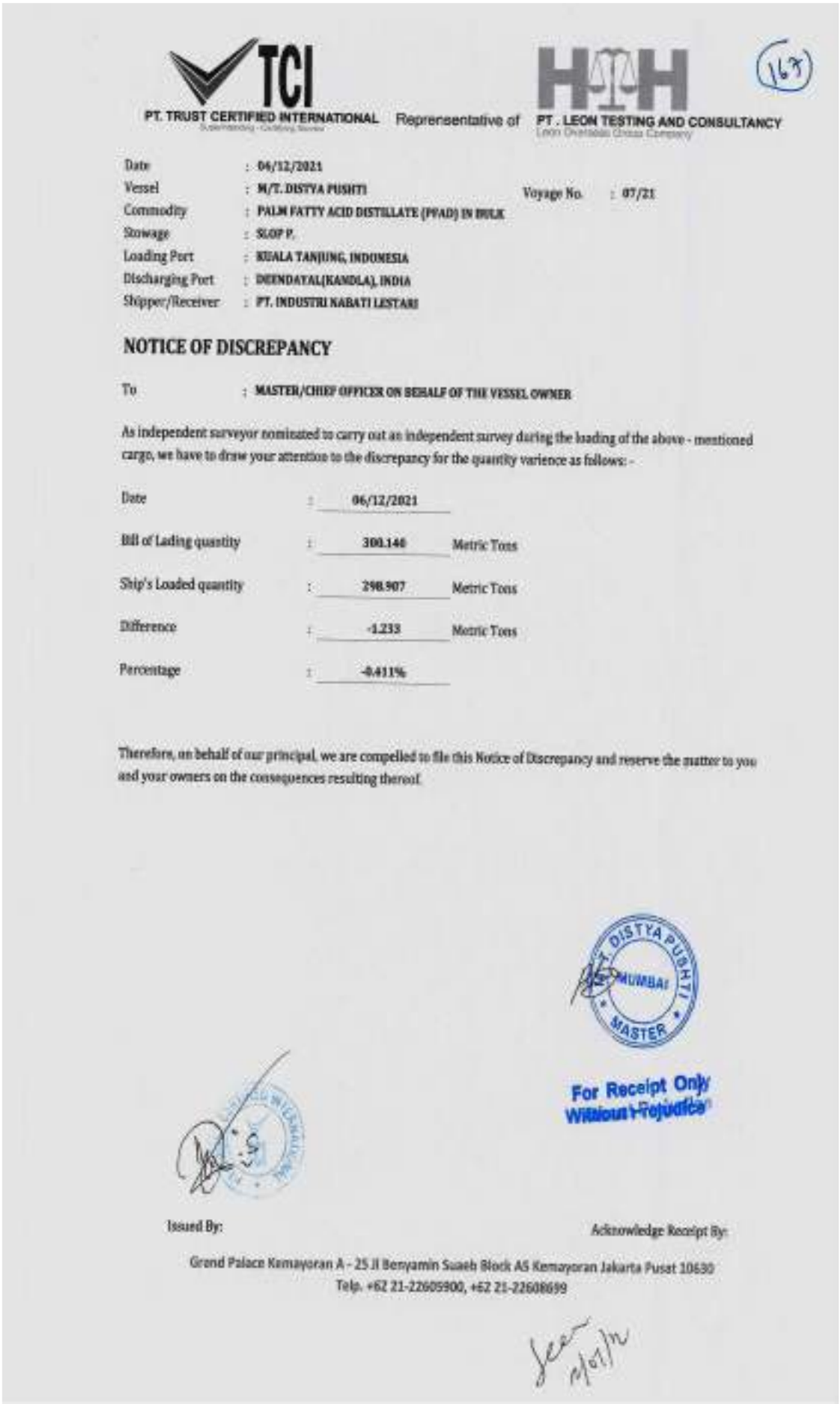
Master/Chief Officer

Image27: Scanned copy of 'Sample Receipt/Distribution Instruction' dated 06.12.2021 i.r.o RBD Palmolein

The perusal of the above shows that total 30 samples, each of 250 ml of RBD Palmolein were drawn from 10 Ship tanks of vessel Distya Pushti by Geo-Chem Far East Pte Ltd., Indonesia. Out of 30 samples, 10 samples were meant for vessel and 20 samples were meant for consignee. This shows that RBD was loaded in 10 tanks of the vessel from the load port.

2.9.2.9 Page No. 167and 165 of the above mentioned file are 'Notice of Discrepancy', issued by PT. Trust Certified International, showing difference in

quantity of PFAD and RBD as per ship's loaded quantity and Bill of Lading quantity, respectively. This shows that RBD and PFAD were loaded in the vessel at port Kuala Tanjung



PT. TRUST CERTIFIED INTERNATIONAL Representative of PT . LEON TESTING AND CONSULTANCY

(16)

Date : 06/12/2021
Vessel : M/T. DISTYA PUSHTI Voyage No. : 07/21
Commodity : PALM FATTY ACID DISTILLATE (PFAD) IN BULK
Stowage : SLOP P.
Loading Port : KUALA TANJUNG, INDONESIA
Discharging Port : DEENDAYAL(KANDLA), INDIA
Shipper/Receiver : PT. INDUSTRI NABATI LESTARI

NOTICE OF DISCREPANCY

To : MASTER/CHIEF OFFICER ON BEHALF OF THE VESSEL OWNER

As independent surveyor nominated to carry out an independent survey during the loading of the above - mentioned cargo, we have to draw your attention to the discrepancy for the quantity varience as follows: -

Date	: 06/12/2021	
Bill of Lading quantity	: 300.140	Metric Tons
Ship's Loaded quantity	: 298.907	Metric Tons
Difference	: -1.233	Metric Tons
Percentage	: -0.411%	

Therefore, on behalf of our principal, we are compelled to file this Notice of Discrepancy and reserve the matter to you and your owners on the consequences resulting thereof.

M/T DISTYA PUSHTI MUMBAI MASTER

For Receipt Only Without Prejudice

Issued By: Acknowledge Receipt By:

Grand Palace Kemayoran A - 25 Jl Benyamin Suaeb Block A5 Kemayoran Jakarta Pusat 10630
Telp. +62 21-22605900, +62 21-22608699

Image28: Scanned copy of 'Notice of Discrepancy' i.r.o. PFAD

PT. TRUST CERTIFIED INTERNATIONAL Representative of PT. LEON TESTING AND CONSULTANCY

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Date : 04/12/2021
Vessel : M/T. DISTYA PUSHTI Voyage No. : 07/21
Commodity : REFINED BLEACHED AND DEODORISED PALM OLEIN(EDIBLE GRADE) IN BULK
Stowage : 2P, 2S, 6P, 4S,5P, 5S, 6P, 6S, 7P AND 7S.
Loading Port : KUALA TANJUNG, INDONESIA
Discharging Port : BUDGE BUDGE, INDIA
Shipper/Receiver : PT. INDUSTRI NABATI LESTARI

NOTICE OF DISCREPANCY

To : MASTER/CHIEF OFFICER ON BEHALF OF THE VESSEL OWNER

As independent surveyor nominated to carry out an independent survey during the loading of the above - mentioned cargo, we have to draw your attention to the discrepancy for the quantity variance as follows: -

Date	: 06/12/2021	
Bill of Lading quantity	: 15,000.225	Metric Tons
Ship's Loaded quantity	: 14,951.798	Metric Tons
Difference	: -48.427	Metric Tons
Percentage	: -0.323%	

Therefore, on behalf of our principal, we are compelled to file this Notice of Discrepancy and reserve the matter to you and your owners on the consequences resulting thereof.

M.T. DISTYA PUSHTI MUMBAI MASTER

For Receipt Only
Without Prejudice

Issued By: Acknowledge Receipt By:

Grand Palace Kemayoran A - 25 Jl Benyamin Suaeb Block A5 Kemayoran Jakarta Pusat 10630
Telp. +62 21-22605900, +62 21-22608699

Image29: Scanned copy of 'Notice of Discrepancy' i.r.o. RBD Palmolein

2.9.2.10 Page No. 157 of the above mentioned file is 'Ship's Cargo Statement', issued by Geo-Chem, showing loading of PFAD and also the difference in quantity of PFAD as per ship's figure and shore figure. This shows that PFAD was loaded in the vessel at port Kuala Tanjung.

GEO CHEM

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SHIP'S CARGO STATEMENT

VESSEL NAME : MT. DISTYA PUSHTI
VOYAGE NO. : 07/21
LOADING PORT : KUALA TANJUNG, INDONESIA
DESTINATION : DEENDAYAL, INDIA
DATE : DECEMBER 08, 2021
QTY / COMMODITY : MT / PALM FATTY ACID DISTILLATE IN BULK
SHIPPER / SELLER : PT.INDUSTRI NABATI LESTARI

MEASUREMENTS ON BOARD : AFTER LOADING

SHIPS TANK NO	SOUNDING / ULLAGE (M)	CORR. SOUNDING / ULLAGE (M)	TEMP (°C)	DENSITY (KG/L)	VOLUME (M^3)	QTY. ONBOARD IN (MT)
SLOP P	8.690	8.065	64.0	0.58700	344.781	298.907
					TOTAL :	298.907

REMARKS :
SHORE FIGURE = 300.140 MTONS
SHIPS FIGURE = 298.907 MTONS
DIFFERENCE = -1.233 MTONS
PERCENTAGE = 0.411 %
DRAUGHT :-
BEFORE FWD : 7.20 METRES, AFT 7.20 METRES & LIST 0 °PORT/STBD
AFTER FWD : 8.80 METRES, AFT 8.80 METRES & LIST 0 °PORT/STBD

- This is to certify that the above measurements are taken and calculated jointly with the ship's Chief Officer.
- Density Table Provided by Terminal.
- Ullage and Temperature taken by U/T No. 62583
- Vessel Rolling and Pitching During Ullage On board

Loading Port : KUALA TANJUNG, INDONESIA

FOR ULLAGE & TEMP ONLY
Master / Chief Officer

MT. DISTYA PUSHTI
MUMBAI

Surveyor

MT. DISTYA PUSHTI
VESSEL REMAINED SAFELY AFLOAT
MODERATELY AT TIME OF SOUNDING

Image30: Ship's Cargo Statement at Kuala Tanjung, Indonesia showing PFAD loaded into Slop-P of the subject vessel.

2.9.2.11 Similarly, page No. 153 of the above mentioned file is 'Ship's Cargo Statement', issued by Geo-Chem, showing loading of RBD and also the difference in quantity of RBD as per ship's figure and shore figure. This shows that RBD was loaded in the vessel at port Kuala Tanjung, Indonesia.

GEO CHEM

153

SHIP'S CARGO STATEMENT

VESSEL NAME : MT. DISTYA PUSHTI
VOYAGE NO. : 07/21
LOADING PORT : KUALA TANJUNG, INDONESIA
DESTINATION : DEENDAYAL, INDIA
DATE : DECEMBER 06, 2021
QTY / COMMODITY : MT / RBD PALM OLEIN IN BULK
SHIPPER / SELLER : PT.INDUSTRI NABATI LESTARI

MEASUREMENTS ON BOARD : AFTER LOADING

SHIPS TANK NO.	SOUNDING / ULLAGE (M)	CORR. SOUNDING / ULLAGE (M)	TEMP (°C)	DENSITY (KG/L)	VOLUME (M^3)	QTY. ONBOARD IN (MT)
3P	6.790	6.268	33.0	0.90146	1,805.584	1,627.734
3S	6.800	6.278	33.0	0.90146	1,802.307	1,624.688
4P	7.850	7.356	32.5	0.90215	1,618.306	1,460.568
4S	7.500	6.976	32.0	0.90250	1,669.202	1,524.506
5P	5.460	4.948	32.5	0.90215	2,025.084	1,826.900
5S	5.650	5.106	32.5	0.90215	2,025.084	1,826.900
6P	8.840	8.315	32.5	0.90215	1,455.719	1,313.279
6S	8.600	8.075	32.5	0.90215	1,489.490	1,343.720
7P	7.410	6.886	33.0	0.90180	1,334.267	1,203.247
7S	7.450	6.906	33.0	0.90180	1,331.582	1,200.822
					TOTAL :	14,951.798

REMARKS :
SHORE FIGURE = 15,009.225 M/TONS
SHIPS FIGURE = 14,951.798 M/TONS
DIFFERENCE = -85.427 M/TONS
PERCENTAGE = 0.329 %
DRAUGHT :-
BEFORE : FWD : 7.20 METRES, AFT : 7.20 METRES & LIST : 0 °PORT/STBD
AFTER : FWD : 8.60 METRES, AFT : 8.60 METRES & LIST : 0 °PORT/STBD

- This is to certify that the above measurements are taken and calculated jointly with the ship's Chief Officer
- Density Table Provided by Terminal
- Ullage and Temperature taken by UTI NO. 62603
- Vessel Rolling and Pitching During Ullage On board

Loading Port : KUALA TANJUNG, INDONESIA

For Ullages & Temperature
Master / Chief Officer

Surveyor

MT. DISTYA PUSHTI
Vessel Rolling & Pitching
Moderately At time of Loading

Image31: Ship's Cargo Statement' at Kuala Tanjung, Indonesia showing RBD Palmolein was loaded on the vessel.

2.9.2.12 Page No. 129 of the above said file is 'Sequences of Loading' dated 04.12.2021 showing stowage plan of 15000 MT RBD and 250 MT PFAD in different tanks of the vessel. This shows that RBD & PFAD were to be loaded in the vessel at port Kuala Tanjung.

"SEQUENCES OF LOADING"

VESSEL NAME : M/T DISTYA PUSHTI
VOY No. : 07/21
DATE : 04/12/2021

NO.	GRADE CARGO	QUANTITY	STOWAGE	SHORE TANK No.	TEMP °C	LINE No.	LOADING RATE/HOURS	MANIFOLD No.	REMARKS
1	RBD	15000 MT	3(1,940.00)(4,030.00)2@	TDU, DE, 2@3	32	12/59	200 MT/HR	4	1 x 8"
2	PFAD	250 MT	3@P	T114	70	OFF	By Tank		1 x 3"

high 17 Mtr

- THE CARGO LOADING CHORE STOP PUMPS AND THEN US VESSEL AT TIME DURING PILOT ON / BOARDING
- CHIEF OFFICER MUST BE OPEN VENTILATION OF TANKS COVERED DURING LOADING FOR SAFETY.
- DURING YOUR BERTHING AT THE UNLOADING PORT VESSEL MUST BE MAINTAINED WITH LESS THAN TO TANKS LOADING DRAFT FOR ANTICIPATED SHALLOW AND SHIPS DISCREPANCY.
- SEA DRAFT + 10 METRES IF VESSEL NEED ANCHORAGE ONLY.

ATTENDING SURVEYOR

LOADING MASTER

CHIEF OFFICER / MASTER

Image32: Scanned copy of 'Sequences of Loading' and 'Stowage Plan'

2.9.2.13 Page No. 125 of the above file is 'Manifest', issued by PT. USDA Seroja Jaya, showing details of Bills of Lading. According to which 15000.225 MTS RBD Palmolein (Edible Grade) in Bulk, 250 MT PFAD and 50.140MT PFAD were loaded in the vessel MT Distya Pushti at Kuala Tanjung Port, Indonesia under B/L No. DP- KTG-DEE-01, DP- KTG-DEE-02, DP- KTG-DEE-03 respectively vide voyage 07/21 bound to be sailed on 06.12.2021. The destination port is shown as Kandla. This shows that RBD and PFAD were loaded in the said vessel at Kuala Tanjung port. This is also supported by two Mate's receipt dated 06.12.2021 at Page No. 123 and 121 of the above file.

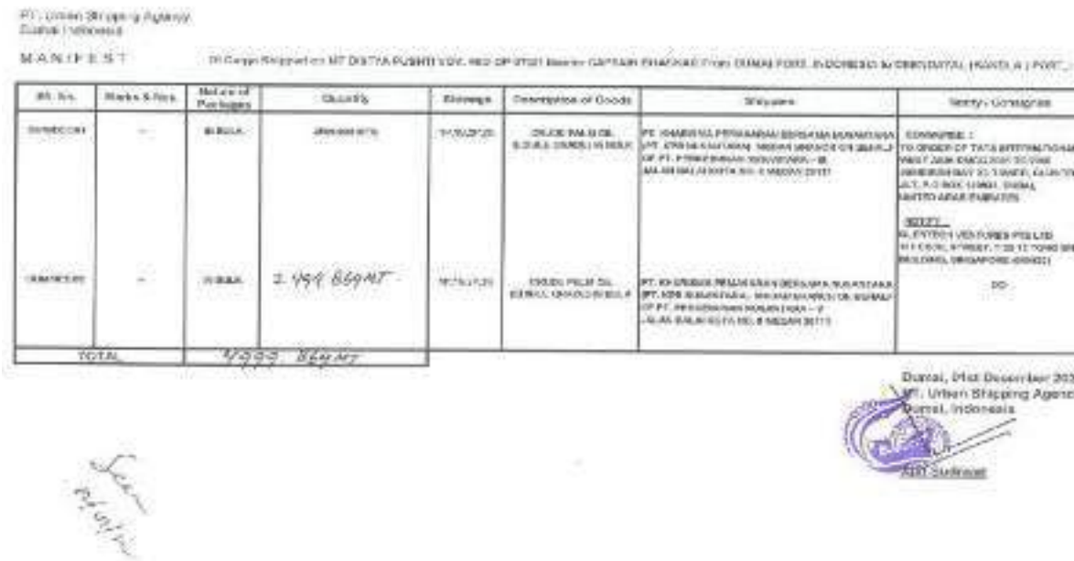
PT. USDA SEROJA JAYA

SUALA TANJUNG AGENCY

MANIFEST

Image33: - Scanned copy of Manifest issued by PT.USDA Seroja Jaya i.r.o Vessel 'MT Distya Pushti MID-PD-Voy/ 07/21' bound to be sailed on 06.12.2021

2.9.2.14 Page No. 111 of the above file is 'Manifest' of cargo shipped on MT Distya Pushti VOY. MID-DP-07/21 dated 01.12.2021, issued by PT. Urban Shipping Agency at Dumai Indonesia, showing details of Bills of Lading. According to which, 2500 MTS and 2499.869 MT of Crude Palm Oil (Edible Grade) in Bulk were loaded in the vessel MT Distya Pushti - 07/21 at Dumai Indonesia Port under B/L No. DUM/DEE/01 and DUM/DEE/02 respectively. The destination port is shown as Kandla. This shows that 4999.869MTS of CPO were loaded in the said vessel at Dumai Indonesia port. This is also supported by Mate's receipt dated 01.12.2021 at Page No. 109 of the above file.



M A N I F E S T

B/L No.	Marks & Nos.	Nature of Packages	Quantity	Shipped	Description of Goods	Shippers	Notify / Consignee
	–	BULK			CRUDE PALM OIL (EDIBLE GRADE) IN BULK		CONSIGNEE : TO ORDER OF TATA INTERNATIONAL NOTIFY :
	–	BULK	2,499.869MT		CRUDE PALM OIL (EDIBLE GRADE) IN BULK		DO
TOTAL			4999.869MT				

Dumai, 01st December 2021

For, Urban Shipping Agency

Dumai, Indonesia

Authorised Signatory

Image34: Scanned copy of 'Manifest' of cargo dated 01.12.2021 – CPO shipped on MT Distya Pushti Voy.MID-DP-07/21 at Dumai, Indonesia

2.9.2.15 Page No. 93 of the above file is 'Statement of Facts (Loading)', issued by M/s. SUCOFINDO dated 30.11.2021, showing details of loading of 2499.869 MT CPO in vessel 'Distya Pushti' from 29.11.2021 to 01.12.2021 at DUMAI Port, Indonesia. The scanned image of the above page is reproduced below:

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STATEMENT OF FACTS
(Loading / Discharge)

SUCOFINDO

Date : NOVEMBER 30, 2021

Vessel / Voyage No.	:	MT. DISTYA PUSHTI / 07/21
Consignment	:	CRUDE PALM OIL (EDIBLE GRADE) IN BULK
Shore Tank No	:	06, 12 (INSTALATION PT. SAN)
Stowage	:	1P, 1S, 2P, 2S
Applicant for Survey	:	SURVEY LOADING
Shipper	:	PT. KHARISMA PEMASARAN BERSAMA NUSANTARA ON BCHALF PT. PERKEBUNAN NUSANTARA V
Notify	:	GLENTECH VENTURES PTE LTD
Port Of Loading	:	DUMAI, INDONESIA
Port Of Discharge	:	DEENDAYAL, INDIA
Shore Figure	:	2499.869 MT
Ship Figure	:	MT
Difference	:	MT

TIME LOG

Vessel Arrived At Morong	:	ON NOVEMBER 29, 2021 at 21.12 Local Time *)
N.O.R. Tendered	:	ON NOVEMBER 29, 2021 at 21.12 Local Time
Arrival Dumai	:	ON NOVEMBER 29, 2021 at 04.00 Local Time
S.P.O.B	:	ON NOVEMBER 29, 2021 at 22.00 Local Time
Free Partique Granted	:	ON NOVEMBER 30, 2021 at 07.45 Local Time
H.P.O.B	:	ON NOVEMBER 30, 2021 at 09.05 Local Time
Berthed	:	ON NOVEMBER 30, 2021 at 10.54 Local Time
Surveyor On Board	:	ON NOVEMBER 30, 2021 at 11.18 Local Time
Commenced Tank Inspection	:	ON NOVEMBER 30, 2021 at 11.30 Local Time
Completed Tank Inspection / Accepted	:	ON NOVEMBER 30, 2021 at 12.15 Local Time
Cargo pumping from PT. SAN		
Hose Connected	:	ON DECEMBER 01, 2021 at 02.35 Local Time
Commenced Loading / Discharging	:	ON DECEMBER 01, 2021 at 02.40 Local Time
Completed Loading / Discharging	:	ON DECEMBER 01, 2021 at 15.55 Local Time
Hose Disconnected	:	ON DECEMBER 01, 2021 at 1940 Local Time
Calculation And Reporting Completed	:	ON DECEMBER 01, 2021 at 19.00 Local Time
Vessel Sailed / ETD	:	ON DECEMBER 01, 2021 at 20.00 Local Time

Yours Faithfully,

Inspector/Surveyor

Acknowledged by,

Master / Chief Officer

Please Refer To Vessel SOF

FOR/KSP-AGR/052	Rev : 01	Tgl. Berlaku : 15/07/2019	Hal. 1 dari 1 hal.

Image35: Scanned copy of 'Statement of Facts' dated 30.11.2021 – CPO shipped on MT Distya Pushti Voy.MID-DP-07/21 at Dumai, Indonesia.

2.9.2.16 Page No. 91 of the above file is 'Statement of Facts (Loading)', issued by M/s. SUCOFINDO dated 30.11.2021, showing details of loading of 2500 MT CPO in vessel 'Distya Pushti' from 29.11.2021 to 01.12.2021 at DUMAI Port, Indonesia. The scanned image of the above page is reproduced below:

STATEMENT OF FACTS
(Loading / Discharge)

SUCOFINDO

Date : NOVEMBER 30, 2021

Vessel / Voyage No.	:	MT. DISTYA PUSHTI / 07/21
Consignment	:	CRUDE PALM OIL (EDIBLE GRADE) IN BULK
Shore Tank No	:	06 (INSTALATION PT. SAN)
Stowage	:	1P, 1S, 2P, 2S
Applicant for Survey	:	SURVEY LOADING
Shipper	:	PT. RHARISMA PEMASARAN BERSAMA NUSANTARA ON BEHALF PT. PERKEBUNAN NUSANTARA III
Notify	:	CLENTECH VENTURES PTE LTD
Port Of Loading	:	DUMAI, INDONESIA
Port Of Discharge	:	DEENDAYAL, INDIA
Shore Figure	:	2500.000 MT
Ships Figure	:	MT
Difference	:	MT

TIME LOG

Vessel Arrived At Mooring	:	ON NOVEMBER 29, 2021	at 21.12 Local Time *)
N.O.R. Tendered	:	ON NOVEMBER 29, 2021	at 21.12 Local Time
Arrival Dumai	:	ON NOVEMBER 29, 2021	at 04.00 Local Time
S.P.O.B	:	ON NOVEMBER 29, 2021	at 22.30 Local Time
Free Pratique Granted	:	ON NOVEMBER 30, 2021	at 07.45 Local Time
H.P.O.B	:	ON NOVEMBER 30, 2021	at 09.00 Local Time
Berthed	:	ON NOVEMBER 30, 2021	at 10.54 Local Time
Surveyor On Board	:	ON NOVEMBER 30, 2021	at 11.10 Local Time
Commenced Tank Inspection	:	ON NOVEMBER 30, 2021	at 11.30 Local Time
Completed Tank Inspection / Accepted	:	ON NOVEMBER 30, 2021	at 12.15 Local Time
Cargo pumping from PT. SAN			
Hose Connected	:	ON NOVEMBER 30, 2021	at 14.00 Local Time
Commenced Loading / Discharging	:	ON NOVEMBER 30, 2021	at 15.10 Local Time
Completed Loading / Discharging	:	ON DECEMBER 01, 2021	at 02.35 Local Time
Hose Disconnected	:	ON DECEMBER 01, 2021	at 02.40 Local Time
Calculation And Reporting Completed	:	ON DECEMBER 01, 2021	at 16.00 Local Time
Vessel Sailed / ETD	:	ON DECEMBER 01, 2021	at Singp Local Time

Yours Faithfully,

Inspector/Surveyor

Acknowledged by,

MT. DISTYA PUSHTI MUMBAI

Master / Chief Officer

Please Refer to Vessel SOF

FOR/ASP/AOR/62	Rev : 01	Tgl. Berlaku : 11/07/2018	Hal. 1 dari 1 hal.

Image36: Scanned copy of 'Statement of Facts' dated 30.11.2021 – CPO shipped on MT Distya Pushti Voy.MID-DP-07/21 at Dumai, Indonesia.

2.9.2.17 Page No. 87 of the above mentioned file is 'Notice of Discrepancy', issued by SUCOFINDO, showing difference in quantity of CPO as per ship's loaded quantity and Bill of Lading quantity, respectively. This shows that CPO was loaded in the vessel at port DUMAI.

2.9.2.18 Page No. 71 of the above mentioned file is 'Report of sampling and distribution of samples' issued by SUCOFINDO shows the samples of CPO were taken from1P, 1S, 2P, 2S of 'MT Distya Pushti' only. This shows that one set of samples was for the consignee and another to be retained by vessel.

2.9.2.19 Page No. 51 of the above mentioned file is 'Sample Receipt/Distribution Instruction' dated 01.12.2021, issued by Geo-Chem Far East Pte Ltd., Indonesia. The scanned image of the above page is reproduced below:

SAMPLE RECEIPT / DISTRIBUTION INSTRUCTION

VESSEL : MT. DISTYA PUSHTI
DATE : DESEMBER 01, 2021
SHIPPER : PT.WILMAR TRADING SERVANA NUSANTARA
PRODUCTS : CRUDE PALM OIL IN BULK

The vessel hereby acknowledges receipt of following samples drawn by us on board in the presence of vessel personnel and will retain or distribute accordingly.

FOR VESSEL (A) :		FOR CONSIGNEE (B) :	
Ship Tank No.	Quantity	Ship Tank No.	Seal No
1P	1 X 250 ML	1P	2 X 250 ML
1S	1 X 250 ML	1S	2 X 250 ML
2P	1 X 250 ML	2P	2 X 250 ML
2S	1 X 250 ML	2S	2 X 250 ML
Total = 4 Bottle(s)		Total : 8 Bottle(s)	

Grand Total = 12 Bottles

REMARKS :
1) All samples were sealed
2) Sample A For vessel retention for contamination and condition survey
Sample B For consignee to be handed by vessel at discharge port

FOR RECEIPT ONLY

GEO-CHEM FAR EAST PTE LTD
Load port : DUMAI INDONESIA

MT. DISTYA PUSHTI

Surveyor

Master / Chief Officer

Image37: Scanned image of 'Sample Receipt/Distribution Instruction' dated 01.12.2021

From the perusal of the above, it is apparent that total 12 samples, each of 250 ml of CPO were drawn from Ship Tank No.1P, 1S, 2P and 2S by Geo-Chem Far East Pte Ltd., Indonesia. Out of 12 samples, 04 samples were meant for vessel and 08 samples were meant for consignee. This shows that CPO was loaded in tank '1P, 1S, 2P and 2S' from the load port 'DUMAI'.

2.9.2.20 From the foregoing, it is apparent that the stowage of different products in the vessels is as below:

CPO	RBD Palmolein	PFAD
1P, 1S, 2P, 2S	3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S, 7P, 7S	SLOP P

2.9.3 SCRUTINY OF DOCUMENTS PRODUCED BY SHRI BHASKER, MASTER OF THE VESSEL 'MT Distya Pushti' DURING RECORDING OF HIS STATEMENT DATED 03.01.2022 [RUD-9]:

2.9.3.1 Page No. 21 (reproduced herein as below) of the above mentioned documents is 'Tanker Bill of Lading No. DP-KTG-DEE-01 dated 06.12.2021' issued by M/s. PT. USDA Seroja Jaya, Kuala Tanjung. As per the said B/L 15000.25MTS REFINED BLEACHED AND DEODORISED PALM OIL (EDIBLE GRADE) IN BULK was loaded on vessel MT Distya PushtiVoy.07/21 showing HSN 15119037 from Kuala Tanjung. The name of the shipper is M/s. INL, Indonesia and Name of the Notified Party is M/s. TIWA.

Tanker Bill of Lading
B/L NO: DP-KTG-DEE-01

Shipped in apparent good order and condition by
Shipper
PT INDUSTRI NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS-SEI MANGKEI
KAV.3-3, KEL.SEI MANGKEI KEC.BOSAR MAL.BSDR.
KAB. SIMALUNGUN, SUMATERA UTARA, 21184, INDONESIA

Consignee / Order of
TO ORDER OF CITIBANK N.A SINGAPORE BRANCH

FIRST ORIGINAL

Notify Address
TATA INTERNATIONAL WEST ASIA DMCC
2001 TO 2006 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, UNITED ARAB EMIRATES

On board the vessel: MT. DISTYA PUSTHI VOY. 07/21 | Flag: INDIA | Master: CAPT. BHASKAR

At the port of: KUALA TANJUNG PORT, INDONESIA | To be delivered to the port of: DEENDAYAL (KANDLA) PORT, INDIA

A quantity, or bulk said by the Shipper to be:
COMMODITY (Name of Product): REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK
QUANTITY (lbs.,tons,barrels, gallons): 15,000.338 MT

VESSEL IMO NO. 9178137
H.S. CODE: 1511.90.37
INCOTERMS: FOB KUALA TANJUNG PORT, INDONESIA

CLEAN ON BOARD
DECEMBER 06TH, 2021

FREIGHT PAYABLE AS PER CHARTER PARTY

OCEAN CARRIAGE STOWAGE: 3P,3S,4P,4S,5P,5S,6P,6S,7P AND 7S

This shipment of 15,000.338 Metric tons was loaded on board the Vessel as part of one original lot of 15,000.338 Metric tons stowed in 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S,7P AND 7S with no segregation as to parcels. For the whole shipment 01 (ONE) sets of Bill of Lading have been issued on which the Vessel is released from all responsibilities to the extent it would be if loss or any would have been issued.

The quantity, measurement, weight, gauge, quality, nature and value and actual condition of the cargo unknown to the Vessel and the Master, to be delivered to the port of discharge or so near thereof as the Vessel can safely get, always afloat upon prior payment of freight as agreed. Cargo is warranted free of danger to Vessel except for the usual risks inherent in the carriage of the commodity as described.

This shipment is carried under and pursuant to the terms of the Charter dated 01ST NOVEMBER 2021 between AS PER CHARTER PARTY as Owner and AS PER CHARTER PARTY as Charterer, and all conditions, liberties and exceptions whatsoever of the said Charter apply to and govern the rights conferred in Shipment. The Clause Paramount, New Jason Clause and Both to Blame Collision Clause as set out in the terms of this Bill of Lading are hereby incorporated herein and shall remain in effect even if unenforceable in the United States of America. General Average payment according to the York Antwerp Rules 1974.

The Master is authorized to act for all interests in respect to salvage, assistance on terms of Lloyd's Open Form. The freight is payable discount less and is earned concurrent with loading, ship and/or cargo lost or not lost or abandoned.
The Owners shall have an absolute lien on the cargo for all freight, dead freight, demurrage, damages for detention and all other sums due under the above-mentioned Charter or under this Bill of Lading, together with the costs and expenses, including attorneys fees, of recovering same, and shall be entitled to sell or otherwise dispose of the property found and apply the proceeds towards satisfaction of such liability.

The contract of carriage evidenced by this Bill of Lading is between the Shipper, consignee and/or owner or demise charterers of the Vessel named herein to carry the cargo described above.

It is understood and agreed that, other than the ship owner to whom clauses, no person, firm or corporation or other legal entity whatsoever, is or shall be deemed to be, but is with respect to the shipment as carrier, bailee or otherwise in connection or in fact. It, however, it shall be adjudged that any other than said ship owner or demise charterer is carrier or bailee of said shipment or under any responsibility with respect thereof, all limitations of or exemptions from liability and all defenses provided by law or by the terms of the contract of carriage shall be available to such other.

All of the provisions, written, printed or stamped on either side hereof are part of this Bill of Lading Contract.

In Witness Whereof the master has signed (THREE) ORIGINALS Bill of Lading of this tenor and date, one of which being accomplished, the others will be void.

Dated at: KUALA TANJUNG, INDONESIA | the 05TH | day of DECEMBER | year 2021

As Agent [illegible] and on behalf of Capt. BHASKAR

Image 38: 'Tanker Bill of Lading No. DP-KTG-DEE-01 dated 06.12.2021'

2.9.3.2 Page No. 15 (as below) of the said documents is 'Tanker Bill of Lading No. DP-KTG-DEE-02 dated 05.12.2021' issued by M/s. PT. USDA Seroja Jaya, Kuala Tanjung. As per the said B/L 250.000 MTS 'PALM FATTY ACID DISTILATE (PFAD) IN BULK' was loaded on vessel MT Distya Pushti Voy.07/21 showing HSN 3823 1920 from Kuala Tanjung. The name of the shipper is M/s. INL, Indonesia and Name of the Notified Party is M/s. TIWA

Shipped in apparent good order and condition by

Tanker Bill of Lading
B/L NO: DP-KTG-DEE-02

Shipper
PT INDUSTRI NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS-SEI MANGKEI,
KAV.2-3, KEL.SE: MANGKEI KEC BOSAR MALIGAS,
KAB. SIMALUNGUN, SUMATERA UTARA, 21184, INDONESIA

Consignee / Order of
TO ORDER OF CITIBANK N.A SINGAPORE BRANCH

FIRST ORIGINAL

Notify Address
TATA INTERNATIONAL WEST ASIA DMCC
2001 TO 2005 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, UNITED ARAB EMIRATES

On board the tanker	Flag	Master
M/T. DISTYA PUSHTI VOY. 07/21	INDIA	CAPT. BHASKAR

At the port of	To be delivered to the port of
KUALA TANJUNG PORT, INDONESIA	DEENDAYAL (KANDLA) PORT, INDIA

A quantity in bulk said by the Shipper to be :

COMMODITY (Name of Product)	QUANTITY (lbs, tonnes, barrels, gallons)
PALM FATTY ACID DISTILLATE (PFAD) IN BULK	280.000 MT

VESSEL IMO NO: 9178137
H.S. CODE: 3823.19.20
INCOTERMS: FOB KUALA TANJUNG PORT, INDONESIA

CLEAN ON BOARD
DECEMBER 05TH, 2021

FREIGHT PAYABLE AS PER CHARTER PARTY

OCEAN CARRIAGE STOWAGE: SLOP P

This shipment of 280.000 Metric tons was loaded on board the Vessel as part of one original lot of 330.140 Metric tons stowed in SLOP P, with no segregation as to parcel's. For the whole shipment 02 (TWO) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if she not only would have been issued.

The quantity, measurement, weight, gauge, quality, nature and value and actual condition of the cargo unknown to the Vessel and the Master, to be delivered to the port of discharge or so near thereof as the Vessel can safely get, always afloat upon prior payment of freight as agreed. Cargo is warranted free of danger to Vessel except for the usual risks inherent in the carriage of the commodity as described.

This shipment is carried under and pursuant to the terms of the Charter dated 02ND NOVEMBER 2021 between AS PER CHARTER PARTY as Owner and AS PER CHARTER PARTY as Charterer, and all conditions, liberties and exceptions whatsoever of the said Charter apply to and govern the rights and interest in this shipment. The Clause Paramount, New Jason Clause and Both to Blame Collision Clause as set out on the reverse of this Bill of Lading are hereby incorporated herein and shall remain in effect even if unenforceable in the United States of America. General Average payment according to the York-Antwerp Rules 1974.

The Master is authorized to act for all interests in arranging for salvage assistance in terms of Lloyd's Open Form. The freight is payable thereon less and is earned (whether with loading/ship and / or cargo lost or not lost or abandoned).
The Owners shall have an absolute lien of the cargo for all freight, dead freight, demurrage, damages for detention and all other monies due under the above-mentioned Charter or under this Bill of Lading, together with the costs and expenses, including attorneys' fees, of recovering same, and shall be entitled to sell or otherwise dispose of the property found and apply the proceeds towards satisfaction of such liability.

The contract of carriage evidenced by this Bill of Lading is between the shipper, consignee and /or owner or demise charterer of the Vessel named herein to carry the cargo described above.

It is understood and agreed that, other than said ship owner or demise charterer, no person, firm or corporation or other legal entity whatsoever, is or shall be deemed to be liable with respect to the shipment as carrier, bailee or otherwise in contract or in tort. However, it shall be understood that any other than said ship owner or demise charterer is carrier or bailee of said shipment or under any responsibility with respect thereof, all limitations of or exonerations from liability and all defenses provided by law or by the terms of the contract of carriage shall be available to such other.

All of the provisions written, printed or stamped on either side hereof are part of this Bill of Lading Contract.

In Witness Whereof, the master has signed 3 (THREE) ORIGINALS
Bills Of Lading of this tenor and date, one of which being accomplished, the others will be void.

Dated at: KUALA TANJUNG, INDONESIA this 05TH day of DECEMBER year 2021

As Agent ... Witness ... on behalf of Capt. BHASKAR
Master of M/T. DISTYA PUSHTI VOY. 07/21

Image39: Scanned copy of 'Tanker Bill of Lading No. DP-KTG-DEE-02 dated 05.12.2021'

2.9.3.3 Page No. 09 of the above mentioned documents is 'Tanker Bill of Lading No. DP-KTG-DEE-03 dated 05.12.2021' issued by M/s. PT. USDA Seroja Jaya, Kuala Tanjung. As per the said B/L, 50.140 MTS 'PALM FATTY ACID DISTILATE (PFAD) IN BULK' was loaded on vessel MT Distya Pushti Voy. 07/21 showing HSN 3823 19 20 from Kuala Tanjung. The name of the shipper is M/s. INL, Indonesia and Name of the Notified Party is M/s. TIWA.

Shipped in apparent good order and condition by
Shipper
PT WILMAR NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS-SEI MANGKEI,
KAV.3-3, KEL.SEI MANGKEI KEC. BOSAR MALIGAS,
KAB. SIMALUNGUN, SUMATERA UTARA, 21184, INDONESIA

Consignee / Order of
TO ORDER OF CITIBANK N A SINGAPORE BRANCH

Tanker Bill of Lading
B/L NO: DP-KTG-DEE-03

FIRST ORIGINAL

Notify Address
TATA INTERNATIONAL WEST ASIA DMCC
3001 TO 3005 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, UNITED ARAB EMIRATES

On board the vessel
MT. DISTYA PUSHTI VOY. 07/21

Flag
INDIA

Master
CAPT. BHASKAR

At the port of
KUALA TANJUNG PORT, INDONESIA

To be delivered to the port of
DEENDAYAL (KANDLA) PORT, INDIA

A quantity in bulk said by the Shipper to be:
COMMODITY
(Name of Product)

QUANTITY
(lbs, pounds, barrels, gallons)

PALM FATTY ACID DISTILLATE (PFAD) IN BULK

300.140 MT

VESSEL IMO NO. 9175127
H.S. CODE: 3823.19.20
INCOTERMS: FOB KUALA TANJUNG PORT, INDONESIA

CLEAN ON BOARD
DECEMBER 05TH, 2021

FREIGHT PAYABLE AS PER CHARTER PARTY

OCEAN CARRIAGE STOWAGE: SLOP P

This shipment of 300.140 Metric tons was loaded on board the Vessel as part of our original lot of 300.140 Metric tons stowed in SLOP P, with no segregation as to marks. For the whole shipment 02 (TWO) ... one of which being accomplished the others to stand void. Received from all responsibilities in the event it would be if one set only would have been issued.

The quantity, measurement, weight, gage, quality, nature and value and actual condition of the cargo / shipment on the Vessel and the Marks to be delivered at the port of discharge or so near thereto as the Vessel can safely get, always afloat, upon proper payment of freight as agreed. Cargo is warranted free of danger to Vessel except for the usual risks inherent in the carriage of the commodity as described.

This shipment is carried under and pursuant to the terms of the Charter dated 02ND NOVEMBER 2021 between AS PER CHARTER PARTY as Owner and AS PER CHARTER PARTY as Charterers, and all conditions, liberties and exceptions whatsoever of the said Charter apply to and govern the rights and liabilities of the parties hereto in respect of this shipment. The Clause Paramount, New Jason Clause and Both to Blame Collision Clause as set out on the reverse of this Bill of Lading are hereby incorporated herein and shall remain in full force even if unenforceable in the United States of America. General Average payments according to the York-Antwerp Rules 1994.

The Master is authorized to call for all assistance in arranging for salvage assistance on terms of Lloyd's Open Form. The freight is payable discount free and is earned, measured, with lumpsum, ship and / or cargo lost or not lost or abandoned.
The Owners shall have a maritime lien on the cargo for all freight, dead freight, demurrage, damages for detention and all other amounts due under the aforementioned Charter or under this Bill of Lading, together with the costs and expenses, including attorneys fees, of recovering same, and shall be entitled to sell or otherwise dispose of the property thereof and apply the proceeds towards satisfaction of such liability.

The contract of carriage evidenced by this Bill of Lading is between the shipper, consignee and the owner or demise charterer of the Vessel named herein or such other person as may be substituted after the

It is understood and agreed that, other than with the written or electronic authority, or pursuant to a valid lawful order of a court, or as may be required by law with respect to the shipment as carried, holders or otherwise as indicated on the face hereof, no agent, servant or employee of the Vessel owner, demise charterer or owner of said shipment or cargo are responsible in any way whatsoever for any loss, damage or misconduct from whatever cause arising, and all defenses provided by law or by the terms of the contract of carriage shall be available to each other.

All of the provisions written, printed or stamped on either side hereof are part of this Bill of Lading Contract.

In Witness Whereof the master has signed 3 (THREE) ORIGINALS Bills Of Lading of this tenor and date, one of which being accomplished, the others will be void.

Dated at KUALA TANJUNG, INDONESIA the 05TH day of DECEMBER year 2021

As Agent : With A... on behalf of Capt. BHASKAR
Master of ... PORT, INDIA

Image40: Scanned copy of Tanker Bill of Lading No. DP-KTG-DEE-03 dated 05.12.2021

It is apparent from the above mentioned documents that 15000.25MTS REFINED BLEACHED AND DEODORISED PALM OIL (EDIBLE GRADE) IN BULK and 300.140 MTS 'PALM FATTY ACID DISTILATE (PFAD) IN BULK' was loaded on vessel MT Distya Pushti Voy.07/21 from Kuala Tanjung.

2.9.3.4 Page No. 39 to 203 of the said documents are Tanker Bills of Lading No. KTG/DEE/01 to KTG/DEE/83 issued by M/s. SBS Shipbrokers PTE Ltd. B/L No. KTG/DEE/01 to KTG/DEE/20 are issued on 28.11.2021 at the DUMAI Port, Indonesia whereas B/L No. KTG/DEE/21 to KTG/DEE/83 is issued on 30.11.2021 at the KUALA Tanjung Port, Indonesia by M/s. SBS Shipbrokers PTE Ltd. B/L No. KTG/DEE/01 to KTG/DEE/80 each shows loading of 250 MTS CPO on the vessel in tanks. B/L No. KTG/DEE/81 shows loading of 200 MTS CPO on the vessel in tanks.B/L No. KTG/DEE/82 shows loading of 50 MTS CPO on the vessel in tanks. B/L No. KTG/DEE/83 shows loading of 50.365 MTS CPO on the vessel in tanks.

2.9.3.5 Comparison of Bills of Lading No. DP-KTG-DEE-01 dated 06.12.2021, DP-KTG-DEE-02 & DP-KTG-DEE-03 dated 05.12.2021 vis-à-vis B/L No. KTG/DEE/01 to KTG/DEE/20 dated 28.11.2021 and B/L No. KTG/DEE/21 to KTG/DEE/83 dated 30.11.2021:

B/L Nos. DP-KTG-DEE-01 dated 06.12.2021, DP-KTG-DEE-02 & DP-KTG-DEE-03 dated 05.12.2021	**B/L Nos. KTG/DEE/01 to KTG/DEE/20 dated 28.11.2021, B/L. KTG/DEE/21 to KTG/DEE/83 dated 30.11.2021**
These BLs are in respect of 15000.250 MTS REFINED BLEACHED AND DEODORISED PALM OIL (EDIBLE GRADE) IN BULK loaded on vessel MT Distya Pushti Voy.07/21 showing HSN 15119037 from Kuala Tanjung and 300.140 MTS 'PALM FATTY ACID DISTILATE (PFAD) IN BULK' was loaded on vessel MT Distya Pushti Voy.07/21 showing HSN 3823 19 20 from Kuala Tanjung respectively.	These BLs are in respect of 20300.365 MT CRUDE PALM OIL (EDIBLE GRADE) IN BULK loaded on vessel MT Distya Pushti Voy. 07/21 showing HSN 15111000 from DUMAI Port, Indonesia.
These BLs were kept sealed inside the cabin of the Chief Officer of the vessel and resumed under Panchnama during rummaging.	These are the BLs which were meant to be submitted at Customs Port, Kandla, India and were switch BL which are switched by the vessel owner as per the terms of the charter party agreement and voyage order after blending of 15000.250 MTs RBD Palmolein, 300.140MTs PFAD, and 5000 MTS CPO., declaring entire quantity as CPO only

On comparison of the "B/L DP-KTG-DEE-01 dated 06.12.2021, DP-KTG-DEE-02 & DP-KTG-DEE-03 dated 05.12.2021" with "B/L KTG/DEE/01 to KTG/DEE/20 dated 28.11.2021 and B/L KTG/DEE/21 to KTG/DEE/83 dated 30.11.2021", it appears that the original BLs issued at the port of load are in respect of 15000.250 MTS REFINED BLEACHED AND DEODORISED PALM OIL (EDIBLE GRADE) IN BULK loaded on vessel MT Distya Pushti Voy. 07/21 showing HSN 15119037 from Kuala Tanjung port and 300.140 MTS 'PALM FATTY ACID DISTILATE (PFAD) IN BULK' loaded on vessel MT Distya Pushti Voy. 07/21 showing HSN 38231920 from Kuala Tanjung port whereas the latter ones are in respect of CRUDE PALM OIL (EDIBLE GRADE) IN BULK loaded on vessel MT Distya Pushti Voy. 07/21 showing HSN 15111000 from DUMAI Port, Indonesia.

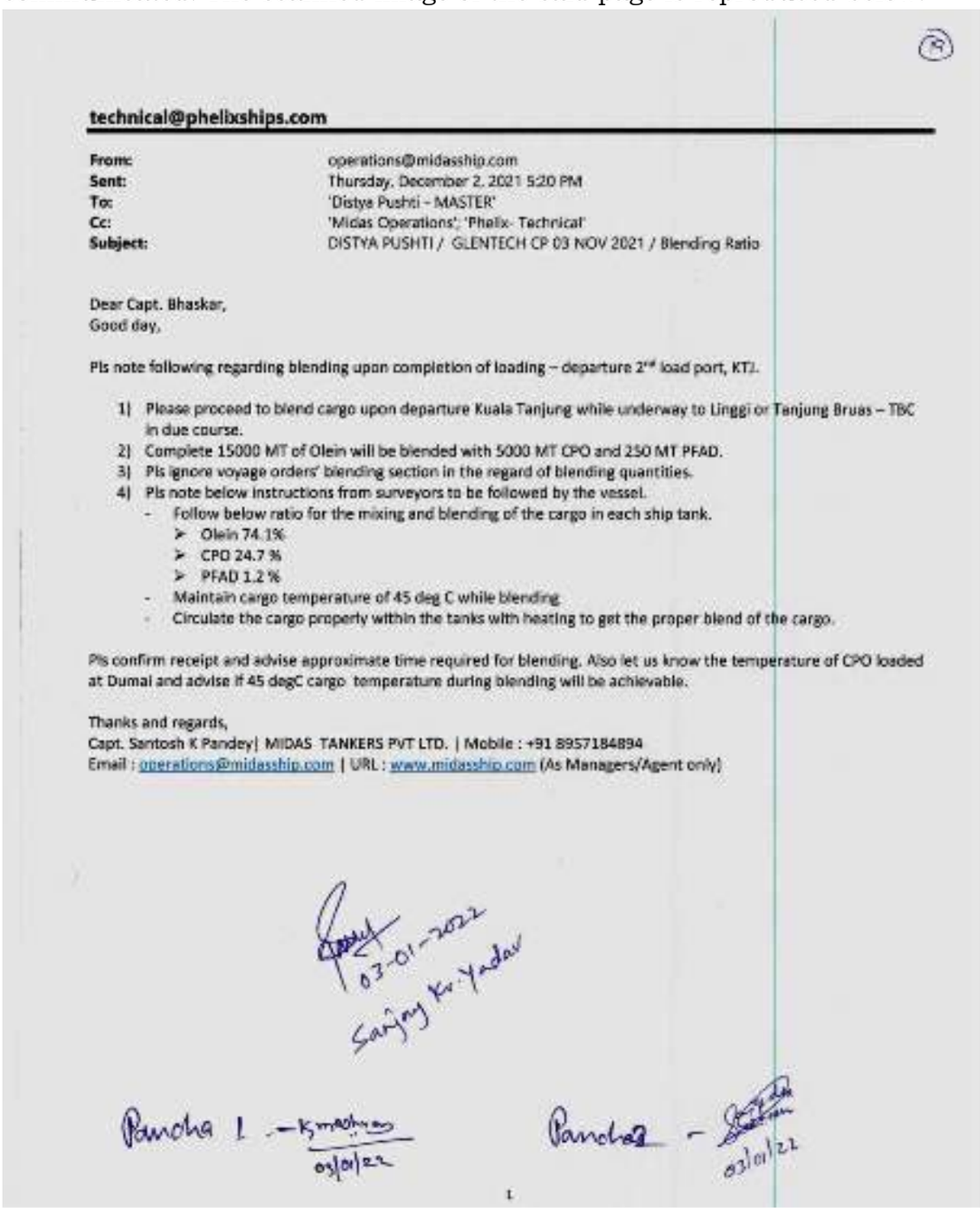
From the above, it is apparent that though RBD and PFAD were loaded in the vessel at Kuala Tanjung port, the B/Ls were manipulated to show that the entire cargo loaded in the vessel was CPO.

2.9.4 SCRUTINY OF DOCUMENTS RESUMED FROM THE OFFICE PREMISES OF M/S. MIDAS TANKER & M/S. PHELIX SHIPPING VENTURES PVT. LTD:

2.9.4.1 The office premises of M/s. Midas Tanker & M/s. Phelix Shipping Ventures Pvt. Ltd were searched under Panchnama dated 03.01.2022 and

documents as mentioned in the Panchnama were resumed under above Panchnama. The document at Page No. 31 and 34 are the copies of the original Bills of Lading i.e. DUM/DEE/02 and DUM/DEE/01 dated 01.12.2021 respectively. As per the above B/L 2499.869 MTS and 2500 MTS CPO were loaded from DUMAI Port, Indonesia. The name of the supplier is M/s. KPBN, Consignee is M/s. TIWA and notified party is M/s. GVPL, Singapore. Thus, it is apparent that 4999.869MTS CPO was loaded in the vessel in 'MT Distya Pushti' in tanks 1P, 1S, 2P, 2S.

2.9.4.2 Page No. 19 is the copy of E-mail correspondence dated 02.12.2021**[RUD-4]** from operations@midasship.com to 'Distya Pushti-MASTER' regarding blending of cargo. As per the above mail, the instructions for blending 15000MTS of olein with 5000 MT CPO and 250MT PFAD were communicated. The scanned image of the said page is reproduced below: -



technical@phelixships.com

From: operations@midasship.com
Sent: Thursday, December 2, 2021 5:20 PM
To: 'Distya Pushti - MASTER'
Cc: 'Midas Operations'; 'Phelix- Technical'
Subject: DISTYA PUSHTI / GLENTECH CP 03 NOV 2021 / Blending Ratio

Dear Capt. Bhaskar,
Good day,

Pls note following regarding blending upon completion of loading – departure 2nd load port, KTJ.

1) Please proceed to blend cargo upon departure Kuala Tanjung while underway to Linggi or Tanjung Bruas – TBC in due course.
2) Complete 15000 MT of Olein will be blended with 5000 MT CPO and 250 MT PFAD.
3) Pls ignore voyage orders' blending section in the regard of blending quantities.
4) Pls note below instructions from surveyors to be followed by the vessel.
   - Follow below ratio for the mixing and blending of the cargo in each ship tank.
     - Olein 74.1%
     - CPO 24.7 %
     - PFAD 1.2 %
   - Maintain cargo temperature of 45 deg C while blending
   - Circulate the cargo properly within the tanks with heating to get the proper blend of the cargo.

Pls confirm receipt and advise approximate time required for blending. Also let us know the temperature of CPO loaded at Dumai and advise if 45 degC cargo temperature during blending will be achievable.

Thanks and regards,
Capt. Santosh K Pandey| MIDAS TANKERS PVT LTD. | Mobile : +91 8957184894
Email : operations@midasship.com | URL : www.midasship.com (As Managers/Agent only)

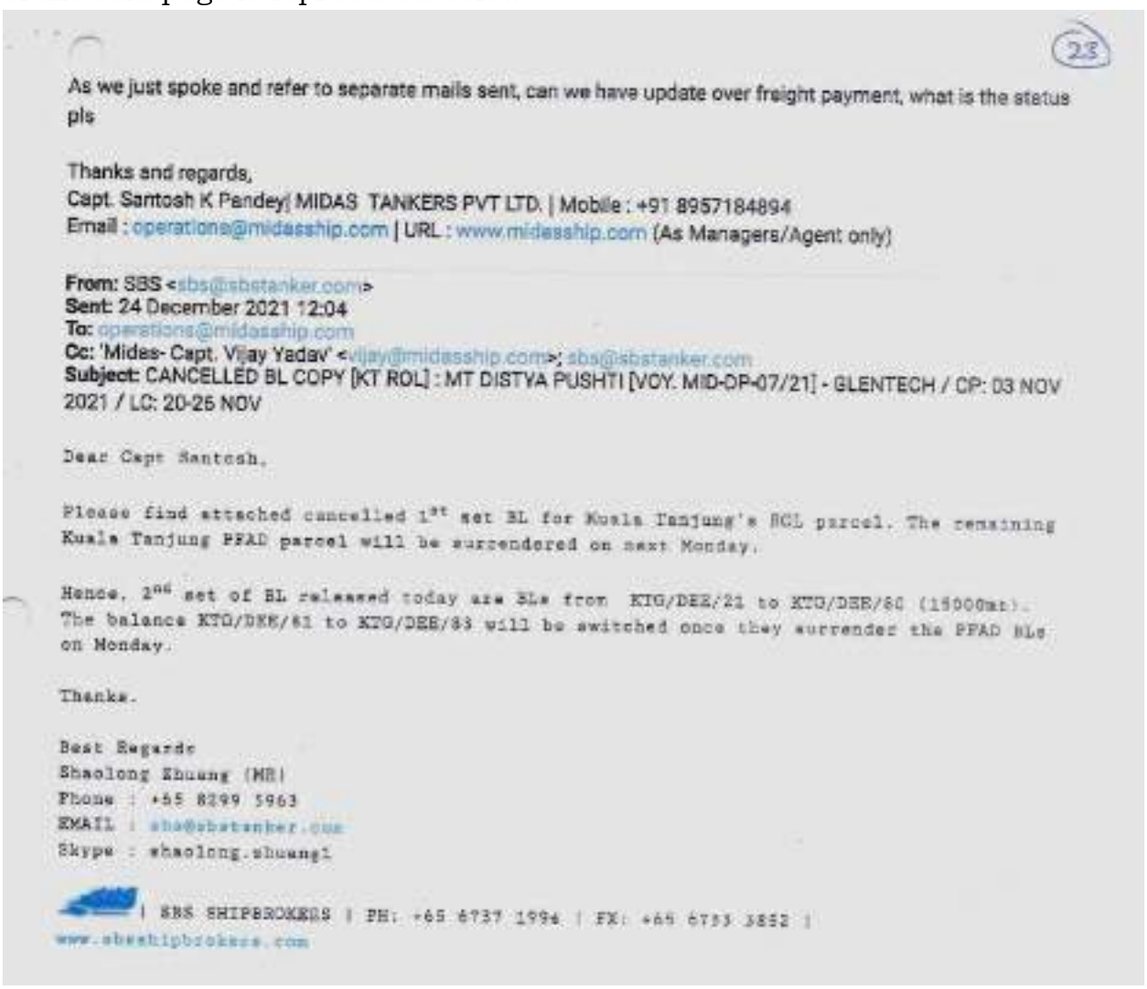
03-01-2022
Sanjay Kr. Yadav

Panchas 1 – 03/01/22

Panchas 2 – 03/01/22

Image41: Scanned image of copy of E-mail correspondence dated 02.12.2021 from operations@midasship.com to 'Distya Pushti-MASTER' regarding blending of cargo.

2.9.4.3 Page No. 23 is the copy of E-mail correspondence dated 24.12.2021**[RUD-4]** from sbs@sbstanker.com to operations@midasship.com regarding instructions in relation to switching of Bills of Lading of RBD Palmolein and PFAD with all B/Ls of CPO were communicated. As per which, the cancelled 1st set of Bills of Lading for Kuala Tanjung was forwarded. And the 2nd set of BL bearing Nos.KTG/DEE/21 to KTG/DEE/80 (15000 MT). It is also mentioned that the remaining B/L viz. KTG/DEE/81 to KTG/DEE/83 will be switched once they surrender the PFAD BLs on Monday. The scanned image of the said page is reproduced below: -



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As we just spoke and refer to separate mails sent, can we have update over freight payment, what is the status pls

Thanks and regards,
Capt. Santosh K Pandey| MIDAS TANKERS PVT LTD. | Mobile : +91 8957184894
Email : operations@midasship.com | URL : www.midasship.com (As Managers/Agent only)

From: SBS <sbs@sbstanker.com>
Sent: 24 December 2021 12:04
To: operations@midasship.com
Cc: 'Mides- Capt. Vijay Yadav' <vijay@midasship.com>; sbs@sbstanker.com
Subject: CANCELLED BL COPY [KT ROL] : MT DISTYA PUSHTI [VOY. MID-DP-07/21] - GLENTECH / CP: 03 NOV 2021 / LC: 20-25 NOV

Dear Capt Santosh,

Please find attached cancelled 1st set BL for Kuala Tanjung's RCL parcel. The remaining Kuala Tanjung PFAD parcel will be surrendered on next Monday.

Hence, 2nd set of BL released today are BLs from KTG/DEE/21 to KTG/DEE/80 (15000mt). The balance KTG/DEE/81 to KTG/DEE/83 will be switched once they surrender the PFAD BLs on Monday.

Thanks.

Best Regards
Shaolong Zhuang (MR)
Phone : +65 8299 5963
EMAIL : sbs@sbstanker.com
Skype : shaolong.zhuang1

SBS SHIPBROKERS | PH: +65 6737 1994 | FX: +65 6733 3852 |
www.sbsshipbrokers.com

2.9.5 SCRUTINY OF DOCUMENTS PRODUCED BY SHRI SIDHANT AGARWAL, DIRECTOR OF M/S. GIPL, DURING RECORDING OF HIS STATEMENT DATED 29.01.2023: -

2.9.5.1 Shri Sidhant Agarwal, Director of M/s. GIPL, Greater Noida, U.P. during recording of his statement dated 29.01.2023, produced a file containing Page No. 1 to 104. **[RUD-10]**

2.9.5.2 Page No. 104 of the above mentioned file is Certificate of Origin bearing No. 4863/CO-CC/XII/2021 dated 08.12.2021, issued by Kamar Dagang Dan Industry Sumatera Utara. As per the said Certificate, the goods viz. 300.140 MTs PFAD, shipped to M/s. TIWA by M/s. INL through vessel 'MT Distya Pushti' vide B/L No. DP-KTG-DEE-02 & DP-KTG-DEE-03 both dated 05.12.2021, were of Indonesian Origin.

2.9.5.3 Similarly, Page No. 103 of the above mentioned file is Certificate of Origin bearing No. 4862/CO-CC/XII/2021 dated 08.12.2021 issued by Kamar Dagang Dan Industry Sumatera Utara. As per the said Certificate, the goods viz. 15000.225 MTS RBD Palmolein (Edible) Grade, shipped to M/s. TIWA by M/s. INL through vessel 'MT Distya Pushti' vide B/L No. DP-KTG-DEE-01 dated 06.12.2021, were of Indonesian Origin.

From the above Certificates of Origin, it appears that the goods viz. 300.140 MT PFAD and 15000.225 MT RBD were purchased by M/s. TIWA from M/s. INL and loaded into the vessel Distya Pushti. Further, another Certificate of Origin, wherein goods viz. 20300.234 MT CPO of Indonesian Origin is shown. Thus, it appears that they have fabricated the Certificate of Origin.

2.9.5.4 Page Nos. 101 and 102 of the said file are Certificates of Origin bearing Reference No. 0007002/KDM/2021 and Ref. No. 0007001/KDM/2021 both dated 04.12.2021 issued by Pt. Sarana Agro Nusantara, Republic of Indonesia. As per the said Certificates, the goods viz. 2500 MTs and 2499.869 MTs CPO, to the order of M/s. TIWA by M/s KPBN through vessel 'MT Distya Pushti' vide B/L No. DUM/DEE/01 and DUM/DEE/02 both dated 01.12.2021, were of Indonesian Origin.

2.9.5.5 Page No. 98 & 99 of the above file is weight and quality certificate dated 08.12.2021, issued by M/s. Pt. Leon Testing and Consultancy. The above certificate pertains to 300.140 MTs PFAD loaded into Slop P of the vessel 'MT Distya Pushti'. As per the test result of the said cargo, the following specifications are mentioned: -

"*Free Fatty Acid (As Palmitic)*	*91.81%*
Moisture and Impurities	*0.32%*
Saponifiable Matter	*98.42"*

2.9.5.6 Page No. 90 & 91 of the above file is weight and quality certificate dated 08.12.2021, issued by M/s. Pt. Leon Testing and Consultancy. The above certificate pertains to 15000.225 MTs RBD Palmolein (Edible Grade) loaded into the vessel 'MT Distya Pushti'. As per the test result of the said cargo, the following specifications are mentioned: -

"*Free Fatty Acid (As Palmitic)*	*0.062%*
Moisture and Impurities	*0.04%*
IV(WIJS)	*56.65*
Melting point	*22.5 Deg. C*
Colour	*2.8 (RED)"*

2.10 CONCLUSION OF INVESTIGATION I.R.O. IMPORT OF CONSIGNMENT VIDE VESSEL- 'MT DISTYA PUSHTI'

A. On scrutiny of the documents as discussed hereinabove, it appears that 5000 MT CPO, 15000 MT RBD and 300 MT PFAD were purchased/ M/s. GVPL/M/s. TIWA in Indonesia from M/s. KPBN and M/s. INL. The 'CPO' was loaded on the vessel Distya Pushti at Dumai port whereas RBD and PFAD were loaded on the said vessel at Kuala Tanjung port as per below mentioned table.

B/L no.	Date	Item description	CTH	Qty	Port of loading	Port of discharge	Consignee

DUM/DEE /01 &02	02.12.2021	Crude Palm Oil (Edible Grade) in bulk	1511 1000	4999.869 MTS	Dumai	Kandla Port	M/s. KPBN
DP-KTG-DEE-01	06.12.2021	Refined Bleached &Deodorised Palmolein (Edible Grade) in Bulk	1511 9037	15000.225 MTS	Kuala Tanjung	Kandla Port	M/s. INL
DP-KTG-DEE-02	05.12.2021	Palm Fatty Acid Distillate (PFAD) in Bulk	3823 1920	250 MTS	Kuala Tanjung	Kandla Port	M/s. INL
DP-KTG-DEE-03	05.12.2021	Palm Fatty Acid Distillate (PFAD) in Bulk	3823 1920	50.140 MTS	Kuala Tanjung	Kandla Port	M/s. INL

B. Further, as per the Charter agreement dated 03.11.2021 of the vessel 'MT Distya Pushti' between M/s. Midas Tankers Pvt. Ltd., Mumbai (Owner) and Performance Charterer M/s.GVPL, Singapore and Payment Charterer M/s. TIWA, 5000 MT CPO was to be loaded from Dumai port, Indonesia; 15000 MT Palm Olein and about 400 MT PFAD from Kuala Tanjung port, Indonesia. As per the instructions from the management team of M/s. Midas Tankers Pvt. Ltd., vide E-mail dated 02.12.2021 to the Master of the Vessel was instructed to proceed to blend the entire 15000 MTs of Olein with 50000 MT CPO and 250 MT PFAD while underway to Linggi or Tanjung Bruas.

C. Similarly,instructions in context of switching of Bills of Lading of RBD Palmolein and PFAD with all B/Ls of CPO were communicated to the master of the vessel by the M/s. Midas Tankers Pvt. Ltd. Further, the original bills of lading of RBD and PFAD were replaced with the manipulated Bills of Lading, showing the cargo as CPO. It was also instructed to conceal the original load port documents and to produce the manipulated Bills of Lading declaring the goods as CPO at the port of discharge, i.e. Kandla.

D. As the manipulated Bills of Lading, IGM were filed declaring the goods as CPO and M/s TIL had filed 83 bills of entry dated 16.12.2021 and the description of goods mentioned as CPO (Edible Grade) in Bulk.

From the investigation conducted, it appears that the importer M/s. TIL in active connivance of M/s. GIPL, attempted to import admixture of CPO, RBD and PFAD, falling under CTH 15119090 through Kandla Customs Port, by way of mis-declaration of the same as CPO falling under CTH 15111000 and suppression of the facts of actual loaded goods on the vessel MT Distya Pushti, to evade higher customs duty payment to Indian Customs.

INVESTIGATION IN RESPECT OF PREVIOUSLY IMPORTED CARGO

3. It was further gathered during the course of investigation of import by M/s. TIL vide vessel 'MT Distya Pushti' that they had imported admixture of CPO, RBD and PFAD, in the manner of mixing/blending the said constituents on board vessel 'MT Distya Pushti Voy.07/21' previously as well. It is further gathered from the documentary as well as oral evidences, that M/s. TIL had imported admixture of CPO, RBD and PFAD, in the import consignments and mis-declared the cargo as CPO and classified the same under CTH 15111000

in the documents presented before Customs by suppressing the facts that the goods imported were admixture of CPO, RBD and PFAD with maximum constituents of palmolein, which merits classification under CTH 15119090. The above act on the part of importer resulted into short payment of Customs duties by ex-bond filers in the previous consignments as well.

3.1. It was further gathered that the import of CPO was undertaken by M/s TIL, using similar *modus operandi* in the previous imported consignments imported vide Vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106" and "MT FMT EFES V.202111" as per below mentioned details, which resulted in short payment of Customs duties by various ex-bond filers.

3.1.1 The details of the 12199.71 MT of admixture imported vide vessel FMT GUMULDUR V.202109 was purchased from M/s TIWA and declared the goods as CPO in the bills of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
1	*CPO*	*3499.71*	*OLAM*	*DUMAI, INDONESIA*	*5302477, 5302489, 5302500, 5302513, 5302519 & 5302523*	*03.09.2021*
	RBD PALM OLEIN	*8500*	*INL*	*KUALA TANJUNG, INDONESIA*		
	PFAD	*200*	*INL*	*KUALA TANJUNG, INDONESIA*		
	Total	***12199.7***				

3.1.2 The details of the 15462.070 MT of admixture imported vide vessel MT HONG HAI6 V.2106 was purchased from M/s. Tata International Singapore PTE Ltd (referred as 'M/s. TISPL' hereinafter), and declared the goods as CPO in the bills of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
1	*RBD PALM OLEIN*	*6513.520*	*KUALA TANJUBG, INDONESIA*	*5916265, 5916285, 5916291 & 5916292*	*20.10.2021*
	CPO	*8948.550*	*Phuket, Thailand*		
	Total	***15462.070***			

3.1.3 The details of the 12959.31MT of admixture imported vide vessel MT FMT EFES VOY. 202111was purchased from M/s. TIWA and declared the goods as CPO in the bills of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
3	*RBD PALM OLEIN*	*5086.015*	*PT INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824*	*11.11.2021*
	CPO	*7873.290*	*THA CHANG*	*PHUKAT PORT, THAILAND*		
	Total	***12959.31***				

4. FILING OF WAREHOUSE BILLS OF ENTRY (IN RESPECT OF PREVIOUSLY IMPORTED CONSIGNMENTS BY M/S. TIL, BY WAY OF FILING WAREHOUSE BILLS OF ENTRY AND SUBSEQUENTLY CLEARED BY VARIOUS INDIAN BUYERS):

4.1 M/s. TIL had filed 12 Warehouse Bills of Entries at Kandla Customs House as mentioned in **Annexure-A** to this notice, mis-declaring the cargo as "CPO", which were imported vide aforementioned vessels, "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106" and "MT FMT EFES V.202111", wherein, it appears that blending of goods as detailed above was undertaken on board vessel(s). The copies of said W.H. Bills of Entries are already available with the importer M/s. TIL. With respect to the aforementioned W.H. Bills of Entry, it appears that the goods have been mis-declared as 'CPO' by M/s. TIL which are further sold, and subsequently cleared by various importers by filing Ex-Bond Bills of Entry for Home Consumption as per **Annexure- B** attached to this notice. The copies of such Bills of Entry are available with the respective Ex-Bond filers of the said cargo.

4.2 Further, M/s. DIL Exim Commodities Private Limited. (IEC: AAHCD7279A), (herein after referred as 'M/s DIL') had filed the Ex-Bond BoE for Home consumption in respect of clearance of goods which were imported after blending vide aforementioned vessels, as listed under **Annexure – C**to this show cause, by mis-declaring the goods as CPO under CTH 15111000 in the said Bills of Entry instead of correct CTH, i.e. 15119090. The copies of such Bills of Entry are already available with them. [M/s. DIL]

5. TARIFF CLASSIFICATION OF CPO & Admixture of RBD Palmolein, CPO and PFAD:

Crude palm Oil is classifiable under the chapter heading 15111000 of the Customs Tariff attracting duties leviable thereunder while admixture of RBD Palmolein, CPO and PFAD falls under the Chapter Heading is under CTH 15119090 of the Customs Tariff and attracts duties leviable thereunder.

6. SCRUTINY OF DOCUMENTS (i.r.o. previously imported consignments)

The investigation was conducted in respect of cargo imported vide vessel "MT Distya Pushti Voy. 07/21" and was extended to previously imported consignments by M/s. TIL vide vessels MT FMT Gumuldur 202109, MT HONG HAI6 V.2106, MT FMT EFES 202111 vide W.H. Bills of Entry as per **Annexure-**

A. Further investigations revealed that M/s. TIL in connivance with M/s GIPL and other stakeholders viz. Vessel owners, M/s. TIWA, UAE, M/s. TISPL, M/s. GVPL, had filed such Bills of Entry by mis-declaring and mis-classifying the cargo as CPO, with intent to earn commission on the same for use of its brand name to import cargo and supress the description of actually imported goods. These goods were subsequently cleared by various importers who purchased these goods from M/s. TIL and filed the Ex-Bond Bills of Entry for Home Consumption and had paid lesser amount of customs duty, thus, this entire planning of importing goods by way of mis-declaration by M/s. TIL led to evasion of customs duty by various beneficiaries viz., ex-bond filers (as listed in Annexure –Bto this show cause).

6.1 During the course of investigation, statements of various persons were recorded and documents were produced during the statements of concerned persons, as mentioned below: -

1. Statement of Shri Amit Agarwal, Asstt. Vice President M/s. GIPL & M/s. GVPL., Singapore recorded on 05.01.2022 **[RUD No.11]**
2. Statement of Shri Sachin Deshpande, Executive of M/s TIL was recorded on 06.01.2022 under Section 108 of the Indian Customs Act, 1962 **[RUD No. 12]**
3. Statement of Shri Sachin Deshpande, Executive of M/s TIL was recorded under Section 108 of the Indian Customs Act, 1962 on 07.01.2022 **[RUD No. 13]**
4. Statement of Shri Amit Thakkar was recorded on 07.01.2022 under Section 108 of the Customs Act **[RUD No. 14]**
5. Statement of Shri Shrikant Subbarayan, Head of Agri Business Division of M/s.TIL was recorded under Section 108 of the Customs Act, 1962 on 08.01.2022 **[RUD No. 15]**
6. Statement of Shri Sidhant Agarwal, Director of M/s. GIPL dated 27.01.2022 **[RUD No. 16]**
7. Statement of Shri Sidhant Agarwal Director of M/s. GIPL dated 28.01.2022 **[RUD No. 17]**
8. Statement of Shri Sudhanshu Agrawal, Ex-CEO of M/s. GIPL dated 27.01.2022 **[RUD No. 18]**
9. Statement of Shri Sudhanshu Agrawal, representative and founder of M/s. GVPL dated 28.01.2022 **[RUD No. 19]**
10. Statement of Shri Sudhanshu Agrawal, ex-CEO of M/s. GIPL dated 29.01.2022 **[RUD No. 20]**
11. Statement of Shri Ricky Mukeshkumar Pabari, Director, M/s. DIL recorded on 28.02.2022 **[RUD No. 21]**
12. Statement of Shri Shrikant Subbarayan, Head – Minerals & Agri Trading Business, M/s. TIL., Mumbai dated on 20.05.2022 **[RUD No. 22]**

Statements recorded: -

6.1.1 Statement of Shri Amit Agarwal, Asstt. Vice President M/s. GIPL & M/s. GVPL, Singapore was recorded on 05.01.2022 **[RUD No. 11]**, wherein *interalia* he stated that: -

- that he is engaged in preparing Sale contracts/Bond to Bond Agreement with Domestic buyers of Crude Palm Oil (CPO), Refined, Blended & Deodorized (RBD) Palm Oil and Palm Fatty Acid Distillery (PFAD). Further when they receive advance payment from buyers of said oils, he used to issue Delivery Order (DO).

- On being asked regarding sales of the said oils he stated that Shri Sudhanshu Agarwal, former CEO of M/s. GIPL and father of Shri Sidhant Agarwal, one of the Directors of M/s. GIPL, looks after sales of M/s. GIPL and he used to be in contact with buyers of Crude Palm Oil (CPO), Refined, Blended & Deodorized (RBD) Palm Oil and Palm Fatty Acid Distillery (PFAD).

- On being asked regarding business relation of aforesaid companies of Glentech Group with M/s. TIL & their Overseas affiliate companies, he stated that an agreement for commodity supply and service agreement dated 09.03.2021 has been entered between M/s. GIPL & M/s. TIL. As per the said agreement M/s. TIL shall import the Commodity/(ies) viz. Crude Palm Oil/Soya Oil/PFAD and other Edible Oils from the overseas Supplier or from TIL's Affiliates on behalf of M/s. GIPL; that he was the authorized signatory of M/s. GIPL for the said agreement. It is further stated that an agreement dated 09.03.2021 for Commodity Supply and Services has been entered between M/s. GIPL & M/s. TISPL. As per the Scope of the Agreement M/s. GIPL agrees and acknowledges that M/s. TISPL can import the commodity (ies) from the overseas supplier through M/s. GVPL and/or onward sell the same in Indian market through M/s.GIPL at its sole discretion and option. On being asked he stated that he was the authorized signatory of M/s. GIPL/ M/s.GVPL for the said agreement.

- Further in addition to above he stated that as per the aforesaid two agreements M/s. TIL & its affiliate companies will buy the goods from the overseas supplier through M/s. GVPL only in overseas country and further M/s. TIL will import the said goods in India on behalf of M/s. GIPL. Further, after importation the said goods, the same to be handed over to M/s. GIPL only.

- He was shown page No. 148 to 152 of file No. 06 resumed under Panchnama dated 02.01.2022 drawn at office premises of M/s. GIPL viz., printout of emails sent or received by me from employees of M/s. TIL through his official email ID operations@glentech.co and on being asked regarding content of the said mail, he stated that he has requested to employees of M/s. TIL for opening Bank Letter of Credit (LC) in respect to the 15000MTs RBD and 250 MTs PFAD and he also requested them not to open LC for 5000 MTs Crude Palm Oil (CPO). Further, it is stated that vide aforesaid mail, he sent draft Letter of Credit to them (employees of M/s. TIL). On being asked regarding mail dated 17.11.2021 (20:50 PM) he stated that vide the said mail he sent details of contracts of M/s. TIWA, UAE with PT Industri Nebati Lestari (INL) w.r.t. supply of said 15000MTs RBD & 250 MTs PFAD.

- He was shown the contract No. TIWA/2122/CPO-RBD/0001 dated 24.11.2021 entered between M/s. GVPL, Singapore and M/s. TIWA, UAE for supply of 5000 MTs (+/- 2% at seller's option) Crude Palm Oil (CPO) by M/s. GVPL to M/s. TIWA, which was resumed under Panchnama date 02.01.2022 drawn at office premises of M/s. GIPL. The said contract was signed by him on behalf of M/s. GVPL. On being asked, he stated that

the said 5000 MTS CPO first purchased by M/s. GVPL from M/s. KPBN, Indonesia and then sold to M/s. TIWA as per contract dated 24.11.2021.

- It is stated that the said consignment of 15000MTs of RBD, 5000 MTs CPO & 300 MTs PFAD (50MTS added later vide contract No. 170/SC/FOB/INL/XII/2021) was loaded in ship namely MT Distya Pushti at Indonesia on 06.12.2021. Further the said cargo in same ship was imported in India by M/s. TIL from M/s. TIWA and the said ship MT Distya Pushti along with the said 20300 MTs (15000 MTs RBD+ 5000 MTS CPO + 300 MTs PFAD) (approx.) cargo arrived at Kandla Port recently.

- He was shown the page No. 108 to 116 of file No. 07 resumed under Panchnama dated 02.01.2022 drawn at office premises of M/s. GIPL. In this context, he stated that said pages (114-116) are (i) commercial invoices issued by INL to M/s. TIWA w.r.t. sell of RBD & PFAD and description of goods mentioned therein are correct. The pages (111-113) are Tanker Bill of Lading wherein shipper is mentioned as M/s. INL, Indonesia, Notify party as M/s. TIWA, Name of the ship as M/T. Distya Pushti Voy. 07/21, Loading port as Kuala Tanjung Port, Indonesia & delivered port was mentioned as Deendayal (Kandla) Port, India. In the said Bill of lading, the description of goods mentioned as RBD Palm Oil & PFAD which is correctly mentioned. Page No. 110 is Certificate of Origin w.r.t. aforesaid goods supplied by INL to M/s. TIWA, wherein goods description is mentioned as RBD Palm Oil & PFAD which is correctly mentioned. Page No. 108 & 109 are Shipping Certificate, wherein the description of goods loaded in M/T. Distya Pushti Voy. 07/21 are mentioned as RBD Palm Oil & PFAD.

- On being asked he stated that in all the three type of documents description of goods supplied by M/s INL to M/s. TIWA are correctly mentioned as RBD Palm Oil & PFAD and the said goods loaded in M/T. Distya Pushti Voy. 07/21 on 06.12.2021 at Kuala Tanjung Port, Indonesia and further the same ship arrived at Kandla Port recently.

- On being asked regarding the page No. 107 of file No. 7 resumed under Panchnama dated 02.01.2022 drawn at office premises of M/s. GIPL, he stated that the said page is Certificate of Origin issued by Dubai Chamber in respect of goods imported by M/s. TIL from M/s. TIWA and description of goods was mentioned as Crude Palm Oil (Edible Oil) in Bulk, quantity was mentioned as 20300.234 MTs, name of the vessel is mentioned as MT Distya Pushti- 07/21.

6.1.2 Statement of Shri Sachin Deshpande, Executive of M/s TIL was recorded under Section 108 of the Indian Customs Act, 1962 on 06.01.2022 **[RUD No. 12]**& 07.01.2022 **[RUD No.13]** wherein he *interalia* stated that he looks after the documentation part of import of different types of oils and voluntarily produced the documents viz. Sample copy of sale purchase contract of M/s. TIL with M/s. TIWA DMCC, UAE, LC copy, copy of purchase contracts Bills of lading etc. w.r.t. consignment vide 'MT Distya Pushti'. He also produced the summary of previous consignment for importation of CPO, i.e. the details and quantities etc. Further, vide statement dated 07.01.2022, he *inter-alia* in

response to question no. 13 has stated that in previous 03 vessels RBD & PFAD were also imported; that the details of previous imports are as under: -

Sr. No.	***VESSEL NAME***	***Letter of Credit (LC)***	***SELLER***	***Actual goods loaded and declared at load port***	***QTY (MTs)***	***SUPPLIER***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***	***Description of imported goods declared in bill of entry before Indian Customs***	***QTY (MTs)***
(1)	***(2)***	***(3)***	***(4)***	***(5)***	***(6)***	***(7)***	***(8)***	***(9)***	***(10)***	***(11)***	***(12)***
1	*FMT GUMULDUR*	*5940604359 dated 11.08.2021*	*M/s. TIWA*	*CPO*	*3499.71*	*M/s OLAM*	*DUMAI, INDONESIA*	*5302477, 5302489, 5302500, 5302513, 5302519 & 5302523*	*03.09.2021*	*CPO*	*12199.71*
				RBD PALM OLEIN	*8500*	*M/s PTINL*	*KUALA TANJUBG, INDONESIA*				
				PFAD	*200*	*M/s PTINL*	*KUALA TANJUBG, INDONESIA*				
				Total	*12199.7*						
2	*MT HONG HAI6*	*YUDOCB212024/25/26 dated 20.09.2021*	*M/s. Tata International Singapore PTE Ltd, (herein referred as M/s TISPL)*	*RBD PALM OLEIN*	*6513.520*		*KUALA TANJUBG, INDONESIA*	*5916265, 5916285, 5916291 & 5916292*	*20.10.2021*	*CPO*	*15462.070*
				CPO	*8948.550*		*Phuket, Thailand*				
				Total	*15462.070*						
3	*MT FMT EFES VOY. 2021 11*	*5944604443 & 5945604443 both dated 22.10.2021*	*M/s. TIWA*	*RBD PALM OLEIN*	*5086.015*	*M/s PT INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824*	*11.11.2021*	*CPO*	*12959.31*
				CPO	*7873.290*	*M/s THACHANG*	*PHUKAT PORT, THAILAND*				
				Total	*12959.31*						

He also produced copies of Original Invoices issued to M/s. TIWA or M/s. TISPL by the suppliers w.r.t aforesaid 02 old consignments (Sr. 1 & 2 of aforesaid table); copy of original Bill of Ladings with respect to aforesaid 03 old consignments and stated that descriptions of goods were mentioned as CPO, RBD Palm Olein & PFAD which were actually imported by M/s. TIL and the same were loaded in respective vessels at load port. M/s TIL mis-declared the goods as 'CPO' in the Bills of Entry presented before customs.

6.1.3. Statement of Shri Amit Thakkar was recorded on 07.01.2022 and documents produced during the statement **[RUD No.14]** under Section 108 of the Customs Act wherein *inter-alia* he stated that his job at M/s. TIL (Agri Division) includes Domestic procurement as well import procurement of oil; that M/s. TIL deals in Trading Business which includes Trading/Trade Facilitation of Edible Oil/Pulses; Vide said statement he further elaborated the terms Trading and Trade Facilitation; that the Trading Activity of M/s. TIL includes procurement of edible oil product/pulses through Domestic Market as well as through Importations; and that in Trade Facilitation, client through Broker as well as their own and even sales Relations Team of M/s. TIL would approach to the potential client for business. Then M/s. TIL facilitate them by paying to the supplier on their behalf i.e., Opening a letter of Credit/made cash payment against Documents (CAD) in account of M/s. TIL or their subsidiaries. Further M/s. TIL negotiate the terms and conditions and thereafter entered into an Agreement and also ask them to deposit the security deposit i.e. margin money. Subsequently, after securing the full payment i.e. Value of Cargo/Goods + Processing Fees the delivery order is issued. Vide said statement dated 07.01.2022, it is stated that: -

- M/s. TIL's role is of Trade Facilitator, M/s. TIL facilitated M/s. GIPL, for procurement of Oil products i.e. CPO, RBD, PFAD, Soya Oil etc.; that the stage wise steps which were followed for execution of the above said work is as under: -
    1. *Client Agreement dated 9.3.2021 between M/s. TIL & M/s. GVPL Agreement was already in existence.*
    2. *Details (i.r.o. vessel MT Distya Pushti) of the purchase contract of 20300 MT between M/s. GVPL & Suppliers from Indonesia were shared through E-Mail dated 8.11.2021(From Amit Agarwal (operations@glentech.co to Ravi Thakkar (ravi.thakkar@tataintenational.com); that M/s. TIL forwarded their response through E-Mail (amit.thakkar@tatainternational.com) on 25.11.2021 9.51 AM. The response was forwarded to Mr. Sudhanshu & Mr. Sidhant Agarwal (both of M/s. GIPL), Mr Shrikant Subbarayan, Head of Agri Division of M/s. TIL and Mr. Kushal Bothra, Manager of Agri Division of M/s. TIL.*

       It is further stated that as per the above said mail, they had conveyed the agreed terms for the shipment of 20250 MT. Agreed terms are as under: -

        - *5000 MT of CPO to be procured from KPBN (PT. Perkebunan Nusantara III (PERSERO)); 15000 MT RBD Palmolein and 250 MT PFAD to be procured from INL (INL).*
        - *Blended cargo would be 5000 MT, 10000 MT RBD Palmolein 250 MT PFAD totalling to approx. 15000 MT CPO.*

- *Balance 5000 MTRBD Palmolein shall be loaded separately and sold independently as RBD Palmolein.*
- *Entire cargo of 20000 MT shall be sold off before vessel arrival in India.*
- *Tata trade margin for this specific transaction shall be USD 25 per MT.*

It is stated that M/s. TIL forwarded the above mail for their confirmation and they received the confirmation through E-mail dated 25.11.2021; 10:25 A.M. (sidhant@glentech.co) vide their e-mail. He produced the copy of the above said mail. Subsequently, purchase contract was executed wherein Buyer is M/s. TIWA and Seller is M/s. INL for 15000 MT of RBD & 300 MT of PFAD. Further he stated that since the purchase contract of M/s. KPBN could not be transferred to M/s. TIWA, the purchase was undertaken from M/s. GVPL for 5000MT of CPO. He produced a copy of the above said contract) on FOB basis.

3. Then they opened the LC in favour of M/s. INL for 15000 MT of RBD & 300 MT of PFAD and in favour of M/s. GVPL for 5000MT of CPO. He produces a copy of the LC in respect of purchase of 5000MT of CPO in favour of M/s. GVPL).
4. *Then vessel was arranged by M/s. GVPL. Accordingly, charter agreement was executed between M/s. Midas Tankers Pvt. Ltd & M/s. GVPL, wherein M/s. GVPL is operational Charter, M/s. TIWA were the payment charterer.*
5. *Email was received from Shipping and Logistics department of M/s. GVPL (shipping@glentech.co) on 24.11.2021 12:12 regarding appointment of M/s. Geo Chem as a surveyor/Inspector Agency at the load port. He reproduces the content of the above said email: -*
   "*We hereby nominate you for the subject cargo at DUMAI, Kuala Tanjung and Linggi. Vessels ETA to Dumai O/a 26.10.2021.*
   Port rotation and cargo nomination as follow.
   1. Dumai
   Agents: Urban Shipping Agency
   Shipper: KPBN III and KPBN V-5000 MTS CPO
   2. Kuala Tanjung
   Agents:Urban Shipping Agency
   Shipper: PT INL-15000 MTS Olein & 250 MTs PFAD
   3 Linggi
   Agents: Maritime Network SDN BHD
   Ops: CARGO OPS(Other than loading)
6. *Subsequently, Crude Palm Oil (CPO)(5000 MT) was loaded from Dumai & 15000 MT Refined Bleached Deodorised Palmolein (RBD) and 300 MT Palm Fatty Acid Distillation (PFAD) at Kuala Tanjung port, Indonesia. He stated that as operational charterer entire blending operation had been undertaken in supervision by M/s. GVPL and he's not fully aware exactly where and how it took place.*

- On being asked about the details of Bills of Entry (along with details of imported commodities, quantity etc.) filed for the current import consignment by M/s. TIL before Kandla Customs, he produced summary sheet containing details of 83 Bills of Entries filed by M/s. TIL at Kandla Port w.r.t. goods imported via Vessel namely MT Distya

Pushti wherein the description of goods mentioned as Crude Palm Oil (CPO)(Edible Grade) in Bulk, Country of Origin: ID (Indonesia), Port of Shipment(for Sr. No. 1 to 16 & 18 to 21): IDDUM and For Sr. No. 17,22 to 83): IDKTJ in the said Bills of Entries. Qty in 80 bills of entry is 250 MT each, wherein B/E No. 67144238-Qty. 249.869 MT, B/E No.671448(Qty. 50 MT) & B/E No. 6714454-Qty. 50.365 MT.

- On being asked as to from whom the said imported goods were purchased by M/s. TIL, it is stated that M/s. TIL purchased the said goods from M/s. TIWA.
- He affirmed that the same goods viz. 5000MTs CPO, 15000MTs RBD & 300 MTs PFAD which have been purchased by M/s. TIWA from M/s. GVPL & M/s. INL (M/s. INL), Indonesia and were further sold by M/s. TIWA to M/s. TIL.
- On being asked about the entries in the aforesaid 83 Bills of Entry all dated 16.12.2021 as to whether it matches with the entries mentioned in the Bill of Lading (original and other one) for the said consignment, he denied the same and stated that w.r.t goods purchased by M/s. TIWA from M/s. GVPL & M/s INL, Indonesia, goods description mentioned in the Bills of Lading were 5000MTs CPO, 15000MTs RBD & 300 MTs PFAD and mentioned in Original Bills of Lading i.e. DUM/DEE/01-02 dated 1.12.2021, DP-KTG-DEE-01-02-03 dated 5-6.12.2021 whereas as per the 83 Bills of Entry, the description of Goods is shown as CPO (Edible Grade)in Bulk. He produces copies of the Bills of lading No. KTG/DEE/81 to 83.
- On being asked about any declaration in the documents filed before the Kandla Customs w.r.t. current consignment that RBD Olein and PFAD was also loaded in the said vessel, he stated that they have submitted the appropriate documents before the Customs Authority at Kandla as resultant product after blending to derive better quality of CPO, which was certified by the surveyor before arrival in India and accordingly same were appropriately declared as CPO before the Customs.
- He affirmed that the “RBD” and “PFAD” were loaded on Kuala Tanjung Port, Indonesia and CPO was loaded in DUMAI port. He also accepted that post blending local B/Ls were switched to Global B/L and that these products have not been declared in the documents filed before Kandla Customs and M/s. TIL has submitted the ‘CPO’ B/L/documents to the Customs Authority.
- When the goods purchased by M/s. TIWA from M/s INL & M/s. GVPL. were 15000MTs RBD & 300 MTs PFAD, 5000MTs CPO and the same were loaded in MT Distya Pushti- 07/21 at Indonesia and further the same were further sold to M/s. TIL vide the same vessel, In this context, on being asked about the reason for description of goods mentioned as Crude Palm Oil (Edible Oil) in Bulk instead of RBD Palm Oil, PFAD & CPO in Certificate of Origin & in IGM & aforesaid 83 Bills of Entries filed by M/s. TIL before Kandla Customs, it is stated that as per their client M/s.GIPL, three different cargoes purchased in Indonesia and blended to derive better quality CPO as required and desired by buyers in India and accordingly, post blending and certification received from the surveyors certifying the cargo as CPO and they got certificate of Origin issued from Dubai Chamber, M/s. TIL has accordingly filed the documents for CPO with Customs. He produced a copy of the Country-of-Origin Certificate No. 2117495 dated 20.12.2021.

- On being asked as to why was M/s. GVPL directing the vessel's persons/shipping agent for blending & for switching of Bill of Lading Whereas, the goods were imported by M/s. TIL from their affiliate company M/s. TIWA, Dubai; title of the said goods was with M/s. TIWA, Dubai, it is stated that the M/s. TIL was providing trade facilitation services to M/s GIPL, and entire sourcing and purchase in Indonesia had been undertaken by M/s. GVPL. In the charterer agreement M/s. GVPL is the operational charterer and accordingly directions were issued by M/s. GVPL.
- He produced the copy of Charter party agreement.
- On being asked as to what directions were given to vessel agents/vessel persons with respect to the current import consignment of your company and reasons thereof, it is stated that as per the charterer agreement M/s. GVPL is the operational charter and accordingly directions were issued by M/s. GVPL.
- He produced the details of previous import through Vessel Name "MT FMT Gumuldur", "MT HONG HAI", "MT FMT EFES VOY. 202111". B/E Date 3.9.2021, 20.10.2021 & 11.11.2021 respectively as below: -

Details of goods imported by M/s. TIL. (except MT Distya Pushti)

Sr. No.	*VESSEL NAME*	*Letter of Credit (LC)*	*SELLER*	*COMMODITY loaded at load Port*	*QTY (MTs)*	*SUPPLIER*	*LOAD PORT*	*Bill of Entry no.*	*Bill of Entry date*	*Description of imported goods declared in bill of entry*	*QTY (MTs)*
1	*FMT GUMULDUR V.212109*	*5940604359 dated 11.08.2021*	*M/s. TIWA*	*CPO*	*3499.71*	*OLAM*	*DUMAI, INDONESIA*	*5302477, 5302489, 5302500, 5302513, 5302519 & 5302523*	*03.09.2021*	*CPO*	*12199.71*
				RBD PALM OLEIN	*8500*	*PTINL*	*KUALA TANJUBG, INDONESIA*				
				PFAD	*200*	*PTINL*	*KUALA TANJUBG, INDONESIA*				
				Total	*12199.7*						
2	*MT HONG HAI6 V.2106*	*YUDOCB212024/25/26 dated 20.09.2021*	*M/s. TISPL*	*RBD PALM OLEIN*	*6513.520*		*KUALA TANJUBG, INDONESIA*	*5916265, 5916285, 5916291 & 5916292*	*20.10.2021*	*CPO*	*15462.070*
				CPO	*8948.550*		*Phuket, Thailand*				
				Total	*15462.070*						
3	*MT FMT EFES VOY. 202111*	*5944604443 & 5945604443 both dated 22.10.2021*	*M/s. TIWA*	*RBD PALM OLEIN*	*5086.015*	*PT INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824*	*11.11.2021*	*CPO*	*12959.31*
				CPO	*7873.290*	*THA CHANG*	*PHUKAT PORT, THAILAND*				
				Total	*12959.31*						

- He affirmed the fact that Blending process and switch of Bill of Lading were undertaken/ followed in the similar manner of the current consignment i.e. on-board vessel "MT Distya Pusti" in the aforesaid old 03 consignment also. Further he stated that even though M/s. TIL had procured CPO, RBD & PFAD through M/s. GVPL and their identified suppliers in earlier consignments also and blended those to derive better quality of CPO, which was certified by the surveyor before arrival in India and accordingly, they declared the goods as CPO before the Customs.

6.1.4. A Statement of Shri Shrikant Subbarayan, Head of Agri Business Division of M/s. TIL was recorded under Section 108 of the Customs Act, 1962 on 08.01.2022 **[RUD No. 15],** wherein *interalia* he stated that he is responsible for delivering business performance as per business plan. They deal in commodities like pulses and grains, oils and oilseeds, sugar; that their

activities include Trading and Trade facilitation; that the trading means the firm is buying/selling, importing/exporting where the risk or reward is theirs'(M/s. TIL); that in Trade Facilitation, they enable Third Party to do the transaction were in lieu of margin money. Thus, they have a fixed profit and price risk averse. For the oil business transactions, only Trade Facilitation activity is carried out by them. It is stated that the term "margin money" used above refers to the advance payment provided to the company by a third party to protect it from the risk of price fluctuations. In trade facilitation, the company assists third parties in purchasing oil commodities by opening letters of credit (LCs) on their behalf to suppliers based in foreign countries. Before opening the LCs, the original contracts are transferred to the company's name. Prior to entering into the said purchase contract, the company always has a sales contract with the third party, in which the margins for the transaction are agreed upon and the material is presold to the third party. The company handles the financial aspects of the said sale/purchase trade facilitation activity and manages the risk until its funds are returned. His responsibility is to monitor and supervise five traders working under him. He regularly tracks and discusses with these five traders whether the business is going according to plan; that he is the approving authority at M.s/ TIL for finalizing any deal in above mentioned two categories viz. Trading and Trade Facilitation. It is further stated that the cargo belongs to the third party and they look after the finance part of the said cargo. He further stated that: -

- *For the custom related purpose, the importer will be M/s. TIL. And the supplier will be either, M/s. TIWA, UAE or TISPL, Singapore.*

- *since entire transactions was about facilitating the M/s. GVPL's trade, hence the purchase of the cargo, the blending of the cargo was all per the instructions issued by M/s. GVPL, as he was the ultimate buyer after the import of the said cargo into the India.*

6.1.5. Statement of Shri Sidhant Agarwal, Director of M/s. GIPL recorded under Section 108 of the Customs Act, 1962

A statement of Shri Sidhant Agarwal, Director of M/s. GIPL was recorded on 27/28.01.2022 **[RUD No 16 & 17 respectively]**, wherein, *interalia* he stated that M/s. GVPL. entered in contract with KPBN, Indonesia for supply of Crude Palm Oil and accordingly same was supplied by M/s. KPBN, Indonesia to M/s. GVPL; that further, as per agreement between M/s. TIWA &M/s. GVPL, the said goods were supplied to M/s. TIWA; that the said CPO, RBD & PFAD were blended on Vessel 'MT Distya Pushti' and further the said blended goods by imported by 'M/s. TIL' at Kandla Port; that as per understanding between M/s. TIL &M/s. GIPL, the said imported blended goods would be sold to buyers by M/s. GIPL& M/s. TIL; that the requirement to blend has been stated as there was demand of CPO having FFA value below 3.5; that accordingly they then inquired at Indonesia to ascertain the way or place to obtain the CPO having FFA value below 3.5. Against which, it was learnt by them that naturally CPO having FFA value below 3.5 was very rare. But the same can be obtained by blending three different products i.e. CPO, PFAD & RBD olein only and product can be made marketable as per buyer's requirement. It is further stated that: -

- M/s. TIL was the importer w.r.t. consignments imported vide vessel MT FMT Gumuldur (Sep. 2021), Hong Hai (Oct. 2021) & MT FMT EFES (Nov. 2021) & MT Distya Pushti;

- that w.r.t. all the aforesaid consignments of goods imported by M/s. TIL., M/s. TIL was financial charter who make arrangement Letter of Credit (LC) in overseas country for purchasing the said goods and M/s. GVPL was operational charter; that apart from that M/s. TIL & M/s. GIPL are business partner also; Goods imported vide vessel namely, MT FMT Gumuldur, MT Hong Hai & MT FMT EFES were further sold in India on Bond to Bond basis by M/s. GIPL as well as M/s. TIL;
- On being asked about the details of goods imported through vessel namely, MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106 & MT FMT EFES VOY. 202111 and details of further sale of goods, it is stated that the goods imported vide said vessels are as below : -

Details of goods imported by M/s. TIL which were further sold to M/s. GIPL

Sr No.	VESSEL NAME	SELLER	COMMODITY loaded at load Port	QTY (MTs)	SUPPLIER (M/s.)	LOAD PORT	Bill of Entry no.	Bill of Entry date	Description of imported goods declared in bill of entry	QTY (MTs)
1	FMT GUMULDUR	M/s. TIWA	CPO	3499.71	OLAM	DUMAI, INDONESIA	5302477, 5302489, 5302500, 5302513, 5302519 & 5302523	03.09.21	CPO	12199.71
			RBD PALM OLEIN	8500	INL	KUALA TANJUBG, INDONESIA				
			PFAD	200	INL	KUALA TANJUBG, INDONESIA				
			Total	**12199.7**						
2	MT HONG HAI	M/s. TISPL	RBD PALM OLEIN	6513.520		KUALA TANJUBG, INDONESIA	5916265, 5916285, 5916291 & 5916292	20.10.21	CPO	15462.070
			CPO	8948.550		Phuket, Thailand				
			Total	**15462.07**						
3	MT FMT EFES VOY. 202111	M/s. TIWA	RBD PALM OLEIN	5086.015	INL	KAULA TANJUNG, INDONESIA	6212683 & 6212824	11.11.21	CPO	12959.31
			CPO	7873.290	THA CHANG	PHUKAT PORT, THAILAND				
			Total	**12959.31**						

- That M/s. GIPL & M/s. TIL mutually decided to import the blended goods obtained through blending of CPO with RBD & PFAD in one specific ratio.
- that their first consignment with M/s. TIL import of 2500 MTs CPO and M/s. GIPL purchased through Bond from M/s. TIL on dated 11.5.2021. It was normal CPO, wherein FFA value (Free Fatty Acid) was around 4.5 to 5, due which some difficulties were experienced in selling the above said CPO. Then on the basis of the market survey it was found by them there is a demand of CPO having FFA value below 3.5. Accordingly, they then inquired at Indonesia to ascertain the way or place to obtain the CPO having FFA value below 3.5. Against which, it was learnt that naturally CPO having FFA value below 3.5 is very rare. But the same can be obtained by blending three different products i.e. CPO, PFAD & RBD olein only and product can be made marketable as per buyer's requirement. Accordingly, above matter was conveyed to M/s. TIL. In response, M/s. TIL confirmed to proceed. Further, accordingly, the next consignments were ordered and goods obtained after blending of CPO with RBD Palmolein or PFAD were imported. The said blended goods imported through vessel namely MT FMT Gumuldur, Hong Hai & MT FMT EFES, were further sold by M/s. GIPL & M/s. TIL to buyers in the domestic market.

- That the blending ratio is suggested by the surveyor which were nominated by M/s. TIL. It is further stated that in case of consignment imported through vessel "MT HONG HAI 6" & "MT.FMT EFES" M/s. TIL had nominated surveyor namely "AM SPEC". Further, the ratio of blending was decided on availability of quantity of CPO & RBD. As per availability of CPO & RBD surveyor decided the quantity of PFAD which required to blend with CPO & RBD.
- It is stated that the said blended goods have better quality than normal CPO due to lower FFA value i.e. below 3.5, hence, blended goods have more market demand in India. It is also stated that as refined product i.e. RBD Palmolein for which FFA value is less than 0.1% is mixed with normal CPO, therefore the FFA value of the said blended goods/resultant goods is lesser than normal CPO.
- It is stated that the refined goods viz. RBD & PFAD are part of the said resultant/ blended goods w.r.t. the Distya Pushti consignment around 74.1% RBD Palmolein & 1.2% PFAD which are refined goods. Further, w.r.t. to consignment imported through MT FMT Gumuldur, Hong Hai & MT FMT EFES, the ratio of refined goods are as under: -

Sr. No.	**Name of the Vessel**	**Quantity of RBD Palmolein (%)**	**Qty. of PFAD (%)**
01.	MT FMT Gumuldur	69.67	1.64
02.	Hong Hai	42.12	--
03.	MT FMT EFES	39.25	--

- He produced the following documents duly signed with date: -
  - *(i) Documents related to import of goods through MT FMT Gumuldur by M/s. TIL having page no 01 to 346 containing Agreement of M/s. GVPL as well as M/s. TIWA with suppliers of CPO, RBD Palmolein & PFAD, Charterer Party Agreement, LCs, copy of BL, Country of Origin Certificate, into bond Bill of Entry for warehousing, agreement of M/s. GIPL with M/s. TIL, agreements with buyers of M/s. GIPL etc.*
  - *(ii) Documents related to import of goods through Hong Hai by M/s. TIL having page no 01 to 539 containing Agreement of M/s. GVPL as well as M/s. TISPL, Singapore with suppliers of CPO & RBD Palmolein, Tanker Voyage Charterer Party Agreement, LCs, copy of BL, Country of Origin Certificate, into bond Bill of Entry for warehousing, agreement of M/s. GIPL with M/s. TIL, agreements with buyers of M/s. GIPL etc.*
  - *(iii) Documents related to import of goods through MT FMT EFES by M/s. TIL having page no 01 to 211 containing Agreement of M/s. GVPL as well as M/s. TIWA, with suppliers of CPO & RBD Palmolein, Tanker Voyage Charterer Party Agreement, copy of BL, Country of Origin Certificate, into bond Bill of Entry for warehousing, agreement of M/s. GIPL with M/s. TIL, agreements with buyers of M/s. GIPL etc.*

6.1.6. A Statement of Shri Sudhanshu Agrawal, ex-CEO and representative of M/s. GIPL was recorded on 27.01.2022/28.01.2022 **[RUD No.18 & 19 respectively]** under Section 108 of the Customs Act, 1962 wherein *interalia* he stated that the first consignment they dealt with M/s. TIL was when they imported 2500 MTs CPO through vessel MT Splendour and they

purchase through Bond from M/s. TIL on dated 11.05.2021. It was normal CPO, wherein FFA (Free Fatty Acid) was around 4.5 to 5.1 add and that they experienced difficulties in selling the above said CPO; then they carried out the market survey and found that there is a demand of CPO having FFA value below 3.5. Then, they inquired at Indonesia to ascertain the way or place to obtain the CPO having FFA value below 3.5. Against which, it is learnt that naturally it is not possible to obtain CPO having FFA value below 3.5 but the same can be obtained by blending three different products i.e. CPO, PFAD & RBD olein only and product can be made marketable as per buyer's requirement. Accordingly, above matter was conveyed to M/s. TIL. In response, M/s. TIL informed that they would check the risk & legal aspect and then will confirm. After a long-time they confirmed to proceed. Further, accordingly, the next consignments were ordered and imported. He produced the details of the same as below.

Sr. No.	***Vessel Name***	***Seller***	***COMMODITY***	***Qty. Break Up (Approx.)***	***Total Qty (In Mts)***
1	*MT FMT GUMULDUR*	*OLAM*	*CPO*	*3500*	*12100*
		INL	*RBD*	*8400*	
		INL	*PFAD*	*200*	
2	*MT HONG HAI 6*	*THA CHANG*	*CPO*	*6000*	*15600*
		THANA PALM	*CPO*	*3000*	
		INL	*RBD*	*6600*	
3	*MT.FMT EFES*	*THA CHANG*	*CPO*	*8000*	*13000*
		INL	*RBD*	*5000*	
4	*MT.DISTYA PUSHTI*	*KPBN*	*CPO*	*5000*	*20300*
		INL	*RBD*	*15000*	
		INL	*PFAD*	*300*	

He confirmed that above said consignments were imported by blending of three different products in the above given proportion/ quantities.

- On being asked as to who decides the blending ratio, it is stated that it is mainly suggested by the surveyor, nominated by M/s TIL and may be appointed by them. It is further stated that right to choose of the surveyor always remains with M/s TIL. More particularly, he stated that in case of consignment imported through vessel "MT HONG HAI 6" & "MT.FMT EFES", M/s TIL had nominated surveyor. Further, the ratio depends upon the availability of material i.e. CPO, RBD & PFAD.
- On being asked to explain the reason as to why there is a demand for so called CPO with FFA value below 3.5, it is stated that it is a market practice and whatever he gathered from his experience since 2014 &interaction with the end users, it is learnt that time in refining process as well as costing is lesser.

He also produced list of their main buyers of Edible Oils, i.e. M/s. DIL Exim Commodities Pvt. Ltd., M/s. Sangrur Agro Limited, M/s. DIL Exim

Commodities Pvt. Ltd. M/s. Sheel Oil and Fats Pvt. Ltd., M/s. G-One Agro Products Ltd. etc.

6.1.7 A further statement of Shri Sudhanshu Agrawal, representative and founder of M/s. GIPL was recorded on 28.01.2022 under Section 108 of the Customs Act, 1962 **[RUD No.19],** wherein *inter-alia* he stated that M/s. TIL is financial partner as 100% finance is done by M/s. Tata International Ltd. and M/s. GIPL had to deposit some amount as margin as decided by M/s TIL for managing the risk. He further stated that that there is demand of product which is having FFA value below 3.5 and the same can be obtained by blending two/ three different products, i.e. CPO, PFAD and RBD Olein only and product can be made marketable as per buyers' requirement. That, in India, blending would not be financially viable as RBD would attract more customs duty and due to duty difference in RBD the resultant cost would increase and buyer would not purchase; that he had knowledge that blending will take place and affirmed that originally idea of blending is through market survey by them and same was approved by M/s TIL. Hence, M/s. GVPL and M/s TIL have full knowledge about blending as it was required to make product marketable and after blending also, they name the product at Crude Palm Oil; that in Bond-to-Bond Sell, bond is executed on stamp paper of Rs.300/- in between seller and buyer and simultaneously, bond invoice is generated. The above sell is considered as sell outside India and as such no GST as well as Customs is payable in Bond-to-Bond sell; that whosoever files Ex-bond Bills of Entry would pay GST and Customs Duty; that they being the operational Charter, they are responsible for any demurrage charges, dead freight and any other liability of vessel arises during operation only; Cargo is insured by M/s. TIL. As such Blending is done as per guidance of the surveyor; that as operational charter, they do not carry the whole risk, that full finance is of M/s. TIL, right to refusal is with M/s. TIL.

- That blending is done as per the charter party agreement and been done under the supervision/guidance of surveyor. Surveyor always nominated by M/s. TIL.

6.1.8. A further statement of Shri Sudhanshu Agrawal, *ex-CEO* of M/s. GIPL was recorded under Section 108 of Customs Act, 1962 on 29.01.2022 **[RUD No. 20]** wherein *interalia* he stated and affirmed that in the following consignments, blending took place: -

Sr. No.	**VESSEL NAME**	**SELLER**	**COMMODITY loaded at load Port**	**QTY (MTs)**	**SUPPLIER**	**LOAD PORT**	**Bill of Entry no.**	**Bill of Entry date**	**Description of imported goods declared in bill of entry**	**QTY (MTs)**
1	MT Splendour	M/s. TISPL	CPO	1934.237	Olam Inter. & Pt. Ichtiar Gusti Pudi	DUMAI, INDONESIA			**CPO**	**1934.237**
			PFAD	4999.966					**PFAD**	**4999.966**
			Total	**6934.203**						
2	FMT GUMULDUR	M/s. TIWA	CPO	3499.71	OLAM	DUMAI, INDONESIA	5302477, 5302489, 5302500, 5302513, 5302519 &	03.09.21	CPO	12199.71
			RBD PALM OLEIN	8500	PTINL	KUALA TANJUBG, INDONESIA				

			PFAD	200	PTINL	KUALA TANJUBG, INDONESIA	5302523			
			Total	**12199.7**						
3	MT HONG HAI	M/s. TISPL	RBD PALM OLEIN	6513.520		KUALA TANJUBG, INDONESIA	5916265, 5916285, 5916291 &5916292	20.10.21	CPO	15462.070
			CPO	8948.550		Phuket, Thailand				
			Total	**15462.07**						
4	MT FMT EFES VOY. 202111	M/s. TIWA	RBD PALM OLEIN	5086.015	PT INL	KAULA TANJUNG, INDONESIA	6212683 & 6212824	11.11.21	CPO	12959.31
			CPO	7873.290	THA CHANG	PHUKAT PORT, THAILAND				
			Total	**12959.31**						

- W.r.t to the above, it is stated that Blending was done in Malaysian port/Thailand Port and as per his memory it was done either at Linggi Port or Port Klang and Phuket port (Thailand). Further, it is informed that in case of cargo imported through FMT Gumuldur, the blending was done on board/ship. But in case of other two cargo mentioned at Sr.No. 3 & 4, it was top blending meaning to say that CPO was added to the RBD filled up tank of the vessel and then stirring process were carried out.
- It is further stated that blending is done by the vessel owner company and as per the instructions issued by us after getting concurrence from M/s. TIL. On being ask he produce the copy of document i.e. standard form letter of indemnity to be given in return for loading into cargo tanks without cleaning or conducting any special treatment of cargo tanks issued by M/s. TIL vide letter dated 17.8.2021 in favour of M/s. TELCOM International Trading PTE Ltd., in case of cargo imported through Vessel namely MT FMT GUMULDUR VOY 202109.
- That M/s. GIPL and M/s. TIL are on the equal platform as far as the policy decision/execution/risk/loss etc. is concerned. And that the imported cargo is being also sold by both of them.

6.1.9 Statement of Shri Ricky Mukeshkumar Pabari, Director of M/s. DIL, was recorded under Section 108 of the Customs Act, 1962 on 28.02.2022 **[RUD No. 21]**wherein *inter-alia* he stated that M/s. DIL Exim Commodities Pvt. Ltd. is having IEC AAHCD7279A and is engaged in trading of edible oils; that he looks after sale-purchase work, sellers/buyers payment etc. of M/s. DIL; that M/s. DIL has purchased and filed Ex-Bond Bills of Entry w.r.t. total 2717 MTS of Crude Palm Oil which were imported by M/s. Tata International Ltd. through vessels namely, MT FMT Gumuldur, MT Hong Hai 6 and MT FMT EFES and produced the details of such Bills of Entry. He was shown the statements dated 27.01.2022 and 28.01.2022 of Shri Sidhant Agarwal, Director of M/s. Glentech Industries Private Limited wherein it is stated that M/s. Tata International Limited in connivance with M/s GIPL imported blended foods viz. admixture of CPO, RBD Palmolein & PFAD through vessels namely MT FMT Gumuldur, MT Hong Hai6 and MT FMT EFES and the said admixture of CPO with RBD & PFAD were declared as Crude Palm Oil (CPO) before Customs, Kandla. On perusal of the same, it is stated and affirmed that the said goods viz. admixture of CPO, RBD & PFAD purchased by M/s. DIL from M/s. Tata International Ltd. which was imported through vessel MT FMT Gumuldur, MT Hong hai 6 and MT FMT EFES; that the said goods were mentioned as CPO Edible Grade (in Bulk) in the bond to bond agreement with

respective seller. He also stated that refining cost and refining time in case of the blended goods with FFA 3.5 is lesser than natural CPO (generally FFA as 4.5- 5) as proportion of impurities are less in the said blended goods in comparison to the natural CPO. Further he agreed to the fact that there is a presence of RBD Palm Olien, which is a refined product, thus the said imported goods are partially refined.

6.1.10. A further statement of Shri Shrikant Subbarayan, Head – Minerals & Agri Trading Business, M/s. TIL., Mumbai was recorded under Section 108 of the Indian Customs Act, 1962 on 20.05.2022 **[RUD No. 22]** wherein *inter-alia*, he stated that there is more demand of CPO having FFA value below 3.5 in market and proposed for blending of three different product i.e. CPO, PFAD & RBD Olien to obtain CPO having FFA value below 3.5; that after making market survey as well as checking risk & legal aspect w.r.t. blending process/Importation of Blending Products, M/s. TIL agreed for the same. And accordingly, they gave their concurrence for importation of goods to be brought after blending. He produced details of consignment imported by us & M/s. GIPL are as below: -

Sr. No.	***Vessel Name***	***Seller***	***COMMODITY***	***Qty. Break Up (approx.)***	***Total Qty (In Mts)***
1	*MT FMT GUMULDUR*	*OLAM*	*CPO*	*3500*	
		INL	*RBD*	*8400*	***12100***
		INL	*PFAD*	*200*	
2	*MT HONG HAI 6*	*THA CHANG*	*CPO*	*6000*	
		THANA PALM	*CPO*	*3000*	***15600***
		INL	*RBD*	*6600*	
3	*MT.FMT EFES*	*THA CHANG*	*CPO*	*8000*	***13000***
		INL	*RBD*	*5000*	
4	*MT.DISTYA PUSHTI*	*KPBN*	*CPO*	*5000*	
		INL	*RBD*	*15000*	***20300***
		INL	*PFAD*	*300*	

- He confirmed that above said consignments declared as CPO were imported after blending of three different products i.e. CPO, RBD & PFAD in different proportion. And that the whole process of blending was done as per the instruction of M/s. GIPL/M/s. GVPL & under supervision of surveyor.

- That in all the consignments imported vide vessel namely MT FMT Gumuldur, MT HONG HAI 6, MT.FMT EFES & MT. Distya Pushti, goods were termed as CPO as it was a blended goods i.e. CPO (resultant goods obtained after blending of CPO, RBD or PFAD) having FFA below 3.5.

6.2 SCRUTINY OF DOCUMENTS

During the course of investigation, it appears that manipulation of documents was done by importers i.r.o previously imported consignments imported vide three different vessels, viz. **"**MT FMT GUMULDUR V.202109, MT HONG HAI6 V.2106, MT FMT EFES V.202111**"**to suppress the facts from Indian Customs. These documents consist of purchase contracts, invoices, charter party, original and switch B/Ls etc. Further, Shri Sidhant Agarwal, Director, M/S. GIPL & M/s. GVPL**,** Shri Sudhanshu Agarwal, Ex-CEO of M/s. GIPL & M/s. GVPL, Shri Sachin Deshpande, Executive of M/s. TIL, Shri Amit Thakkar, Agri Division M/s. TIL have admitted in their statements to having procured different quantity of CPO, RBD Palmolein and PFAD and blend the same before import into India and mis-declare the same as CPO The scrutiny i.r.o. such previously imported consignments viz. is elaborated herein below, vessel wise: -

SCRUITNY OF DOCUMENTS i.r.o. IMPORT OF GOODS VIDE VESSEL MT FMT GUMULDUR V.202109

6.2.1. During investigation, statements of the various concerned persons were recorded wherein they produce various documents which reveal that M/s. TIL had filed the following Warehouse (W.H.) B.Es for import of total 12100.02 MT of cargo by declaring the same as CPO imported vide vessel MT Gumuldur V.202109, which are further sold to buyers at India and are subsequently cleared by various importers by filing Ex-Bond Bills of Entry for Home Consumption. The following table shows the list of W.H. B.E. filed by M/s. TIL i.r.o. import of consignment imported vide the said vessel

	CUSTOM HOUSE CODE	**W.H. BE NUMBER**	**BE DATE**	**NAME OF THE IMPORTER (M/s)**	**QUANTITY**	**UQC**
1	INIXY1	5302519	03-09-2021	TIL	980.00	MTS
2	INIXY1	5302477	03-09-2021	TIL	69.71	MTS
3	INIXY1	5302489	03-09-2021	TIL	1470.00	MTS
4	INIXY1	5302513	03-09-2021	TIL	490.00	MTS
5	INIXY1	5302500	03-09-2021	TIL	6640.31	MTS
6	INIXY1	5302523	03-09-2021	TIL	2450.00	MTS
				TOTAL QTY	12100.02	MTS

6.2.2 The scrutiny of documents produced by Shri Sidhant Agarwal **[RUD-22]** i.r.o VESSEL MT FMT GUMULDUR V.202109is discussed herein as below: -

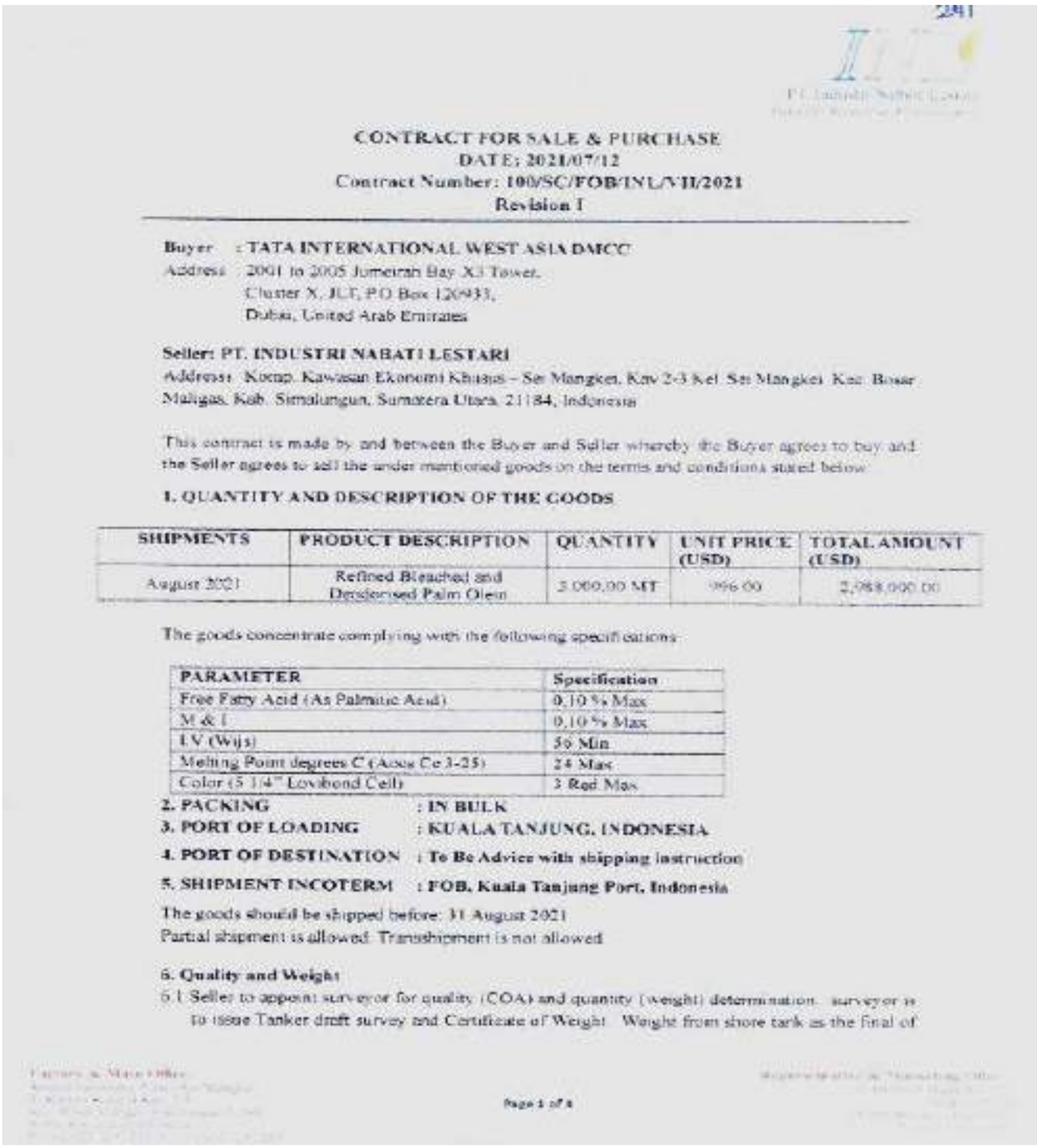
A. SCRUTINY OF SALES/PUCHASE CONTRACTS of CPO, RBD and PFAD FROM DIFFERENT SUPPLIERS:

The file produced contains document i.r.o import vide vessel MT FMT GUMULDUR **[RUD-23]** reveals that they, M/s. GVPL / M/s. TIWA, UAE / M/s. TISPL had entered into the following contract nos. with Seller INL, Indonesia (referred as 'INL') to procure respective goods as per below mentioned table: -

Pg. No. of file of [RUD	**Product Description**	**Qty (about)**	**Contract No. and date**	**Sale Agreement Between**

-23]				
285 to 289	Refined Bleached and Deodorised Palm Olein	2000 MT	094/SC/FOB/INV/VII/2021 Revision I dated 13.07.2021 **[RUD No.23]**	M/s. GVPL & M/s. INL revised to Title - M/s. TIWA DMCC, UAE and M/s. INL, Indonesia.
291 to 295	Refined Bleached and Deodorised Palm Olein	3000 MT	100/SC/FOB/INV/VII/2021 Revision I dated 12.07.2021**[RUD No.23]**	M/s. GVPL & M/s. INL revised to Title - M/s. TIWA DMCC, UAE and M/s. INL, Indonesia.
297 to 301	Refined Bleached and Deodorised Palm Olein	2000 MT	101/SC/FOB/INL/VII/2021 Revision I dated 19.07.2021 **[RUD No.23]**	M/s. GVPL & M/s. INL revised to Title - M/s. TIWA DMCC, UAE and M/s. INL, Indonesia.
303 to 307	Refined Bleached and Deodorised Palm Olein	1500 MT	106/SC/FOB/INV/VII/2021 Revision-I dated 21.07.2021 **[RUD No.23]**	M/s. GVPL & M/s. INL revised to Title - M/s. TIWA DMCC, UAE and M/s. INL, Indonesia.
309 to 313	Palm Fatty Acid Distillate	200 MT	107/SC/FOB/INV/VII/2021 dated 22.07.2021 **[RUD No.23]**	M/s. GVPL & M/s. INL revised to Title - M/s. TIWA DMCC, UAE and M/s. INL, Indonesia.
281 to 283	CPO	1500 MT	EO/S/01212/ 21 dated 22.07.2021	M/s. TIWA UAE and M/s. Olam International Limited, Indonesia
277 to 279	CPO	2000 MT	EO/S/01247/ 21 dated 03.08.2021	M/s. TIWA UAE and M/s. Olam International Limited, Indonesia

From the perusal of the above contracts, it is revealed that M/s. GVPL had entered into sale and purchase contract with M/s. INL, Indonesia, FOB incoterms: Kuala Tanjung, Indonesia for procurement of approx. 8500 MT of Refined Bleached and Deodorised Palm Olein and in contract with M/s. Olam International Limited, Indonesia, FOB incoterms: Dumai, Indonesia 200 MT of Palm Fatty Acid Distillate, and are at the page no. 318 to 346 of the file produced during recording of the statements under section 108 of the Customs Act, 1962 by Shri Sidhant Agarwal, Director of M/s. GIPL i.r.o. imports vide vessel MT FMT Gumuldur V.202109. These contracts were further revised in so much that the name of the buyer was changed to M/s. TIWA DMCC, UAE later, which are at Page No. 285 to 313 of the said file. Further, it is also gathered that M/s. TIWA DMCC, UAE had entered into sales Contract No. EO/S/01212/21 dated 22.07.2021 entered between Seller M/s. Olam International Limited, Indonesia and buyer M/s. TIWA for sale/purchase of 1500 MT of Crude Palm Oil and a sales Contract No. EO/S/01247/21 dated 03.08.2021 entered between Seller Olam International Limited, Dumai, Indonesia and buyer M/s. TIWA for sale/purchase of 2000 MT of Crude Palm Oil. Scanned images of one of the Contracts i.r.o. CPO and RBD Palmolein each are reproduced herein below: -



CONTRACT FOR SALE & PURCHASE
DATE: 2021/07/12
Contract Number: 100/SC/FOB/INL/VII/2021
Revision I

Buyer : TATA INTERNATIONAL WEST ASIA DMCC
Address : 2001 to 2005 Jumeirah Bay X3 Tower,
Cluster X, JLT, P.O Box 120933,
Dubai, United Arab Emirates

Seller: PT. INDUSTRI NABATI LESTARI
Address: Komp. Kawasan Ekonomi Khusus – Sei Mangkei, Kav 2-3 Kel. Sei Mangkei Kec. Bosar Maligas, Kab. Simalungun, Sumatera Utara, 21184, Indonesia

This contract is made by and between the Buyer and Seller whereby the Buyer agrees to buy and the Seller agrees to sell the under mentioned goods on the terms and conditions stated below:

1. QUANTITY AND DESCRIPTION OF THE GOODS

SHIPMENTS	PRODUCT DESCRIPTION	QUANTITY	UNIT PRICE (USD)	TOTAL AMOUNT (USD)
August 2021	Refined Bleached and Deodorised Palm Olein	3.000,00 MT	996.00	2,988,000.00

The goods concentrate complying with the following specifications:

PARAMETER	Specification
Free Fatty Acid (As Palmitic Acid)	0.10 % Max
M & I	0.10 % Max
I.V (Wijs)	56 Min
Melting Point degrees C (Aocs Cc 3-25)	24 Max
Color (5 1/4" Lovibond Cell)	3 Red Max

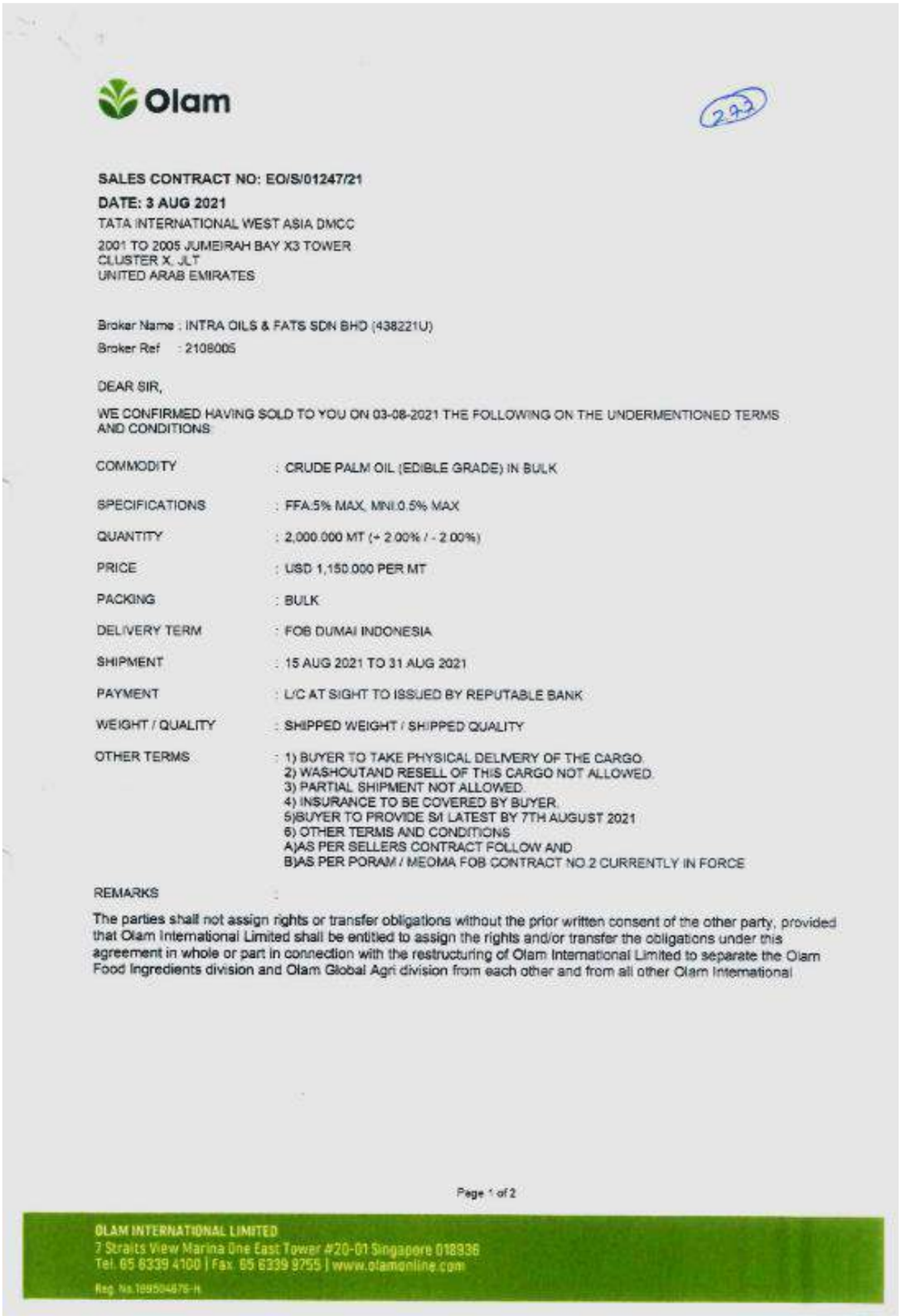
2. PACKING : IN BULK
3. PORT OF LOADING : KUALA TANJUNG, INDONESIA
4. PORT OF DESTINATION : To Be Advice with shipping instruction
5. SHIPMENT INCOTERM : FOB, Kuala Tanjung Port, Indonesia

The goods should be shipped before: 31 August 2021
Partial shipment is allowed. Transhipment is not allowed

6. Quality and Weight
6.1 Seller to appoint surveyor for quality (COA) and quantity (weight) determination. surveyor is to issue Tanker draft survey and Certificate of Weight. Weight from shore tank as the final of

Page 1 of 8

Image 42 : Scanned copy of Contract No. 100/SC/FOB/INV/VII/2021 Revision I dated 12.07.2021 for procurement of RBD



Olam

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SALES CONTRACT NO: EO/S/01247/21

DATE: 3 AUG 2021

TATA INTERNATIONAL WEST ASIA DMCC
2001 TO 2005 JUMEIRAH BAY X3 TOWER
CLUSTER X, JLT
UNITED ARAB EMIRATES

Broker Name : INTRA OILS & FATS SDN BHD (438221U)
Broker Ref : 2108005

DEAR SIR,

WE CONFIRMED HAVING SOLD TO YOU ON 03-08-2021 THE FOLLOWING ON THE UNDERMENTIONED TERMS AND CONDITIONS

COMMODITY	: CRUDE PALM OIL (EDIBLE GRADE) IN BULK
SPECIFICATIONS	: FFA 5% MAX, MNI 0.5% MAX
QUANTITY	: 2,000.000 MT (+ 2.00% / - 2.00%)
PRICE	: USD 1,150.000 PER MT
PACKING	: BULK
DELIVERY TERM	: FOB DUMAI INDONESIA
SHIPMENT	: 15 AUG 2021 TO 31 AUG 2021
PAYMENT	: L/C AT SIGHT TO ISSUED BY REPUTABLE BANK
WEIGHT / QUALITY	: SHIPPED WEIGHT / SHIPPED QUALITY
OTHER TERMS	: 1) BUYER TO TAKE PHYSICAL DELIVERY OF THE CARGO 2) WASHOUTAND RESELL OF THIS CARGO NOT ALLOWED 3) PARTIAL SHIPMENT NOT ALLOWED 4) INSURANCE TO BE COVERED BY BUYER 5)BUYER TO PROVIDE S/I LATEST BY 7TH AUGUST 2021 6) OTHER TERMS AND CONDITIONS A)AS PER SELLERS CONTRACT FOLLOW AND B)AS PER PORAM / MEOMA FOB CONTRACT NO 2 CURRENTLY IN FORCE
REMARKS	:

The parties shall not assign rights or transfer obligations without the prior written consent of the other party, provided that Olam International Limited shall be entitled to assign the rights and/or transfer the obligations under this agreement in whole or part in connection with the restructuring of Olam International Limited to separate the Olam Food Ingredients division and Olam Global Agri division from each other and from all other Olam International

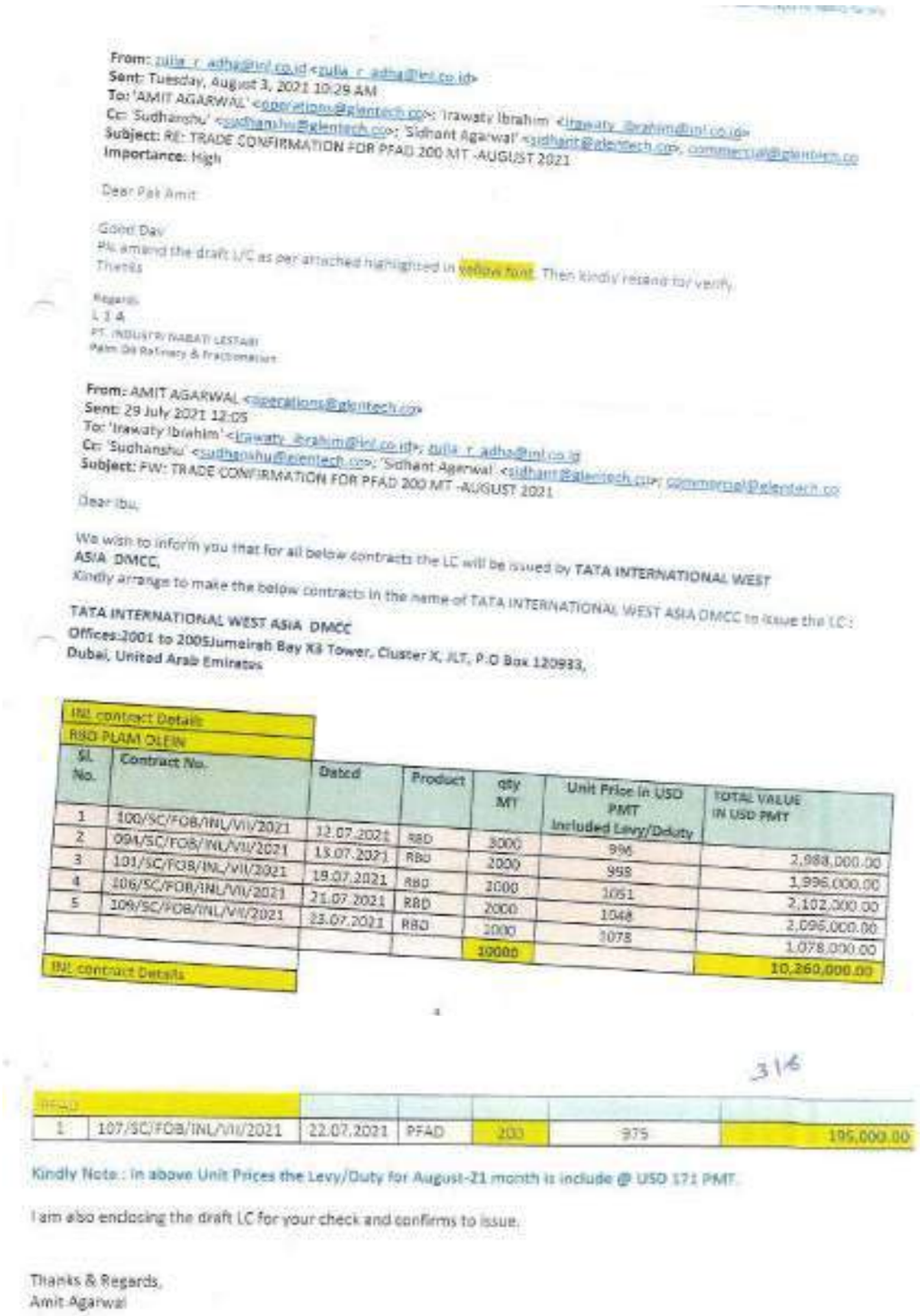
Page 1 of 2

OLAM INTERNATIONAL LIMITED
7 Straits View Marina One East Tower #20-01 Singapore 018936
Tel. 65 6339 4100 | Fax. 65 6339 9755 | www.olamonline.com
Reg. No.199504676-H

Image 43.: Scanned copy of one of Contract with M/s. Olam International Ltd. i.r.o. purchase of CPO.

6.2.3. Further page no. 315-317 of the said file produced by Shri Sidhant Agarwal, wherein an email is forwarded to irawaty_ibrahim@inl.co.id with CC: Sudhanshu@glentech, sidhant@glentech.co, commercial@ glentech.co, bearing subject Trade Confirmation for PFAD 200 MT- August -2021, wherein it is informed to INL by operations@glentech.co that: -

"We wish to inform that for all below contracts the LC will be issued by M/s. Tata International West DMCC, ……"



From: zulia_r_adha@inl.co.id <zulia_r_adha@inl.co.id>
Sent: Tuesday, August 3, 2021 10:29 AM
To: 'AMIT AGARWAL' <operations@glentech.co>; 'Irawaty Ibrahim' <irawaty_ibrahim@inl.co.id>
Cc: 'Sudhanshu' <sudhanshu@glentech.co>; 'Sidhant Agarwal' <sidhant@glentech.co>; commercial@glentech.co
Subject: RE: TRADE CONFIRMATION FOR PFAD 200 MT -AUGUST 2021
Importance: High

Dear Pak Amit

Good Day
Pls amend the draft L/C as per attached highlighted in yellow font. Then kindly resend for verify.
Thanks

Regards,
L I A
PT. INDUSTRI NABATI LESTARI
Palm Oil Refinery & Fractionation

From: AMIT AGARWAL <operations@glentech.co>
Sent: 29 July 2021 12:05
To: 'Irawaty Ibrahim' <irawaty_ibrahim@inl.co.id>; zulia_r_adha@inl.co.id
Cc: 'Sudhanshu' <sudhanshu@glentech.co>; 'Sidhant Agarwal' <sidhant@glentech.co>; commercial@glentech.co
Subject: FW: TRADE CONFIRMATION FOR PFAD 200 MT -AUGUST 2021

Dear Ibu,

We wish to inform you that for all below contracts the LC will be issued by **TATA INTERNATIONAL WEST ASIA DMCC.**
Kindly arrange to make the below contracts in the name of TATA INTERNATIONAL WEST ASIA DMCC to issue the LC:

TATA INTERNATIONAL WEST ASIA DMCC
Offices:2001 to 2005Jumeirah Bay X3 Tower, Cluster X, JLT, P.O Box 120933,
Dubai, United Arab Emirates

INL contract Details
RBD PLAM OLEIN

Sl. No.	Contract No.	Dated	Product	qty MT	Unit Price in USD PMT Included Levy/Duty	TOTAL VALUE IN USD PMT
1	100/SC/FOB/INL/VII/2021	12.07.2021	RBD	3000	996	2,988,000.00
2	99M/SC/FOB/INL/VII/2021	13.07.2021	RBD	2000	998	1,996,000.00
3	101/SC/FOB/INL/VII/2021	19.07.2021	RBD	2000	1051	2,102,000.00
4	106/SC/FOB/INL/VII/2021	21.07.2021	RBD	2000	1048	2,096,000.00
5	109/SC/FOB/INL/VII/2021	23.07.2021	RBD	2000	1078	1,078,000.00
				10000		10,260,000.00

INL contract Details

3\6

PFAD

1	107/SC/FOB/INL/VII/2021	22.07.2021	PFAD	200	975	195,000.00

Kindly Note : In above Unit Prices the Levy/Duty for August-21 month is include @ USD 171 PMT.

I am also enclosing the draft LC for your check and confirms to issue.

Thanks & Regards,
Amit Agarwal

Image 44: Scanned Copy of the E-mail i.r.o. trade confirmation of 200MT PFAD.

B. SCRUTINY OF LETTERS OF CREDIT, DEBIT ADVICE AND CHARTER PARTY AGREEMENT

6.2.4. The letters of Credit were issued by the Order of M/s. TIWA, UAE i.r.o. procurement of 8500MT Refined Bleached and Deodorised Palm Olein and 200 MT PFAD and 3500 MT CPO to be loaded on vessel MT FMT Gumuldur Voy 202109.

Page No. of file	***LC No./ Date***	***Beneficiary (In favour of)***	***i.r.o purchase of goods viz.,***
263 to 271	Letter of Credit, Ref 5940604359 dated 11.08. 2021 **[RUD No. 23]**	INL, Indonesia [at Kuala Tanjung]	2000MTs RBD Palmolein as per contract No. 094/SC/FOB/INL/ VII/2021 Revision I dtd 13.07.2021 3000MTS RBD Palmolein as per contract no. 100/SC/FOB/INL/ VII/2021 Revision -I dated 12.07.2021, 2000MTS RBD Palmolein as per. 101/SC/FOB/INL/VII/2021 Revision -I dated 21.07.2021, 1000MTS RBD Palmolein as per. 106/SC/FOB/VII/2021 Revision -I dated 21.07.2021, 200 MTS PALM FATTY ACID DISTILLATE (PFAD) IN BULK as per contract No.107/SC/FOB/ INL/VII/2021 dated 21.07.2021.
292	Letter of Credit Ref no. 5940604359 dated 12.08.2021 **[RUD NO 23]**	INL, Indonesia [at Kuala Tanjung]	1500MTS RBD Palmolein as per contract No. 106/SC/FOB/INL/ VII/2021 Revision -I dated 21.07.2021. (##Point 4 to be read as 1500MTs)
259 to 262	Letter of Credit Ref No. 5949604349 dated Aug 10, 2021 **[RUD No 23]**	M/s. Olam International Limited, Indonesia [at Dumai, Indonesia]	1500MT CRUDE PALM OIL (EDIBLE GRADE) IN BULK @ USD 1120 PMT and 2000MTS CRUDE PALM OIL (EDIBLE GRADE) IN BULK @ USD 1150 PMT incoterms: FOB DUMAI PORT, INDONESIA AS PER CONTRACTs No. EO/S/01212/21 dated 22.07.2021 and EO/S/01247/21 dated 03.08.2021, with origin: Indonesia.

Furthermore, the aforementioned LCs clearly mentions the incoterms: FOB Kuala Tanjung, Indonesia, and at Sr. No. 7 of said terms mentioning, *"Comingling of Cargo of Same Grade and Specification is allowed".*

From the cojoined reading of aforementioned contracts and Letters of Credit, it is revealed that M/s. GVPL Had entered into sale and purchase contract with INL for procurement of approx. 8500 MT of Refined Bleached and Deodorised Palm Olein and 200 MT of Palm Fatty Acid Distillate, and M/s TIWA DMCC, UAE with M/s. Olam International PTE Ltd. for about 3500 MTs CPO at Dumai, Indonesia. Further, the letters of Credit were issued by the Order of M/s. TIWA, UAE i.r.o. procurement/ purchase of 8500MT Refined

Bleached and Deodorised Palm Olein and 200 MT PFAD and 3500 MT CPO and loaded on vessel MT FMT Gumuldur Voy 202109.

6.2.5. Furthermore, a debit advice has been issued in this context by Citi bank dated 25.08.2021 by the Order of TIWA, UAE to beneficiary M/s. Telcom International Trading PTE Ltd., Singapore, which is owner of the Vessel MT FMT Gumuldur.

DEBIT ADVICE

DATE: 25-AUG-2021

OUTGOING PAYMENT

BY ORDER OF:

TATA INTERNATIONAL WEST ASIA DMCC

TATA INTERNATIONAL WEST ASIA DMCC

FIT-FMT-WIA FIRETRAM LAKES TOWERS

JUMEIRAH BAY TOWER X3, UNIT NO 3301

DUBAI, UNITED ARAB EMIRATES

CITIBANK'S REF : 3081321285

REMITTANCE AMOUNT : USD 454,180.54

REMITTER'S REF : 31711963

BENEFICIARY : 0030019356312

TELCOM INTERNATIONAL TRADING PTE LTD

68 AMOY STREET 23,

06-17, MIDVIEW BUILDING, SINGAPORE

069879

BEN BANK NAME:

DBS BANK LTD.

ORDERING EXECUTOR : TATA INTERNATIONAL WEST ASIA DMCC

FIRETRAM BAY TOWER X3, UNIT NO. 3301

DUBAI:

UNITED ARAB EMIRATES:

DETAILS OF PAYMENT:

TATA INTERNATIONAL WEST ASIA DMCC

INVOICE = IT-WA2019-0821

INPUT PURPOSE OF PAYMENT HERE

PLEASE BE ADVISED THAT WE HAVE DEBITED YOUR ACCOUNT NO. 3030019 VALUE 25-Aug-2021 REGARDING:

OUTGOING PAYMENT	USD	454,180.54
DEDUCTED CHARGE OUR COMMISSION		0.00
DEDUCTED CHARGE VAT		0.00
DEDUCTED CHARGE SWIFTACH		0.00
DEDUCTED CHARGE FOR SWIFT/CABLE		0.00
TOTAL AMOUNT DEBITED: USD		454,180.54

IN CASE OF ANY QUERIES PLEASE FEEL FREE TO CONTACT CITIBANKFILE AT +65 6239-2622 OR EMAIL AT

*Image45: Scanned image of Debit Advice by Order of M/s TIWA DMCC UAE to Beneficiary M/s. Telcom International Trading PTE Ltd., Singapore***.**

The said payment was i.r.o. the services utilized by M/s TIWA, UAE and M/ GVPL as per the charter party agreement dated 30.07.2021 between Charters: -

Performance Charter: M/s. GVPL, Singapore;

Payment Charter: M/s. TIWA, UAE.

&

Disponent Owners:M/s. Telcom International Trading Pte Ltd. or its nominee Relogistics Solution Pvt. Ltd., the vessel owner. Scanned copy of same is reproduced herein below: -

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TELCOM

CHARTERPARTY DTD : 30TH JULY 2021 AT SINGAPORE

CHRTRS :

Performance charter : GLENTECH VENTURES PTE LTD
101, Cecil Street, 323-12 Tong Eng Building,
Singapore 069533, Singapore
commercial@glentech.co; operations@glentech.co;

Payment Charter : Tata International west asia DMCC
Unit no: 2001 – 2005, Jumeirah Bay Tower X3, Plot no JLT-PH2
X3A, Jumeirah Lakes Towers, Dubai, United Arab Emirates
Tel: +9714 5149206
email: ravi.thakkar@tatainternational.com; amit.thakkar@tatainternational.com;

DEMURRAGE IF ANY TO BE BORNE BY GLENTECH VENTURES PTE LTD

DISPONENT OWNERS : TELCOM INTERNATIONAL TRADING PTE LTD OR ITS NOMINEE RELOGISTICS SOLUTION PTE LTD

VESSEL : MT FMT GUMULDUR
BUILT 2009, MALTA FLAG, ABS CLASS
14,368MT SDWT ON 8.695 M SDRAFT
LOA/BEAM 142.98M/21.70 M
MARINELINE 784 COATED CARGO TANKS / DECK STEAM HEATER

ITINERARY:

30-04 AUG	HALDIA (OTHER OPS + CREW CHANGE)
09-09 AUG	PORT KLANG (BUNKERS)
10-12 AUG	DUMAI (LOAD)
13-15 AUG	KUALA TANJUNG (LOAD)
16-18 AUG	SOUTHERN PORT, KRABI THAILAND (LOAD)
27-30 AUG	KANDLA (DISCHARGE)

(BSS AGW+WP+ WOG)

50, Bukit Batok Street 23, #06-11, Midview Building, Singapore 659578 Telephone: (65) 6515 5684 Fax: (65) 6316 4342
E-mail: telcom@telcom-int.com • Homepage: http://www.telcom-int.com

LAST 3 CARGOES :

TK	1ST LAST (TBC)	2ND LAST	3RD LAST
5LS	MTBE	GASOIL	LCCG
1P	PARAXYLENE	GTL LIGHT PARAFFIN	LINEAR ALKYL BENZENE
1S	PARAXYLENE	GTL LIGHT PARAFFIN	STYRENE MONOMER/DELETE
2P	PARAXYLENE	LINEAR ALKYL BENZENE	LINEAR ALKYL BENZENE
2S	PARAXYLENE	LINEAR ALKYL BENZENE	LINEAR ALKYL BENZENE
3P	PARAXYLENE	GTL LIGHT PARAFFIN	STYRENE MONOMER/DELETE
3S	PARAXYLENE	GTL LIGHT PARAFFIN	MTBE
4P	PARAXYLENE	LINEAR ALKYL BENZENE	LINEAR ALKYL BENZENE
4S	PARAXYLENE	LINEAR ALKYL BENZENE	LINEAR ALKYL BENZENE
5P	GTL LIGHT PARAFFIN	MTBE	EHC 110
5S	GTL LIGHT PARAFFIN	MTBE	EHC 110
6P	PARAXYLENE	LINEAR ALKYL BENZENE	LINEAR ALKYL BENZENE
6S	PARAXYLENE	LINEAR ALKYL BENZENE	LINEAR ALKYL BENZENE
7P	PARAXYLENE	GTL LIGHT PARAFFIN	BENZENE
7S	PARAXYLENE	GTL LIGHT PARAFFIN	MTBE

*VESSEL WILL NOT STOW ANY POP INTO COT 1S & 3P

FOR

P/CGO : 12,500MT 1-3 GRADE PALM OIL PRODUCTS WITH 5% MOLCO, IN BULK, AND AWVNS

(NO FREE MINERAL ACID CONTENT, WATER CONTENT IN CARGO TO BE LESS THAN 1%)

CARGO BREAKDOWN:

1.5KT CPO (DUMAI)

8.8KT OLEIN + 200MT PFAD (KUALA TANJUNG)

2KT CPO (SOUTHERN PORT, KRABI THAILAND

LOAD : 3SP 1SB KUALA TANJUNG, INDONESIA + DUMAI, INDONESIA + SOUTHERN PORT KRABI, THAILAND

DISCHARGE : 1SP 1SB KANDLA, INDIA

LAYCAN : 11-15 AUGUST 2021

FREIGHT : USD 41.00 PMT BASIS 3:1

OWNERS BANK ACCOUNT DETAILS AS BELOW:

NAME : TELCOM INTERNATIONAL TRADING PTE LTD

ACCOUNT NO : 0001-019356-01-2

SWIFT CODE : DBSSSGSGXXX

BANK : DBS Bank Ltd.

50, Bukit Batok Street 23, #06-11, Midview Building, Singapore 659578 Telephone: (65) 6515 5684 Fax: (65) 6316 4342
E-mail: telcom@telcom-int.com • Homepage: http://www.telcom-int.com

Image46: Charter Party dated 30.07.2021

According to the said charter Party agreement dated 30.07.2021 at Singapore was entered between vessel broker M/s. Telcom Singapore, M/s. GVPL (as performance charter), M/s. TIWA (as Payment Charterer), the said vessel undertook voyage as per below mentioned itinerary: -

"30-04 AUG Haldia (OTHER OPS+CREW CHANGE)
09-09 AUG PORT KLANG (BUNKERS)
10-12 AUG DUMAI (LOAD)
13-15 AUG KUALA TANJUNG (LOAD)
16-18 AUG SOUTHERN PORT, KRABI THAILAND (LOAD)
27-30 AUG KANDLA (DISCHARGE)
...
WITH CARGO BREAKDOWN:
1.5KT CPO (DUMAI)
8.8KT OLEIN + 200 MT PFAD (KUALA TANJUNG)
2KT CPO (SOUTHERN PORT, KRABI THAILAND)
.....
.....
-SWITHCING CLAUSE
"OWNER TO ISSUE SECOND SET (GLOBAL) BILLS OF LADING IN SIGAPORE OR ANY OTHER PLACE REQUIRED BY CHARTERRES THROUGH AGENT NOMINATED BY OWNERS AT THE COST WHICH IS TO BE MUTUALLY AGREED WITH CHARTERES. ONCE THE FULL FIRST SET (LOCAL) BILLS OF LADING ARE SURRENDERED TO VESSEL OWNERS ARE OT ISSUE/ RELEASE THE SECOND SET (GLOBAL) BILLS OF LADING TO CHARTERER WITHIN 24 HOURS SIMULTANEOUSLY. OWNER WILL EMAIL A SIGNED NON NEGOTIABLE COPY OF SECOND (GLOBAL) SET BILLS OF LADING TO CHARTERER FOR FILING MANIFEST ONLY WITH INDIAN CUSTOMS, SWITCH BL COST WILL BE ON CHARTERES ACCOUNT."

C. Original Bills of Lading raised by the Master of vessel at ports of Indonesia

6.2.6. Furthermore, the Tanker Bill of Lading No. KTG/DEE/01 (to be used with charter-parties) issued at Kuala Tanjung Indonesia at 17-08-2021 by Capt. Sanjay Kumar **[Pg. 239 of RUD No. 2]** i.r.o. 2000MT RBD Palm Olein in Bulk, 3000 MT RBD Palm Olein in Bulk, 2000MT RBD Palm Olein in Bulk, 1400.309 MT RBD Palm Olein in Bulk as per contracts no. 094/ SC/FOB/INL/VII/2021 dated 13.07.2021, 100/ SC/FOB/INL/VII/2021 dated 12.07.2021, 101/ SC/FOB/INL/VII/2021 dated 19.07.2021, 106/SC/FOB/INL/VII/2021 REVISION I dated 21.07.2021 stowed in 1P, 2P, 2S, 3S, 4P, 6P, 7P and 7S respectively, freight payable as per charter party agreement dated 31.07.2021, and the Tanker Bills of Lading No. KTG/DEE/02 (to be used with charter- parties) issued at Kuala Tanjung Indonesia at 16-08-2021 by Capt. Sanjay Kumari.r.o. 200MT PFAD in Bulk as per Contract No. 107/SC/FOB/INL/VII/2021 dated 22.07.2021. These B/Lswhich clearly shown respective quantity i.e. 8400.309 MT RBD Palm Olein, and 200 MT PFAD were loaded on the Vessel MT FMT Gumuldur VOY 202109 on 16-17 Aug, 2021 respectively. Herein below is reproduction of scanned image of such

B/Ls: - --

239

TANKER BILL OF LADING B/L No. KTG/DEE/02

TO BE USED WITH CHARTER-PARTIES

Shipper
PT. INDUSTRI NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS-SEI MANGKE),
KAV.2-3,KEL SEI MANGKEI KEC BOSAR MALIGAS
KAB. SIMALUNGUN, SUMATERA UTARA, 21184, INDONESIA

Consignee
TO ORDER OF CITIBANK N. A., SINGAPORE BRANCH

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
OFFICES 2001 TO 2005 JUMEIRAH BAY X3 TOWER, CLUSTER X,
JLT, P.O BOX 123003, DUBAI, UNITED ARAB EMIRATES

FIRST ORIGINAL

Vessel	Port of loading
MT. FAST GUMULDUR VOY 202109	KUALA TANJUNG PORT, INDONESIA

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Shipper's description of goods

Gross Weight
200 MT

200,000 MTS PALM FATTY ACID DISTILLATE (PFAD) IN BULK
AS PER CONTRACT NO.107/SC/FOB/MUL/IN/2021 DATED: 22.07.2021

CLEAN ON BOARD
DATE : 16TH AUGUST 2021
FREIGHT PAYABLE AS PER CHARTER PARTY
FOB KUALA TANJUNG PORT, INDONESIA

VESSEL IMO NO. 9427076
H.S. CODE: 3823.19.20

OCEAN CARRIAGE STOWAGE: SLOP C

(all which ... on deck at Shipper's risk, the Carrier not being responsible for loss or damage howsoever arising)

Freight payable as per CHARTER PARTY DATED 31TH JULY 2021

Received on account of freight :

Time used for loading ..... days ..... hours.

SHIPPED at the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as the may safely get the goods specified above.
Weight, measure, quality, quantity, condition, contents and value unknown.
IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all this tenor and date, any one of which being accomplished the others shall be void.

FOR CONDITIONS OR CARRIAGE SEE OVERLEAF

Freight payable at	Place and Date of Issue
	KUALA TANJUNG, INDONESIA, 16TH AUGUST 2021
Number of original Bs/L	Signature
THREE (3)	AS AGENTS FOR AND ON BEHALF OF THE MASTER - SANJAY KUMAR

Image47 : Scanned copy of Original B/L No. KTG/DEE/02 dated 16.08.2021 at Kuala Tanjung, Indonesia i.r.o loading of 200MT PFAD

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TANKER BILL OF LADING B/L No. KTG/DEE/01

TO BE USED WITH CHARTER-PARTIES

Shipper
PT INDUSTRI NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS-SEI MANGKEI,
KAV.2-3, KEL.SEI MANGKEI KEC.BOSAR MALIGAS,
KAB. SIMALUNGUN, SUMATERA UTARA, 21164, INDONESIA

Consignee
TO ORDER OF CITIBANK N. A., SINGAPORE BRANCH

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
OFFICES 2001 TO 2005 JUMEIRAH BAY X3 TOWER, CLUSTER X,
JLT, P.O BOX 120833, DUBAI UNITED ARAB EMIRATES

FIRST ORIGINAL

Vessel	Port of loading
MT. FMT GUMULDUR VOY.202109	KUALA TANJUNG PORT, INDONESIA

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Shipper's description of goods — Gross Weight 8400.309 MT

2000.000 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK
AS PER CONTRACT NO.094/SC/FOB/INL/VII/2021 REVISION I DATED:13.07.2021

3000.000 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK
AS PER CONTRACT NO.100/SC/FOB/INL/VII/2021 REVISION I DATED: 12.07.2021

2000.000 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK
AS PER CONTRACT NO.101/SC/FOB/INL/VII/2021 REVISION I DATED: 15.07.2021

1400.309 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK
AS PER CONTRACT NO.106/SC/FOB/INL/VII/2021 REVISION I DATED: 21.07.2021

CLEAN ON BOARD
DATE : 17TH AUGUST 2021
FREIGHT PAYABLE AS PER CHARTER PARTY
FOB KUALA TANJUNG PORT, INDONESIA

VESSEL IMO NO. 9427978
H.S. CODE: 1511.90.37

OCEAN CARRIAGE STOWAGE: 1P,2P,2S,3S,4P, 6P,6S,7P AND 7S

(all which ... on deck at Shipper's risk; no Carrier not being responsible for loss or damage however arising)

Freight payable as per CHARTER PARTY DATED 31TH JULY 2021

SHIPPED in the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as she may safely get the goods specified above.
Weight, measure, quality, quantity, condition, contents and value unknown.
IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

Received on account of freight :

FOR CONDITIONS OR CARRIAGE SEE OVERLEAF

Time used for loading.....days.....hours.

Freight payable at	Place and date of issue
	KUALA TANJUNG, INDONESIA 17TH AUGUST 2021
Number of original Bs/L	Signature
THREE (3)	AS AGENTS FOR AND ON BEHALF OF THE MASTER SANJAY KUMAR

Image 48 : Scanned copy of Original B/L/ No. KTG/ DEE/01 dated 17.08.2021 at Kuala Tanjung, Indonesia on the vessel MT FMT Gumuldur 202109 i.r.o. loading of 8400.309 MT of RBD Palmolein

6.2.7 Further, as per the Tanker Bill of Lading No. DMI/DEE/03 dated 12.08.2021 (to be used with charter-parties) issued at Dumai Port, Indonesia by Capt. Sanjay Kumar i.r.o. 1999.971 MT of CPO (Edible Graded) in Bulk Stowed in 4S, 5P and 5S **[Pg. 235 of RUD No. 23**] Tanker Bill of Lading No. DMI/DEE/02 dated 12.08.2021 (to be used with charter-parties) issued at Dumai Port, Indonesia by Capt. Sanjay Kumar i.r.o 1000 MT of CPO (Edible Graded) in Bulk stowed in 4S, 5P and 5S [**Pg 233 of RUD No 23**],which clearly shows thatthe actual quantity of CPO loaded at DUMAI Port, Indonesia was 2999.971MT only. Below are the scanned images of such B/Ls: -

(233)

CODE NAME 'CONGENBILL' EDITION 1994

TANKER BILL OF LADING B/L No. DMI / DEE / 02

TO BE USED WITH CHARTER-PARTIES

Shipper
PT EKA DURA INDONESIA
JL.PULO AYANG RAYA BLOK OR-1
KAWASAN INDUSTRI PULOGADUNG
JAKARTA 13930, INDONESIA

FIRST ORIGINAL

Consignee
TO ORDER OF CITIBANK N.A., SINGAPORE

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
OFFICES:2001 TO 2005 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, P.O BOX 120933,
DUBAI, UNITED ARAB EMIRATES

Vessel	Port of loading
MT. FMT GUMULDUR VOY 202109	DUMAI PORT, INDONESIA

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Shipper's description of goods	Gross Weight
CRUDE PALM OIL (EDIBLE GRADE) IN BULK	1000 MT
"SHIPPED CLEAN ON BOARD" DATED 12TH AUGUST 2021	
FREIGHT PAYABLE AS PER CHARTER PARTY	
H.S. CODE: 15111000	
VESSEL IMO NO. 9427976	
OCEAN CARRIAGE STOWAGE: 4S, 5P AND 5S	

This shipment of 1000 Liquid Metric Tons was loaded on the Vessel as part of one original lot of 3499.714 Liquid Metric Tons stowed in 4S, 5P AND 5S with no segregation as to parcels. For the whole shipment 03 (THREE) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

(of which ... on deck at Shipper's risk; the Carrier not being responsible for loss or damage however arising)

Freight payable as per CHARTER PARTY 30TH JULY 2021

Received on account of freight :

Time used for loading ..... days ..... hours.

SHIPPED at the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as she may safely get the goods specified above.
Weight, measure, quality, quantity, condition, contents and value unknown.
IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all this tenor and date, any one of which being accomplished the others shall be void.

FOR CONDITIONS OR CARRIAGE SEE OVERLEAF

Freight payable at	Place and date of issue
	DUMAI PORT, INDONESIA 12TH AUGUST 2021
Number of original B/Ls	Signature
THREE (3)	AS AGENTS FOR AND ON BEHALF OF THE MASTER CAPT. SANJAY KUMAR

Image 49.: Scanned copy of Original B/L No. DMI/DEE/02 dated 12.08.2021 at DUMAI, Indonesia on Vessel MT FMT GUMULDUR 202109 i.r.o. loading of 1000 MT of CPO

TANKER BILL OF LADING B/L No. DMI/DEE/03

TO BE USED WITH CHARTER-PARTIES

Shipper
PT. SUMBER TANI AGUNG RESOURCES
JL. PANGERAN DIPONEGORO NO. 51
MADRAS HULU MEDAN POLONIA,
KOTA MEDAN SUMATERA UTARA 20152, INDONESIA

FIRST ORIGINAL

Consignee
TO ORDER OF CITIBANK N.A., SINGAPORE

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
OFFICES:2001 TO 2005 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, P.O BOX 120933,
DUBAI, UNITED ARAB EMIRATES

Vessel	Port of loading
MT. FMT GUMULDUR VOY 202109	DUMAI PORT, INDONESIA

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Shipper's description of goods	Gross Weight
CRUDE PALM OIL (EDIBLE GRADE) IN BULK	1999.971 MT

SHIPPED CLEAN ON BOARD DATED 12TH AUGUST 2021

FREIGHT PAYABLE AS PER CHARTER PARTY

H.S. CODE: 15111000

VESSEL IMO NO. 9427979

OCEAN CARRIAGE STOWAGE : 4&5P AND 5S

This shipment of 1999.971 Liquid Metric Tons was loaded on the Vessel as part of one original lot of 3499.714 Liquid Metric Tons stowed in 4&5P AND 5S with no segregation as to parcels. For the whole shipment 03 (THREE) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

(of which ... on board of Shipper's POL the Carrier not ... for any responsibility for loss or damage however arising.)

Freight payable as per CHARTER PARTY 30TH JULY 2021

Received on account of freight :

Time used for loading ..... days ..... hours.

SHIPPED in the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as she may safely get the goods specified above.
Weight, measure, quality, quantity, condition contents and value unknown.
IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

FOR CONDITIONS OR CARRIAGE SEE OVERLEAF

Freight payable at	Place and date of issue
	DUMAI PORT, INDONESIA 12TH AUGUST 2021
Number of original Bs/L	Signature
THREE (3)	AS AGENTS FOR AND ON BEHALF OF THE MASTER, CAPT. SANJAY KUMAR

Image 50: Scanned copy of Original B/L No. DMI/DEE/03 dated 12.08.2021 at Port of Loading: Dumai, Indonesia i.r.o. 1999.971 MT CPO on Vessel MT FMT GUMULDUR 202109.

E. Switched/Manipulated Bills of Lading raised for the purpose of production before Indian Customs

6.2.8. As per the switching cause of the tripartite agreement entered between the vessel broker, M/s. TIWA, M/s. GVPL, it appears that the aforementioned Bills of Lading viz., were switched and a second set of Bills of Lading[switch B/L] bearing No. KTG/DEE-01 to KTG/DEE-51 [TO BE USE WITH CHARTER PARTIES] were issued by Capt. Sanjay Kumar.

6.2.9 Out of the switch B/Ls No. KTG/DEE-01 to KTG/DEE-51, B/L No. KTG/DEE/01 to 14 dated 12.08.2021 were i.r.o. 245 MTs CPO each showing loading of same at DUMAI, Indonesia. A sample of such B/L is as under: -

FIRST ORIGINAL

TANKER BILL OF LADING
B/L No. KTG/DEE/09

TO BE USED WITH CHARTER-PARTIES

Shipper
TATA INTERNATIONAL WEST ASIA DMCC
OFFICE3-2301 TO 2305 JUMEIRAH BAY X3 TOWER,
CLUSTER X, J.L.T, P.O BOX 120893,
DUBAI, UNITED ARAB EMIRATES

Consignee
TO ORDER

Notify address
TATA INTERNATIONAL LTD
OFFICE NO. 11, GROUND FLOOR, PLOT NO.40, SECTOR NO.8
GANDHIDHAM KACHCHH, GUJRAT, 370201, INDIA

Vessel Port of loading DUMAI PORT, INDONESIA
MT. FMT GUMULDUR VOY 202109

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Shipper's description of goods
CRUDE PALM OIL (EDIBLE GRADE) IN BULK

Gross Weight
245.00 MTS

IEC:0308024191
GST :24AAACT3199F1ZE
PAN:AAACT3199F
EMAIL:RAVI.THAKKAR(AT)TATAINTERNATIONAL.COM
M.S. CODE: 1811066
VESSEL IMO NO. 9407976

"FREIGHT PREPAID"

CLEAN ON BOARD

THIS SHIPMENT OF 245.000 METRIC TONS WAS LOADED ON BOARD THE VESSEL AS PART OF ONE ORIGINAL LOT OF 12100.023 METRIC TONS STOWED IN TANKS 1P,2P,2S,3S,4P,4S,5P,5S,6P,6S,7P,7S AND SLOP C WHERE 3499.714 METRIC TONS WAS COMMINGLED INTO THE SAME TANKS ON 21ST AUGUST 2021, 200.000 METRIC TONS, 8400.309 METRIC TONS THAT WAS LOADED INTO THE SAME TANKS AT KUALA TANJUNG ON 16TH AUGUST 2021 AND 17TH AUGUST 2021 WITH NO SEGREGATION AS TO PARCELS. FOR THE WHOLE SHIPMENT 51 SETS OF BILL OF LADING HAVE BEEN ISSUED, FOR WHICH THE VESSEL IS RELIEVED FROM ALL RESPONSIBILITIES TO THE EXTENT IT WOULD BE IF ONE SET ONLY WOULD HAVE BEEN ISSUED. THE VESSEL UNDERTAKES TO DELIVER ONLY THAT PORTION OF THE CARGO ACTUALLY LOADED UNDER THIS B/L, WHICH IS REPRESENTED BY THE PERCENTAGE THAT THE TOTAL AMOUNT SPECIFIED IN THE BILL(S) OF LADING BEARS TO THE TOTAL OF THE COMMINGLING SHIPMENT DELIVERED AT DESTINATION. NEITHER THE VESSEL, NOR THE OWNERS ASSUME ANY RESPONSIBILITY FOR THE CONSEQUENCES OF SUCH COMMINGLING NOR FOR THE SEPARATION THEREOF AT THE TIME OF DELIVERY.

(of which ... on deck at Shipper's risk; the Carrier not ...)

...arter party dated 30 July 2021

SHIPPED at the Port of Loading in apparent good order and ...

Received on account of freight:

Time used for loading ... days ... hours.

Freight payable at

Number of original Bill/L

THREE (3)

Place and date of issue
SINGAPORE AS AT DUMAI PORT, INDONESIA, 12TH AUGUST 2021

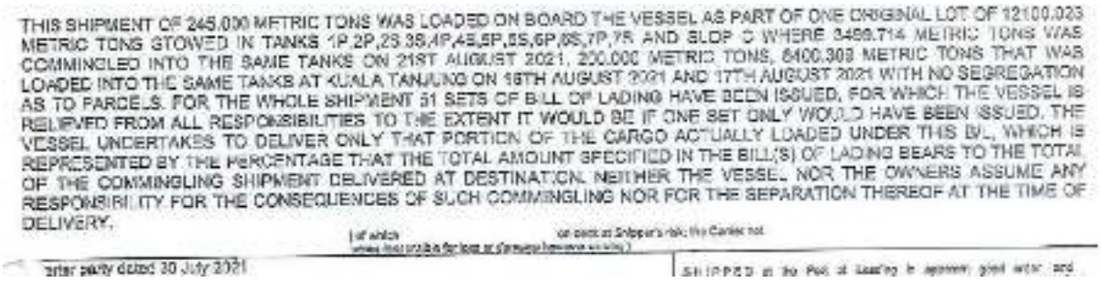
Signature

AS AGENTS FOR AND ON BEHALF OF THE MASTER,
CAPT. SANJAY KUMAR

Image 51 : Scanned copy of switched B/L No. KTG/DEE/09 dated 12.08.2021

6.2.10 Similarly, Bill of Lading no. KTG/DEE/15 dated 12.08.2021 is i.r.o. 69.714MTs CPO showing loading of same at DUMAI, Indonesia issued by Capt. Sanjay Kumar;

Further, out of switch B/L No. KTG/DEE-01 to KTG/DEE-51, B/L No. KTG/DEE/16 to 50 dated 17.08.2021 are for 245 MTs CPO each at Kuala Tanjung, KTG/DEE/51 dated 17.08.2021 is for 25.309MT CPO at Kuala Tanjung, Indonesia were issued by Capt. Sanjay Kumar, mentioning: -



THIS SHIPMENT OF 245.000 METRIC TONS WAS LOADED ON BOARD THE VESSEL AS PART OF ONE ORIGINAL LOT OF 12100.023 METRIC TONS STOWED IN TANKS 1P,2P,2S,3S,4P,4S,5P,5S,6P,6S,7P,7S AND SLOP C WHERE 3499.714 METRIC TONS WAS COMMINGLED INTO THE SAME TANKS ON 21ST AUGUST 2021, 200.000 METRIC TONS, 8400.309 METRIC TONS THAT WAS LOADED INTO THE SAME TANKS AT KUALA TANJUNG ON 16TH AUGUST 2021 AND 17TH AUGUST 2021 WITH NO SEGREGATION AS TO PARCELS. FOR THE WHOLE SHIPMENT 51 SETS OF BILL OF LADING HAVE BEEN ISSUED, FOR WHICH THE VESSEL IS RELIEVED FROM ALL RESPONSIBILITIES TO THE EXTENT IT WOULD BE IF ONE SET ONLY WOULD HAVE BEEN ISSUED. THE VESSEL UNDERTAKES TO DELIVER ONLY THAT PORTION OF THE CARGO ACTUALLY LOADED UNDER THIS B/L, WHICH IS REPRESENTED BY THE PERCENTAGE THAT THE TOTAL AMOUNT SPECIFIED IN THE BILL(S) OF LADING BEARS TO THE TOTAL OF THE COMMINGLING SHIPMENT DELIVERED AT DESTINATION. NEITHER THE VESSEL, NOR THE OWNERS ASSUME ANY RESPONSIBILITY FOR THE CONSEQUENCES OF SUCH COMMINGLING NOR FOR THE SEPARATION THEREOF AT THE TIME OF DELIVERY.

(of which ... on deck at Shipper's risk; the Carrier not ...)

...arter party dated 30 July 2021

SHIPPED at the Port of Loading in apparent good order and ...

Perusal of the said B/L clearly shows that the said quantity 245Mts was loaded on board vessel MT FMT Gumuldur Voy. 202109 as part of one lot of 12100.023MT stowed in tanks *1P, 2P, 2S, 3S, 4P, 48, 5P, 5S, 6P, 6S, 7P, 78 AND SLOP C WHERE* 3499.714 METRIC TONS WAS COMMINGLED INTO THE SAME TANKS ON 21ST AUGUST 2021, 200.000 METRIC TONS, 8400.309 METRIC TONS THAT WAS LOADED INTO THE SAME TANKS AT KUALA TANJUNG ON 16TH AUGUST 2021 AND 17TH AUGUST 2021as per charter party dated 30.07.2021.

F. Sale of total 12100.023 MT of admixture (CPO, RBD and PFAD) to M/s TIL by mentioning the Goods as CPO.

6.2.11 Page No. 229 is copy of an invoice bearing No. PCSDK02078 dated 12.08.2021 which was raised by M/s. TIWA to M/s. TIL, with mention of description of goods: Crude Palm Oil, Qty: 12100.023 MTs of CPO and B/L No. KTG/DEE-01 to KTG/DEE-51. Scanned copy of the said invoice is produced herein below : -

229

TATA

TATA INTERNATIONAL WEST ASIA DMCC
2001 TO 2005 JUMEIRAH BAY X3 TOWER, CLUSTER X, JLT
P.O BOX 120933, DUBAI, UNITED ARAB EMIRATES

COMMERCIAL INVOICE

TO:

TATA INTERNATIONAL LIMITED
OFFICE NO. 11, GROUND FLOOR, NO.
40, SECTOR NO. 8, GANDHIDHAM,
KACHCHH, GUJARAT- 370201
INDIA
IEC: 0388024291
GSTIN: 24AAACT3198F1ZE

INVOICE NO	: PCSDK02078
INVOICE DATE	: 12/08/2021
BILL OF LADING NO.	: KTG/DEE - 01 TO KTG/DEE - 51
SHIPMENT DATE	: 12/08/2021
VESSEL NAME	: MT. FMT GUMULDUR VOY 202109
PORT OF LOADING	: DUMAI PORT , INDONESIA
PORT OF DISCHARGE	: DEENDAYAL PORT, KANDLA
PAYMENT TERM	: CASH AGAINST DOCUMENTS

NO	DESCRIPTION OF GOODS	QTY (MT)	UNIT PRICE CFR (USD)	TOTAL VALUE CFR (USD)
	CRUDE PALM OIL (EDIBLE GRADE) IN BULK H.S. CODE: 15111000	12100.023	1179.07	14,266,774.118
				14,266,774.118

: DOLLAR- FOURTEEN MILLION TWO HUNDRED SIXTY-SIX THOUSAND SEVEN HUNDRED SEVENTY-FOUR AND CENTS ONE HUNDRED EIGHTEEN.

FOR TATA INTERNATIONAL WEST ASIA DMCC

TATA INTERNATIONAL WEST ASIA DMCC LIC No. DMCC 087222

AUTHORISED SIGNATORY

DUBAI CHAMBER

COO #: 20834785
COO Date: 31-Aug-2021
Invoice #: PCSDK02078
Invoice Date: 12-Aug-2021

Image 52: Scanned copy of invoice dated 12.08.2021

6.2.12. From the scrutiny of the above documents as mentioned from A to F viz., sales-purchase contracts, LC, Bills of Lading (original as well as switched), invoices, etc as discussed herein above, it is safe to conclude that the goods viz. 8400.309 MT RBD Palm Olein, 200MT PFAD were procured/purchased by M/s. TIWA in Indonesia from M/s. INL and loaded on the vessel at Kuala Tanjung, Indonesia on 16-17 August, 2021 and the goods viz., 2999.971 MT of Crude Palm Oil (Edible Grade) in Bulk was loaded on the vessel at Dumai Port, Indonesia on 12 August, 2021 on the vessel MT FMT Gumuldur Voy 202109; that the comingling of cargo was carried out and the Original Bills of Lading were switched into the second (Global) set of Bills of Lading analogous to the process of blending/ comingling carried out in MT Distya Pushti. From the above, it is amply clear that switch B/L are meticulously prepared showing different quantities of goods, viz. 12100.02 MT of CPO loaded at different ports in Indonesia which is nothing but aggregate of 3499.71 MT CPO, 8400.309 MT RBD Palmolein and 200 MT PFAD loaded at Dumai and Kuala Tanjung Port of Indonesia respectively. However, as per the itinerary of the vessel MT FMT Gumuldur V.202109 the said vessel was at Dumai Port around 10-12th August for loading 1.5MT CPO, the vessel was at Kuala Tanjung around 13-15th August, 2021 for loading 8.8MT Olein + 200 MT PFAD. The Original Bills of lading at Kuala Tanjung were i.r.o. RBD Palmolein and PFAD, these BL were switched with new set of BL's showing description of goods as CPO were issued by vessel owner. It is therefore, safe to conclude that the sales contracts were for procurement of CPO, RBD Palmolein PFAD, invoices and Bills of Lading were issued i.r.o respective goods at ports at Indonesia, that the blending took place during the voyage of the vessel, and new set of BL showing entire goods as CPO were issued with an intent to mis-declare the goods at discharge port and evade duties of customs at the port of discharge, i.e. Kandla.

SCRUITNY OF DOCUMENTS I.R.O. IMPORT OF GOODS VIDE VESSEL MT HONG HAI6 V.2106

6.2.13. During investigation, statements of the various concerned persons were recorded wherein they produce various documents which reveal that M/s. TIL had filed the following Warehouse (W.H.) B.Es for import of total 15462.07MTs of cargo by declaring the same as CPO imported vide vessel MT Hong Hai6 V.2106.The details is as below:

Sl. No.	CUSTOM HOUSE CODE	W.H. BE NUMBER	BEDATE	DESCRIPTION OF GOODS MENTIONED IN THE W.H. B.E.	QUANTITY	UQC
1	INIXY1	5916265	20-10-2021	CRUDE PALM OIL OF (EDIBLE GRADE) IN BULK	65.52	MTS
2	INIXY1	5916292	20-10-2021	CRUDE PALM OIL OF (EDIBLE GRADE) IN BULK	6448	MTS
3	INIXY1	5916285	20-10-2021	CRUDE PALM OIL OF (EDIBLE GRADE) IN BULK	3220.2	MTS
4	INIXY1	5916291	20-10-2021	CRUDE PALM OIL OF (EDIBLE GRADE) IN BULK	5728.35	MTS
				Total	**15462.07**	**MTS**

6.2.14. Further, as per the statement and scrutiny of documents produced by Shri Sachin Deshpande, Executive of M/s. TIL during recording of his statement dated 06.01.2022, 07.01.2022 and letter dated 08.01.2022 and as per the statement and scrutiny of documents produced by Shri Sidhant

Agarwal, Director of M/s. GIPL dated 28.01.2023 and 29.01.2023, it is revealed that they had actually imported the following cargo vide MT HONG HAI6 VOY.2106 as below: -

VESSEL NAME	Letter of Credit (LC)	SELLER	COMMODITY loaded at load Port	QTY (MTs)	SUPPLIER	LOAD PORT	Warehouse Bill of Entry no.	Bill of Entry date	Description of imported goods declared in bill of entry	QTY (MTs)
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
MT HONG HAI6 VOY. 2106	YUDOCB212024/25/26 dated 20.09.2021 **[RUD No23]**	M/s. TISPL	RBD PALM OLEIN	6513.520		KUALA TANJUBG, INDONESIA	5916265, 5916285, 5916291 & 5916292	20.10.2021	CPO	15462.070
			CPO	8948.550		Phuket, Thailand				
			Total	**15462.070**						

6.2.15. During therecording of the statement of Shri Sidhant Agarwal, Director of M/s. GIPL, a file containing Page No. 1 to 439 **[RUD No. 24]** consisting of various documents viz., invoices, sales-purchase contracts, Bills of Lading, LC etc. in respect of purchase and import of cargo vide vessel MT Hong Hai6 V.2109 was produced. The scrutiny of said documents is discussed herein as below: -

A. SCRUTINY OF SALES/PUCHASE CONTRACTS:

M/s. GVPL / M/s. TIWA, UAE / M/s. TISPL had entered into the following contract nos. with Sellers at Indonesia and Thailand to procure respective goods as per below mentioned table:-

Pg no. of file	Product Description	Quantity	Contract No. and date	Contract/Agreement Between
491 to 495	Refined Bleached and Deodorised Palm Olein (RBD Palmolein)	600 MT	106B/SC/FOB/INL/VII/2021 Revision I dated 21.07.2021 **[RUD No. 24]**	M/s. GVPL and INL, Indonesia. Revised to Buyer - M/s TISPL, Singapore
	Refined Bleached and Deodorised Palm Olein (RBD Palmolein)	1,000 MT	109/SC/FOB/INL/VII/2021 dated 23.07.2021 and revised vide 109/SC/FOB/INL/VII/2021 REVISION II dated 23.07.2021 **[RUD No.24]**	M/s. GVPL and INL, Indonesia. Revised to Buyer - M/s. TISPL and M/s. INL, Indonesia

497 to 501	Refined Bleached and Deodorised Palm Olein (RBD Palmolein)	4,913 MT	120/SC/FOB/INL/VIII/ 2021 dated 16.08.2021 **[RUD No.23]**	M/s. TISPL and INL, Indonesia.
507 to 513	Crude Palm Oil, in Bulk	2,000 MT	Sales Agreement No. BSO640113 dated 23.07.2021 revision date 17.08.2021 **[RUD No.24]**	M/s. Thana Palm Products Company Limited, Thailand and M/s. TISPL/signed M/s. GVPL
515 to 519	Crude Palm Oil, in Bulk	1,000 MT	Sales Agreement No. BSO640138 dated 27.08.2021 **[RUD No.24]**	M/s. Thana Palm Products Company Limited, Thailand and M/s. TISPL/signed by M/s. GVPL
503	Crude Palm Oil (CPO)	About 4,000 MT	CPO2564/00362 dated 01.09.2021 **[RUD No.24]**	M/s. TISPL and Tha Chang Oil Palm Industries Co. Ltd. Thailand
505	Crude Palm Oil (CPO)	About 2,000 MT	CPO 2564/00366 dated 08.09.2021 **[RUD No.24]**	M/s. TISPL and Tha Chang Oil Palm Industries Co. Ltd. Thailand

From the perusal of the above contracts, it is revealed that M/s. GVPL had entered into sale and purchase contract with M/s. INL (M/s. INL), Kuala Tanjung, Indonesia for procurement of approx. 6513 MT of Refined Bleached and Deodorised Palm Olein i.r.o. imports vide vessel MT Hong Hai6 V. 2106. Further, it is also gathered that initially these contracts were between M/s GVPL & M/s. INL, Indonesia; that these contracts were revised in so much that the name of the buyer was changed to M/s. TIWA later. Further, it is also gathered that M/s. TIWA had entered into sales Contract No. with Seller M/s Thana Palm Products Company Limited, Thailand for purchase of 3000 MT of Crude Palm Oil (CPO). M/s. TIWA also entered into purchase contract with M/s. Tha Chang Oil Palm Industries Co. Ltd., Thailand to procure/purchase approx. 6000 MTs of CPO. Scanned images of one of the contracts i.r.o. RBD Palmolein and CPO each are reproduced herein below: -

CONTRACT FOR SALE & PURCHASE
DATE: 2021/07/21
Contract Number: 106B/SC/FOB/INL/VII/2021
Revision 1

Buyer : TATA INTERNATIONAL SINGAPORE PTE LIMITED
Address : 1 HARBOURFRONT AVENUE #10-01 KEPPEL BAY TOWER SINGAPORE 098632

Seller: PT. INDUSTRI NABATI LESTARI
Address: Komp. Kawasan Ekonomi Khusus - Sei Mangkei, Kec 2-3 Kel. Sei Mangkei, Kec. Bosar Maligas, Kab. Simalungun, Sumatera Utara, 21184, Indonesia

This contract is made by and between the Buyer and Seller whereby the Buyer agrees to buy and the Seller agrees to sell the under mentioned goods on the terms and conditions stated below:

1. QUANTITY AND DESCRIPTION OF THE GOODS

SHIPMENTS	PRODUCT DESCRIPTION	QUANTITY	UNIT PRICE (USD)	TOTAL AMOUNT (USD)
September 2021	Refined Bleached and Deodorized Palm Olein	600.00 MT (+/- 5%)	1,091.00	654,600.00

The goods hereinafter complying with the following specifications:

PARAMETER	Specification
Free Fatty Acid (As Palmitic Acid)	0.10 % Max
M & I	0.10 % Max
I.V (Wijs)	56 Min
Melting Point degrees C (Apea Cc 3-25)	24 Max
Color (5 1/4" Lovibond Cell)	3 Red Max

2. PACKING : IN BULK
3. PORT OF LOADING : KUALA TANJUNG, INDONESIA
4. PORT OF DESTINATION : To Be Advice with shipping instruction
5. SHIPMENT INCOTERM : FOB, Kuala Tanjung Port, Indonesia

The goods should be shipped before 30 September 2021
Partial shipment is allowed. Transhipment is not allowed

6. Quality and Weight
6.1 Seller to appoint surveyor for quality (COA) and quantity (weight) determination surveyor is

Page 1 of 8

Image53. Copy of contract with M/s. INL, Indonesia for procurement of RBD

THA CHANG OIL PALM INDUSTRIES CO., LTD.

79 MOO 3 THACHANG SURAT THANI THAILAND 84150

TEL: +66 77 277777 FAX: +66 77 277799

CPO256010352 September 1, 2021

TO: TATA INTERNATIONAL SINGAPORE PTE LIMITED

Address : 11 KEPPEL ROAD #10-03 ABI PLAZA

SINGAPORE-089057

Dear Sir, We confirm having today sold to you as follows:-

GOODS: Crude Palm Oil (CPO)

QUANTITY: ABOUT 4,000.00 MT

PACKING Tank Car (No container and Flexitbag)

PRICE: 1,160.00 USD/MT FOB, Phuket,Thailand

AMOUNT: ABOUT 4,640,000.00 USD

SHIPMENT: September 2021

PAYMENT: LC at sight

The seller and the buyer agreed to use seller weight as final weight.

The Deflat Rate 15% Per Year From The Due Payment Date.

Remark Specification at Phuket port

Free Fatty Acid, as Palmitic acid (%) 5.00 max

Moisture and Insoluble Impurities (%) 0.50 max

The seller and buyer are agree to use independent surveyor weight as final weight.

Arbitration : It has been agreed that all disputes in connection with contract or the execution thereof shall be settled by friendly negotiation. If no settlement can be reached, the case in disputes shall then be submitted for arbitration in Singapore. This shall be governed by and construed in accordance with the laws of Singapore. Sole Arbitrator to be appointed for arbitration . The decision made by the Singapore International Arbitration Centre (SIAC) shall be accepted as final and binding upon both parties. The fees for arbitration shall be borne by the losing party unless otherwise awarded by the commission.

Account Name: Tha Chang Oil Palm Industry Co.,Ltd.

Account Number: 827-1-36992-0

Bank name: KRUNG THAI BANK SWIFT Code: KRTHTHBKXXX

Account Opening Branch: SRIVICHAI BRANCH

Branch code : 201827

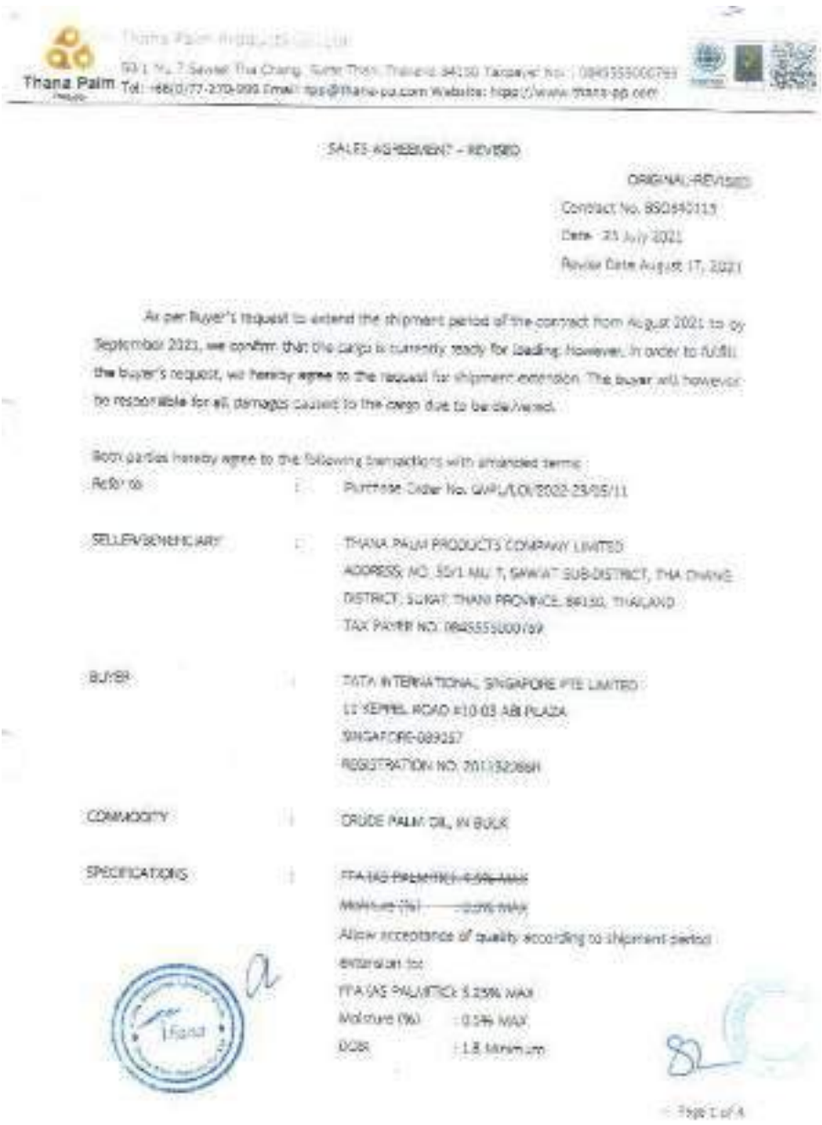
Bank Address: 67/63 SRIVICHAI ROAD , MAKHAM TIA SUB DISTRICT, MUEANG SURAT THANI , SURAT THANI 84000

Please sign and revert us

for Tha Chang Oil Palm Industries Co.,Ltd.

THACHANG OIL PALM

Image 54 : Scanned image of contract entered by M/s. TISPL with M/s. Tha Chang Oil Palm Oil Palm Products Ltd.



Thana Palm Products Co., Ltd.
93/1 Yu. 7 Sawat Tha Chang, Surat Thani, Thailand 84130 Taxpayer No. : 0845555000793
Tel: +66(0)77-270-999 Email: tpp@thana-pp.com Website: https://www.thana-pp.com

SALES AGREEMENT – REVISED

ORIGINAL-REVISED
Contract No. 8SO2540115
Date: 25 July 2021
Revise Date August 17, 2021

As per Buyer's request to extend the shipment period of the contract from August 2021 to by September 2021, we confirm that the cargo is currently ready for loading. However, in order to fulfill the buyer's request, we hereby agree to the request for shipment extension. The buyer will however be responsible for all damages caused to the cargo due to barge/vessel.

Both parties hereby agree to the following transactions with amended terms:

Refer to : Purchase Order No. GAPL/LOI/2002-23/05/11

SELLER/BENEFICIARY : THANA PALM PRODUCTS COMPANY LIMITED
ADDRESS: NO. 93/1 MU 7, SAWAT SUB-DISTRICT, THA CHANG DISTRICT, SURAT THANI PROVINCE, 84130, THAILAND
TAX PAYER NO. 0845555000793

BUYER : TATA INTERNATIONAL SINGAPORE PTE LIMITED
10 KEPPEL ROAD #10-03 ABI PLAZA
SINGAPORE-089057
REGISTRATION NO. 201132868H

COMMODITY : CRUDE PALM OIL, IN BULK

SPECIFICATIONS :
~~FFA (AS PALMITIC) 4.0% MAX~~
~~Moisture (%) 0.0% MAX~~
Allow acceptance of quality according to shipment period extension for:
FFA (AS PALMITIC) 5.25% MAX
Moisture (%) : 0.5% MAX
DOBI : 1.8 Minimum

Page 1 of 4

Image 55: Scanned image of contract entered by M/s. TISPL with M/s. Thana Palm Products Co. Ltd.

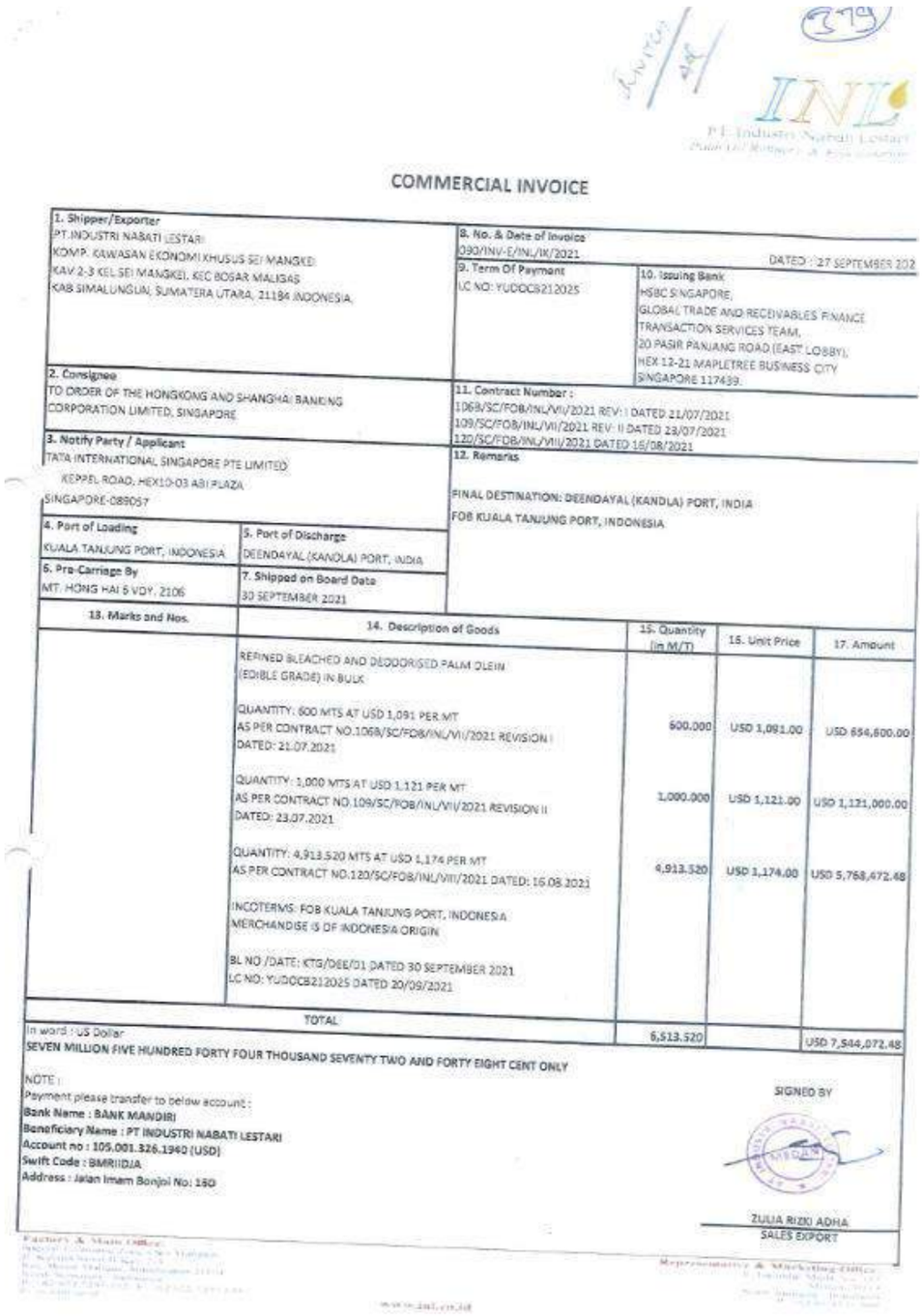
B. SCRUTINY OF INVOICES, LC & E-MAIL CORR. ETC

6.2.17 As per the above-mentioned contracts, various invoices were raised by M/s. INL, Indonesia, M/s. Thana Chang Oil Palm Products Ltd., Thailand, M/s. Thana Palm Products Co. Ltd. in context of sale of CPO to M/s. TISPL w.r.t respective quantity of goods sold as per below mentioned table: -

Page No. of the said File	Invoice No. and Date	Issued by/to	Product Desc.	Quantity (MT)	Remarks
379	No.090/INV-E/INL/IX/ 2021 dated 27.09.2021	M/s. INL, Indonesia/ M/s. TISPL	RBD Palm Olein	6513.52	B/L No. KTG/DEE/01 dated 30.09.2021, Loading Port: Kuala Tanjung, Indonesia vide LC No. YUDOCB212025

381	IV64100002 dated 07.10.2021	M/s. Thana Palm Products Company Limited/ M/s. TISPL	CPO	1020	B/L No. HH6V2106 PHU-02, Loading Port: Phuket, Thailand, Country of Export: Thailand As per Contract No. BSO640138 revised date 27.08.2021 LC No. YUDOCB212024
383	IV64100001 dated 07.10.2021	M/s. Thana Palm Products Co. Ltd. Thailand / M/s. TISPL	CPO	1980.35	B/L No. HH6V2106 PHU-01 Loading Port: Phuket, Thailand, Country of Export: Thailand As per Contract No. BSO640113 revised date 17.08.2021 LC No. YUDOCB212024
385	IV2109-0001A dated 07.10.2021	M/s. Thana Chang Oil Palm Industries Co. Ltd., Thailand / M/s. TISPL	CPO	5948.50	As per Contract No. CPO2564/00362 dated 01.09.2021 CPO2564/0366 dated 08.09.2021 B/L No. HH6V2106 PHU-03 & HH6V2106 PHU-04 Loading Port: Phuket, Thailand LC: YUDOCB212026
			Total	15462.37 MTs	

The scanned images of the above invoices are as under: -



P.T. Industri Nabati Lestari

COMMERCIAL INVOICE

1. Shipper/Exporter PT.INDUSTRI NABATI LESTARI KOMP. KAWASAN EKONOMI KHUSUS SEI MANGKEI KAV.2-3 KEL.SEI MANGKEI, KEC.BOSAR MALIGAS KAB.SIMALUNGUN, SUMATERA UTARA, 21184 INDONESIA	**8. No. & Date of Invoice** 090/INV-E/INL/IX/2021 DATED : 27 SEPTEMBER 202 **9. Term Of Payment** LC NO: YUDOCB21025 **10. Issuing Bank** HSBC SINGAPORE, GLOBAL TRADE AND RECEIVABLES FINANCE TRANSACTION SERVICES TEAM, 20 PASIR PANJANG ROAD (EAST LOBBY), HEX 12-21 MAPLETREE BUSINESS CITY SINGAPORE 117439.
2. Consignee TO ORDER OF THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, SINGAPORE	**11. Contract Number :** 1068/SC/FOB/INL/VII/2021 REV: I DATED 21/07/2021 109/SC/FOB/INL/VII/2021 REV: II DATED 23/07/2021 120/SC/FOB/INL/VIII/2021 DATED 16/08/2021
3. Notify Party / Applicant TATA INTERNATIONAL SINGAPORE PTE LIMITED KEPPEL ROAD, HEX10-03 ABI PLAZA SINGAPORE-089057	**12. Remarks** FINAL DESTINATION: DEENDAYAL (KANDLA) PORT, INDIA FOB KUALA TANJUNG PORT, INDONESIA
4. Port of Loading KUALA TANJUNG PORT, INDONESIA **5. Port of Discharge** DEENDAYAL (KANDLA) PORT, INDIA	
6. Pre-Carriage By MT. HONG HAI 6 VOY. 2106 **7. Shipped on Board Date** 30 SEPTEMBER 2021	

13. Marks and Nos.	14. Description of Goods	15. Quantity (in M/T)	16. Unit Price	17. Amount
	REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK QUANTITY: 600 MTS AT USD 1,091 PER MT AS PER CONTRACT NO.1068/SC/FOB/INL/VII/2021 REVISION I DATED: 21.07.2021	600.000	USD 1,091.00	USD 654,600.00
	QUANTITY: 1,000 MTS AT USD 1,121 PER MT AS PER CONTRACT NO.109/SC/FOB/INL/VII/2021 REVISION II DATED: 23.07.2021	1,000.000	USD 1,121.00	USD 1,121,000.00
	QUANTITY: 4,913.520 MTS AT USD 1,174 PER MT AS PER CONTRACT NO.120/SC/FOB/INL/VIII/2021 DATED: 16.08.2021 INCOTERMS: FOB KUALA TANJUNG PORT, INDONESIA MERCHANDISE IS OF INDONESIA ORIGIN BL NO /DATE: KTG/DEE/01 DATED 30 SEPTEMBER 2021 LC NO: YUDOCB21025 DATED 20/09/2021	4,913.520	USD 1,174.00	USD 5,768,472.48
	TOTAL	6,513.520		USD 7,544,072.48

In word : US Dollar
SEVEN MILLION FIVE HUNDRED FORTY FOUR THOUSAND SEVENTY TWO AND FORTY EIGHT CENT ONLY

NOTE :
Payment please transfer to below account :
Bank Name : BANK MANDIRI
Beneficiary Name : PT INDUSTRI NABATI LESTARI
Account no : 105.001.326.1940 (USD)
Swift Code : BMRIIDJA
Address : Jalan Imam Bonjol No: 180

SIGNED BY

ZULIA RIZKI ADHA
SALES EXPORT

Image 56 :Scanned copy of the Invoice No.090/INV-E/INL/IX/2021 dated 27.09.2021 [Pg- 379] i.r.o. RBD Palmolein

(381)

Thana Palm Products

THANA PALM PRODUCTS COMPANY LIMITED
ADDRESS: NO. 50/1 MU 7 SAWIAT SUB-DISTRICT, THA CHANG DISTRICT,
SURAT THANI PROVINCE, 84150,THAILAND TAX PAYER NO. 0845555000759
TEL +66(0)77-270-999
EMAIL: BANTHITA@THANA-PP.COM
WEBSITE: WWW.THANA-PP.COM

Intertek

COMMERCIAL INVOICE — ORIGINAL

Invoice to: TATA INTERNATIONAL SINGAPORE PTE LIMITED 11 KEPPEL ROAD #10-03 ABI PLAZA SINGAPORE-089057	**Date of Invoice:** OCTOBER 7, 2021 **Invoice No.** IV64100002 **Shipment Date:** OCTOBER 6, 2021 **Vessel:** MT HONG HAI 6 V.2106 **B/L No.** HH6V2106PHU-02
Consignee: TO ORDER OF HSBC BANK SINGAPORE	**County of Export:** THAILAND
Notify: TATA INTERNATIONAL SINGAPORE PTE LIMITED 11 KEPPEL ROAD #10-03 ABI PLAZA SINGAPORE-089057	**Country of Origin of Goods:** THAILAND **Country of Ultimate Destination:** INDIA **Shipper:** THANA PALM PRODUCTS COMPANY LIMITED ADDRESS: NO. 50/1 MU 7 SAWIAT SUB-DISTRICT, THA CHANG DISTRICT, SURAT THANI PROVINCE 84150 THAILAND TAX PAYER NO. 0845555000759 TEL: +66(0)77-270-999
Referred to P.O. or L/C Number YUDOCB212024	
Referred to contract number BSO540138	**Payment By:** 100% IRREVOCABLE LC AT SIGHT
Incoterms: FOB PHUKET, THAILAND	
Port of Loading PHUKET THAILAND	
Port of Destination DEENDAYAL (KANDLA) PORT, INDIA	

ITEMS	DESCRIPTION	QUANTITY (METRIC TON)	PRICE PER UNIT (USD)	AMOUNT (USD)
1	CRUDE PALM OIL (EDIBLE GRADE) IN BULK, HS CODE 15111000 SPEC: FFA 5.00% MAX M&I: 0.5%MAX DOBI: 2.0MIN (AS PER PORAM)	1,020.000	1,190.000	1,213,800.000
	TOTAL F.O.B. USD	**1,020.000**	**1,190.000**	**1,213,800.000**
Total US Dollars:	**USD ONE MILLION TWO HUNDRED THIRTEEN THOUSAND EIGHT HUNDRED ONLY**			

Shipping Marks
1.In Bulk
2.Ocean Carriage Stowage

Country of Origin : Thailand
Total Net Weight: 1,020 MT
Total Gross Weight: 1,020 MT

REMARKS:
1.Contract Quantity of 1000 MT can be varied by ± 2%
2.Packing: One lot

Certified Correct:
Thana Palm Products Company Limited

Charaeya Laobandit
Authorized Signature

Image 57: Scanned copy of the Commercial Invoice No. IV64100002 dated 07.10.2021[Pg No. -381] i.r.o. CPO

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THANA PALM PRODUCTS COMPANY LIMITED
ADDRESS: NO. 50/1 MU 7 SAWIAT SUB-DISTRICT, THA CHANG DISTRICT,
SURAT THANI PROVINCE, 84150.THAILAND TAX PAYER NO. 0845555000769
TEL +66(0)77-270-999
EMAIL: BANTHITA@THANA-PP.COM
WEBSITE: WWW.THANA-PP.COM

Thana Palm

COMMERCIAL INVOICE — ORIGINAL

Invoice to:	**Date of Invoice:** OCTOBER 7, 2021
TATA INTERNATIONAL SINGAPORE PTE LIMITED 11 KEPPEL ROAD #10-03 ABI PLAZA SINGAPORE-089057	**Invoice No.** IV64100001 **Shipment Date:** OCTOBER 6, 2021 **Vessel:** MT HONG HAI 5 V.2106 **B/L No.** HH8V2106PHU-01
Consignee: TO ORDER OF HSBC BANK SINGAPORE	**County of Export:** THAILAND
Notify: TATA INTERNATIONAL SINGAPORE PTE LIMITED 11 KEPPEL ROAD #10-03 ABI PLAZA SINGAPORE-089057	**Country of Origin of Goods:** THAILAND **Country of Ultimate Destination:** INDIA **Shipper:** THANA PALM PRODUCTS COMPANY LIMITED ADDRESS: NO. 50/1 MU 7 SAWIAT SUB-DISTRICT, THA CHANG DISTRICT, SURAT THANI PROVINCE 84150 THAILAND TAX PAYER NO. 0845555000759 TEL +66(0)77-270-999
Referred to P.O. or L/C Number YUDOCB212024	
Referred to contract number BSO640113 -REVISED	**Payment By:** 100% IRREVOCABLE LC AT SIGHT
Incoterms: FOB PHUKET, THAILAND	
Port of Loading PHUKET,THAILAND	
Port of Destination DEENDAYAL (KANDLA) PORT, INDIA	

ITEMS	DESCRIPTION	QUANTITY (METRIC TON)	PRICE PER UNIT (USD)	AMOUNT (USD)
1	CRUDE PALM OIL (EDIBLE GRADE), IN BULK, HS CODE: 15111000 SPEC: FFA 5.25% MAX. M&I: 0.5%MAX DOBI: 1.8MIN (AS PER PORAM)	1,980.350	1,105.000	2,188,286.750
	TOTAL F.O.B. USD	**1,980.350**	**1,105.000**	**2,188,286.750**
Total US Dollars:	**USD TWO MILLION ONE HUNDRED EIGHTY-EIGHT THOUSAND TWO HUNDRED EIGHTY-SIX AND SEVENTY-FIVE CENTS**			

Shipping Marks
1.In Bulk
2.Ocean Carriage Stowage

Country of Origin : Thailand
Total Net Weight: 1,980.350 MT
Total Gross Weight: 1,980.350 MT

REMARKS:
1 Contract Quantity of 2000 MT can be varied by ± 2%
2.Packing: One lot

Certified Correct:
Thana Palm Products Company Limited

Chareeya Laobandit
Authorized Signature

Image 58 : Scanned copy of the invoice No. IV64100001 dated 07.10.2021[Pg No. 383] i.r.o. CPO

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THACHANG OIL PALM INDUSTRY CO., LTD.
39 MOO 3 THACHANG SURATTHANI THAILAND 84190
TEL: +66 77 277777 FAX: +66 77 277799

INVOICE

INVOICE NO : IV2109-001A
DATE : October 7, 2021
ISSUING BANK : THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED SINGAPORE,
GLOBAL TRADE AND RECEIVABLES FINANCE - TRANSACTION SERVICES TEAM,
20 PASIR PANJANG ROAD (EAST LOBBY) LEVEL 12-21 MAPLETREE BUSINESS CITY,
SINGAPORE 117439
LC No. : IRREVOCABLE DOCUMENTARY CREDIT NO.YUDOCB212026 DATED 210920
CONTRACT NO : CPO2564/00362 DT 01/09/2021
CPO2564/00366 DT 08/09/2021

For account and risk of Messrs :
TATA INTERNATIONAL SINGAPORE PTE LIMITED
11 KEPPEL ROAD #16-01 ABI PLAZA, SINGAPORE 089057

COMMODITY : CRUDE PALM OIL (EDIBLE GRADE) IN BULK
PARAMETER SPECIFICATION
FFA (AS PALMITIC) 5.0 PCT MAX
M & I 0.5 PCT MAX
B/L No. : HHSV2106PH01-03 , HHSV2106PH01-04
VESSEL NO : MV. LIONG HAI (Voy no.2126)
BOARD DATE : October 7, 2021
PORT OF SHIPMENT : PHUKET PORT, THAILAND
PORT OF DISCHARGE : DEENDAYAL (KANDLA) PORT, INDIA
INCOTERMS : FOB PHUKET PORT, THAILAND

Description of goods	Quantity MTS	Unit Price USD / MTS	Amount USD
CRUDE PALM OIL(EDIBLE GRADE) IN BULK	3,918.01	1,160.00	4,545,091.60
CONTRACT NO. CPO2564/00362 DT 01/09/2021			
CRUDE PALM OIL(EDIBLE GRADE) IN BULK	2,030.01	1,170.00	2,375,111.70
CONTRACT NO.CPO2564/00366 DT 08/09/2021			
	Total		6,920,203.30
	TOTAL BALANCE		6,920,203.30

U.S.Dollar : Six million, nine hundred and twenty thousand, two hundred and three dollars only

SHIPPING MARK : IN BULK
COUNTRY OF ORIGIN : THAILAND
QUANTITY : 5,948.20 MTS

THACHANG OIL PALM

Image 59 :Scanned copy of the invoice No. IV2109-001A issued by M/s. Tha Chang Oil Palm Industries Co. Ltd. Thailand i.r.o. 5948.20MTs CPO

From the perusal of these invoices, it is amply clear that 6513.52 MTs of RBD Palmolein and 8949.85 MT of CPO was sold to M/s. TISPL A further perusal of the aforementioned invoices reveal that the payment is made vide terms of Letters of Credit No.YUDOCB212024 in favour of beneficiary- M/s. Thana Palm Products Company Limited, LC No. YUDOCB212025 in favour of beneficiary- M/s. PT. Industri Nebati Leastari, Indonesia, LC No.YUDOCB212026 dtd. 21092020 in favour of beneficiary M/s. Tha Chang Oil Palm Products Co. Ltd, Thailand. Such LC are at Page No. 457 to 489 of the said file applied by M/s. TISPL, Singapore, to respective beneficiaries.

6.2.18. Page No. 523-525 of the said file is the e-mail correspondence dated 10.09.2021 from shipping@glentech.co.in to Banitha Laobandit of M/s.

Thana Palm Products, Thailand, from Mitesh Joshi, General Manager (Shipping and Logistics) of M/s. GVPL, intimating to change the contract in favour of M/s. TISPL, Singapore. The scanned copy of the same is reproduced herein below:

From: shipping@glentech.co [mailto:shipping@glentech.co]
Sent: Friday, September 10, 2021 11:56 AM
To: 'Banthita Laobandit'
Cc: 'Amit Agarwal'; 'Sidhant Agarwal'; 'Sudhanshu'; 'Vijay Sharma'; 'Tanu'; 'Danish Faisal'
Subject: CONTRACT OF PALM OILS // THANA //

Dear Banthita ,

Good day!!

Due to some internal decision of tata international group companies, they decided to open the LC from HSBC - Singapore with "TATA International Singapore Pte Ltd" as an applicant.

Kindly arrange to change the contract in favour of the below name as;

Also find enclosed the draft LC for your reference:

TATA INTERNATIONAL SINGAPORE PTE LIMITED
11 KEPPEL ROAD #10-03 ABI PLAZA
SINGAPORE-089057

Thanks & Regards
Mitesh Joshi
(General Manager - Shipping & Logistics)
Glentech Ventures Pte Ltd.
101 Cecil Street, #23-12
Tong Eng Building,
Singapore.

M: +91- 75674 00382
M: +91- 75674 00382 (whats app)
website: www.glentech.co
SINGAPORE I INDIA I HONG KONG I INDONESIA

CONFIDENTIAL (TO

Image 60 : Scanned copy of email w.r.t. amendment contract which was earlier made in favour of M/s. TIL/ M/s .GVPL to the favour of M/s. TISPL

C. SCRUTINY OF CHARTER PARTY AGREEMENT & PAYMENT THEREOF

6.2.19. Page No. 391 to 455 of the above mentioned file is the Charter Party dated 09.09.2021 between M/s. TIWA/ Tata International West Asia/ M/s.TISPL/M/s.TIL. and M/s. Oka Tanker PTE Ltd., Singapore i.r.o. Vessel Hong Hai6, with clauses w.r.t blending of cargo/ top loading of cargo, scanned image of which is reproduced herein below: -

" -OWNER/MASTER TO ALLOW TO RECIRCULATE CARGOS AFTER TOP UP LOADING IF TERMINAL PERMITS

- FOR BL SWITCH, TO USE BELOW AGENT AT SINGAPORE, SWITCH COST ON CHARTERER'S ACCOUNT

……..

……

WITH FURTHER RIDER CLAUSES VIZ.,

…….

……

9. OWNER TO ISSUE SECOND SET (GLOBAL) BILLS OF LADING IN SINGAPORE OR ANY OTHER PLACE REQUIRED BY CHARTERERS, THROUGH AGENT NOMINATED BY

CHARTERERS AT THE COST AGREED BY CHARTERERS. ONCE THE FULL FIRST SET (LOCAL) BILLS OF LADING ARE SURRENDERED TO VESSEL OWNER'SAPPOINTED AGENT (WHO WAS NOMINATED BY THE CHARTERERS) ARE TO ISSUE/RELEASE THE SECOND SET (GLOBAL) BILLS OF LADING TO CHARTERER. IN PRACTICAL WORKING, THE OWNER AGENT WILL SUBMIT THE SECOND SET BL AT CHARTERERS BANK AND COLLECT FIRST SET BL FROM CHARTERERS BANK. OWNERS WILL EMAIL A SIGNED NON-NEGOTIABLE COPY OF SECOND (GLOBAL) SET BILLS OF LADING (EVEN IF FIRST SET OF ORIGINAL BILL OF LADINGS HAS NOT BEEN SURRENDERED TO OWNERS OR THEIR AGENT) TO CHARTERER FOR FILING MANIFEST ONLY WITH INDIAN CUSTOMS. SWITCH BL COST WILL BE ON CHARTERERS ACCOUNT. BL CAN BE SWITCHED MULTIPLE TIMES AT CHARTERERS COST. BL CAN BE SWITCHED AFTER DISCHARGE OF CARGO ALSO.

10. OWNER SHALL BLEND TWO-THREE OR MORE CARGO(ES) OF DIFFERENT GRADES AND THE OWNER SHALL ALSO GIVE ONE PRODUCT BL OF CPO (CRUDE PLAM OIL) AS SWITCH BL. OWNER SHALL GIVE NON-NEGOTIABLE COPY (IE., NNBL) OF BL IMMEDIATELY OF CPO AFTER LOADING FOR FILING IGM/COO.

…….
Blending operation will be taken care by the Owner and his crew members. Charterers will also appoint surveyor for sampling and supervision.

…….
Blending will be taken care in any port situated in other country except Indonesia it has to be mutually decided between the Owner and Charterers regarding place of blending (i.e. name of port and country).

ALL THE BLENDING OPERATION COST WOULD BE FOR CHARTERER'S ACCOUNT. #ACCEPTED#

CHARTERERS ALLOW 36HRS TO COUNT AS LAYTIME FOR ITT/BLENDING. ANY TIME FROM VESSEL ANCHOR TILL SURVEYOR AWAY TO COUNT AS LAYTIME. BUT ANY TIME USED MORE THEN 36HRS ON ITT NOT TO COUNT AS LAYTIME, AND SAME DEMURRAGE RATE APPLICABLE, TO BE SETTLED AS DEMURRAGE IN CASE LAYTIME USED UP. NO ADDITIONAL COST ON CHRTRS INCLUDING BUT NOT LIMITED ADDITIONAL BUNKER CHARGES, HEATING CHARGES ETC.
……."

6.2.20. Further, Page No. 389 is the copy of the telegraphic transfer document no. SWIFT MT103, a document issued by DBS on the order of M/s. TISPL, Singapore, Beneficiary: - M/s. OKA Tankers PTE Ltd., Singapore, w.r.t invoice no. 20211008-01 raised by M/s. OKA Tanker i.r.o. MT Hong HAI6 CP date 09.09.2021 to Charterer M/s. TISPL, for quantity 15472.07 MT of CPO at Load Port : Kuala Tanjung, Indonesia and Phuket, Thailand. The scanned image of the invoice and telegraphic transfer document is reproduced as below: -

OKA Tanker

FREIGHT INVOICE

Image61: Scanned copy of the freight invoice raised by M/s. OKA Tanker to M/s. Tata Singapore PTE Ltd.

DBS

Outgoing Telegraphic Transfer

SWIFT MT103

Image62: Scanned copy of the outgoing telegraphic transfer from M/s. Tata Singapore PTE Ltd. to M/s. OKA Tanker

Image 62: The scanned copy of the invoice No. 20211008-01 dated 08.10.2021 raised by M/s. OKA Tankers

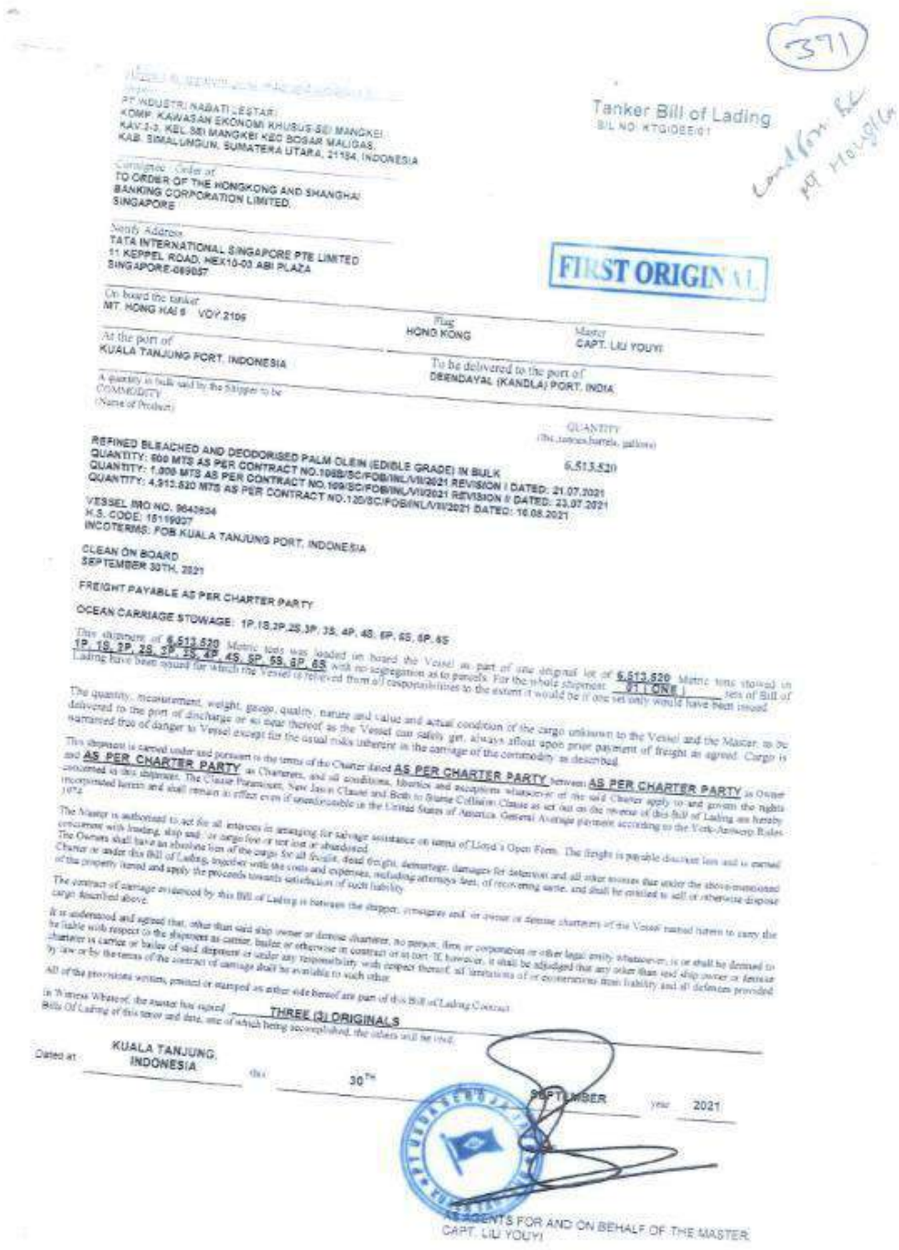
C. ORIGINAL BILLS OF LADING RAISED BY THE MASTER OF VESSEL AT PORTS AT INDONESIA AND THAILAND

6.2.21. The original Bills of Lading were issued by Capt. Liu Youyi, Master of the vessel MT Hong Hai6 V.2106 w.r.t loading of goods at ports at Indonesia and Thailand, as detailed under: -

Page No.	***Tanker B/L. No. date***	***Port of Loading/ Port of Issuance***	***Description Of Goods***	***Qty (MTS)***	***Stowage***
371	KTG/DEE/01 dated 30.09.2021	Kuala Tanjung, Indonesia	RBD Palmolein	513.320	1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S
373	HH6V2106 PHU-01 dated 06.12.2021	Phuket, Thailand	CPO	1980.350	3P, 3S, 6P, 6S
375	HH6V2106PHU-02 dated 06.10.2021	Phuket, Thailand	CPO	1020	3P, 3S, 6P, 6S

Perusal of the above Bills of lading, indicate that 6513.32 MT of RBD Palm Olein was loaded onto the vessel MT Hong Hai6 V.2106 at Kuala Tanjung, Indonesia as per the above-mentioned stowage, shipper- M/s. INL, Indonesia, notified party- M/s TISPL.

Herein below is the scanned image of this B/L.



Tanker Bill of Lading
B/L NO. KTG/DEE/01

PT INDUSTRI NABATI LESTARI
KOMP. KAWASAN EKONOMI KHUSUS SEI MANGKEI
KAV.2-3, KEL.SEI MANGKEI KEC.BOSAR MALIGAS,
KAB. SIMALUNGUN, SUMATERA UTARA, 21154, INDONESIA

Consignee, Order of
TO ORDER OF THE HONGKONG AND SHANGHAI
BANKING CORPORATION LIMITED,
SINGAPORE

Notify Address
TATA INTERNATIONAL SINGAPORE PTE LIMITED
11 KEPPEL ROAD, #EX10-03 ABI PLAZA
SINGAPORE-089057

FIRST ORIGINAL

On board the tanker
MT. HONG HAI 6 VOY.2106

Flag
HONG KONG

Master
CAPT. LIU YOUYI

At the port of
KUALA TANJUNG PORT, INDONESIA

To be delivered to the port of
DEENDAYAL (KANDLA) PORT, INDIA

A quantity in bulk said by the Shipper to be
COMMODITY
(Name of Product)

QUANTITY
(Net, express barrels, gallons)

REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK 6,513.520
QUANTITY: 600 MTS AS PER CONTRACT NO.108B/SC/FOB/INL/VII/2021 REVISION I DATED: 21.07.2021
QUANTITY: 1,000 MTS AS PER CONTRACT NO.109/SC/FOB/INL/VII/2021 REVISION II DATED: 23.07.2021
QUANTITY: 4,913.520 MTS AS PER CONTRACT NO.120/SC/FOB/INL/VII/2021 DATED: 16.08.2021

VESSEL IMO NO. 9643934
H.S. CODE: 15119027
INCOTERMS: FOB KUALA TANJUNG PORT, INDONESIA

CLEAN ON BOARD
SEPTEMBER 30TH, 2021

FREIGHT PAYABLE AS PER CHARTER PARTY

OCEAN CARRIAGE STOWAGE: 1P,1S,2P,2S,3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S

Date shipment of 6,513.520 Metric tons was loaded on board the Vessel as part of one original lot of 6,513.520 Metric tons stowed in 1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S with no segregation as to parcels. For the whole shipment ONE (1) lots of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued

The quantity, measurement, weight, gauge, quality, nature and value and actual condition of the cargo unknown to the Vessel and the Master, to be delivered to the port of discharge or so near thereof as the Vessel can safely get, always afloat upon prior payment of freight as agreed. Cargo is warranted free of danger to Vessel except for the usual risks inherent in the carriage of the commodity as described.

This shipment is carried under and pursuant to the terms of the Charter dated AS PER CHARTER PARTY between AS PER CHARTER PARTY as Owner and AS PER CHARTER PARTY as Charterers, and all conditions, liberties and exceptions whatsoever of the said Charter apply to and govern the rights concerned in this shipment. The Clause Paramount, New Jason Clause and Both to Blame Collision Clause as set out on the reverse of this Bill of Lading are hereby incorporated herein and shall remain in effect even if unenforceable in the United States of America. General Average payment according to the York-Antwerp Rules 1974.

The Master is authorised to act for all interests in arranging for salvage assistance on terms of Lloyd's Open Form. The freight is payable discount less and is earned concurrent with loading, ship and / or cargo lost or not lost or abandoned.
The Owners shall have an absolute lien of the cargo for all freight, dead freight, demurrage, damages for detention and all other monies due under the above-mentioned Charter or under this Bill of Lading, together with the costs and expenses, including attorneys fees, of recovering same, and shall be entitled to sell or otherwise dispose of the property thereof and apply the proceeds towards satisfaction of such liability.

The contract of carriage evidenced by this Bill of Lading is between the shipper, consignee and / or owner or demise charterers of the Vessel named herein to carry the cargo described above.

It is understood and agreed that, other than said ship owner or demise charterer, no person, firm or corporation or other legal entity whatsoever, is or shall be deemed to be liable with respect to the shipment as carrier, bailee or otherwise in contract or at tort. If however, it shall be adjudged that any other than said ship owner or demise charterer is carrier or bailee of said shipment or under any responsibility with respect thereof, all limitations of or exemptions from liability and all defenses provided by law or by the terms of the contract of carriage shall be available to such other.

All of the provisions written, printed or stamped on either side hereof are part of this Bill of Lading Contract.

In Witness Whereof, the master has signed THREE (3) ORIGINALS Bills Of Lading of this tenor and date, one of which being accomplished, the others will be void.

Dated at KUALA TANJUNG, INDONESIA this 30TH day of SEPTEMBER year 2021

AS AGENTS FOR AND ON BEHALF OF THE MASTER
CAPT. LIU YOUYI

Image63.: Scanned copy of Original Bill of Lading KTG/DEE/01 issued at Indonesia w.r.t loading of 6513.32 MT of RBD Palmolein

Further perusal of Bill of lading(B/L) issued at Phuket, Thailand indicate that CPO was loaded at Phuket, Thailand on 06.12.2021 and such B/Ls was issued by the vessel owner, with mention that loading of above two cargo, both of one original lot of 3000.350 MTS stowed in 3P, 3S, 6P, 6S only. It mentions the name of the shipper as Thana Palm Products Company Limited, Thailand, notified party- M/s. TISPL which clearly shows that the respective quantity i.e. 1020 MT CPO and 1980.350 MT of Crude Palm Oil(Edible Grade) in Bulk was loaded on the Vessel MT Hong Hai6 V.2106 on 6th October, 2021 at Phuket Thailand and stowed in tanks 3P, 3S, 6P, 6S and thus loaded on top where RBD Palmolein was already stowed on board vessel MT HongHai6 V.2106.

Herein below is scanned image of sample B/L issued at Thailand.

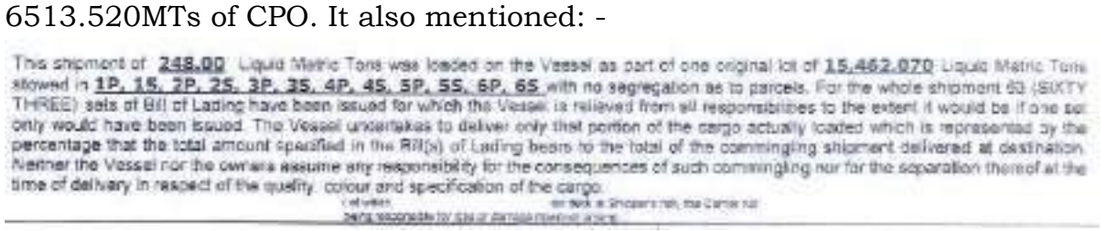
FIRST ORIGINAL

Wilhelmsen Ships Service

*Image 64.: Scanned copy of one of the original B/L issued at Thailand***.**

E. SWITCHED/MANIPULATED BILLS OF LADING RAISED FOR THE PURPOSE OF DECLARATIONS BEFORE INDIAN CUSTOMS

6.2.22. As per the switching cause of the Charter Party dated 09.09.2021 entered between the charterers, viz M/s. TIWA/ Tata International West Asia/ M/s. TISPL/ M/s.TIL, and the vessel owner, M/s. OKA Tankers International Ltd, the Bills of Lading KTG/DEE/01 i.r.o 6513.520 MT of RBD Palmolein were switched and a second set of Bills of Lading Bearing No. KTG/DEE/01 to KTG/DEE/27 dated 30.09.2021 were issued mentioning the description of goods as CPO. Out of these 27 B/Ls, B/Ls No. KTG/DEE/01 to 26 dated 30.09.2021 is for 248MTs of Crude Palm Oil each and B/L No. KTG/DEE/27 dated 30.09.201 is for 65.520MT of Crude Palm Oil, showing port of loading Kuala Tanjung with port of discharge at Kandla Port. Thus, totalling to 6513.520MTs of CPO. It also mentioned: -



This shipment of **248.00** Liquid Metric Tons was loaded on the Vessel as part of one original lot of **15,462.070** Liquid Metric Tons stowed in **1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S** with no segregation as to parcels. For the whole shipment 63 (SIXTY THREE) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the **percentage** that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

Image 65: Snapshot from the switched B/L. KTG/DEE/01 to 26 dated 30.09.2021

Shipper's description of goods | Gross Weight

CRUDE PALM OIL (EDIBLE GRADE) IN BULK | 65.520 MTS

IEC:0388024291
GST :24AAACT3198F1ZE | "FREIGHT PREPAID"
PAN:AAACT3198F
EMAIL:RAVI.THAKKAR(AT)TATAINERNATIONAL.COM | CLEAN ON BOARD
H.S. CODE: 15111000
VESSEL IMO NO. 9843934

This shipment of 65.520 Liquid Metric Tons was loaded on the Vessel as part of one original lot of 15,462.070 Liquid Metric Tons stowed in 1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S with no segregation as to parcels. For the whole shipment 63 (SIXTY THREE) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

Image 66: Snapshot from the switched B/L No. KTG/DEE/27 dated 30.09.2021

TANKER BILL OF LADING
KTG/DEE/28

Shipper
TATA INTERNATIONAL SINGAPORE PTE LIMITED
11 KEPPEL ROAD, # 10-03 ABI PLAZA
SINGAPORE-089057

Consignee
TO ORDER

Notify address
TATA INTERNATIONAL LTD
OFFICE NO. 11, GROUND FLOOR, PLOT NO 4C, SECTOR NO 8
GANDHIDHAM KACHCHH, GUJRAT, 370201, INDIA

COPY NOT NEGOTIABLE

Vessel: MT. HONG HE 8 VOY. 2105 | Port of loading: KUALA TANJUNG PORT, INDONESIA

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Shipper's description of goods | Gross Weight

CRUDE PALM OIL (EDIBLE GRADE) IN BULK | 248.00 MTS

IEC:0388024291
GST :24AAACT3198F1ZE | "FREIGHT PREPAID"
PAN:AAACT3198F
EMAIL:RAVI.THAKKAR(AT)TATAINERNATIONAL.COM | CLEAN ON BOARD
H.S. CODE: 15111000
VESSEL IMO NO. 9843934

This shipment of 248.00 Liquid Metric Tons was loaded on the vessel as part of one original lot of 15,462.070 Liquid Metric Tons stowed in 1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S with no segregation as to parcels. For the whole shipment 63 (SIXTY THREE) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

Received on account of freight

Time used for loading: ... days ... hours

Freight payable at

Number of original B/Ls: THREE (3)

Place and date of issue:
KUALA TANJUNG PORT, INDONESIA,
30TH SEPTEMBER 2021.

AS AGENTS FOR AND ON BEHALF OF THE MASTER,
CAPT LIU YOUYI

Image 67: A copy of one of the switched B/L amongst the B/L Nos. KTG/DEE/ 1 to 26.

Similarly, the remaining sets of Bills of Lading are from KTG/DEE/28 to 39 all dated 06.10.2021 are i.r.o 248 MTs each of CPO loaded at Phuket, Thailand. Bill of Lading No. KTG/DEE/40 dated 06.10.2021 is i.r.o. 24.350MTs of CPO at Phuket, Thailand. Further Bills of Lading No. KTG/DEE/41 to 63 dated 07.10.2021 are i.r.o. 248MTs of CPO and B/L/ No. KTG/DEE/64 dated 07.10.2021 is i.r.t. 244.200MTs of CPO loaded at Phuket, Thailand. The total of quantity of goods loaded under said B/Ls is 8948.55MTs of CPO loaded at Phuket Thailand on 06th and 7th Oct,2021. A sample copy of the B/L issued by Capt. Liu Youyi at Phuket, Thailand is as below: -

TANKER BILL OF LADING

TATA INTERNATIONAL SINGAPORE PTE LIMITED
11 KEPPEL ROAD, # 10-03 ADI PLAZA
SINGAPORE 089057

TO ORDER

TATA INTERNATIONAL LTD
OFFICE NO. 17, GROUND FLOOR, PLOT NO 43, SECTOR NO 8
GANDHIDHAM KACHCHH, GUJRAT, 370201, INDIA

Vessel Port of loading PHUKET PORT, THAILAND

MT. HONG HAI 6 VOY. 2106

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

CRUDE PALM OIL (EDIBLE GRADE) IN BULK

248.00 MTS

GSTIN:24AAACT3108F1Z2
PAN:AAACT3108F
EMAIL:RAVI.THAKKAR(AT)TATAINTERNATIONAL.COM
H.S. CODE: 15111000
VESSEL IMO NO. 9843934

FREIGHT PREPAID

CLEAN ON BOARD

The shipment of 248.00 (Two Four Eight Metric Tons was loaded on the vessel as part of one original lot of 15,462.070 (Fifteen Thousand Four Hundred Sixty Two Point Zero Seven Zero) Metric Tons stowed in 1P, 1S, 2P, 2S, 3P, 4P, 4S, 5P, 5S, 6P, 6S with no segregation as to parcels. For the whole shipment 64 (SIXTY FOUR) sets of Bill of Lading have been issued to which the Vessel is to be held from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bills of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

Received on account of freight

Time used for loading ..... days ..... hours.

Freight payable at

Number of original B/Ls

THREE (3)

Place and date of issue
PHUKET PORT, THAILAND,
07TH OCTOBER 2021

AS AGENTS FOR AND ON BEHALF OF THE MASTER,

Image 68: Copy of the switched B/L No. KTG/DE/62

From the perusal of the above-mentioned Bills of Lading issued at Kuala Tanjung, Indonesia and Phuket, Thailand, the total no. of switch B/Ls issued are 64 (Sixty Four) sets of Bills of Lading i.r.o. CPO, totalling to 15462.070 MTs, which is nothing but sum of ((248*26 + 65.520)=6513.520) + (24.35+(248*23)+244.200)=8948.550 MTs), as per stowage 1P, 1S, 2P, 2S, 3P, which clearly shows comingling of cargo was done in the tanks of the vessel and original bills of lading were switched to new set of Bills of Lading mis-declaring the cargo as CPO.

6.2.23. The scrutiny of the documents as discussed herein above, it is safe to conclude that the goods viz. 6513.520 MT of RBD Palm Olein was procured/purchased by M/s. TISPL in Indonesia from M/s. INL, Indonesia loaded on the vessel at Kuala Tanjung, Indonesia on 30th September, 2021 and the goods viz., 8948.550MT of Crude Palm Oil only was procured/purchased by M/s. TISPL from M/s Tha Chang Oil Palm Industries Co. Ltd. and M/s. Thana Palm Products Co. Ltd. was loaded on the vessel at Phuket, Thailand on 6th and 7th October, 2021 on the vessel MT Hong Hai6 V.2106; that the comingling of cargo was carried out and the Original Bills of Entry were switched into the second (Global) set of Bills of Lading analogously to the process of blending/comingling carried out in the vessel MT Distya Pushti V.072021 and

MT Gumuldur V.202109. Further, M/s. TIWA/ Tata International West Asia/ M/s. TISPL/ M/s. TIL and M/s. Oka Tanker PTE Ltd., Singapore had entered into charter party dated 09.09.2021 with explicit mention of switching clause that owner shall blend two-three or more cargo(es) of different grades and the owner shall also give one product BL of CPO(Crude Palm Oil) as switch BL; Further, documents viz. LC shows that M/s. TIWA made payments towards the freight charges of the said vessel MT. FMT EFES V.2021111 for its voyage from Indonesia to India. It is therefore, safe to conclude that the sales contracts were for the procurement of CPO, RBD Palmolein, invoices and Bills of Lading were issued i.r.o these goods at ports at Thailand and Indonesia respectively, that the blending took place on board vessel, and new set of BL showing entire goods as CPO were issued by the vessel owner. All the above documents conclusively establish that though CPO, RBD were purchased in Thailand and Indonesia, the importer M/s. TIL in connivance with vessel owner had manipulated the documents to camouflage the import of above goods and prepared another set of documents showing loading /import of entire goods as CPO. These documents were presented before Customs authorities with intent to mis-declare the goods at discharge port and evade duties of customs at the port of discharge, i.e. Kandla.

SCRUITNY OF DOCUMENTS i.r.o. IMPORT OF GOODS VIDE VESSEL MT.FMT EFES V.202111

6.2.24. During investigation, statements of the various concerned persons were recorded wherein they produce various documents which reveal that M/s. TIL had filed the following Warehouse (W.H.) B.Es for import of total 12959.31MT vide vessel MT.FMT EFES V.202111by mis-declaring the same as CPO. The details are as below:

Sl. No.	CUSTOM HOUSE CODE	W.H. BE NUMBER	BEDATE	NAME OF THE IMPORTER (M/s)	Description Of goods	QUANTITY (MTs)
1	INIXY1	6212683	11-11-2021	TIL	CPO	5086.015
2	INIXY1	6212824	11-11-2021	TIL	CPO	7873.29
					Total	**12959.31**

6.2.25. Further, as per the statement and scrutiny of documents produced by Shri Sidhant Agarwal, Director of M/s. GIPL dated 28.01.2023 and 29.01.2023, it is revealed that they had actually imported the following cargo vide respective Vessels as below: -

VESSEL NAME	***Letter of Credit (LC)***	***SELLER***	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Description of imported goods declared in bill of entry***
(1)	***(2)***	***(3)***	***(4)***	***(5)***	***(6)***	***(7)***	***(8)***	***(10)***
MT FMT EFES VOY. 2021 11	*5944604443 & 5945604443 both dated 22.10.2021*	*TIWA*	*RBD PALM OLEIN*	*5086.015*	*M/s. INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824, both dated 11-11-2021*	*CPO*
			CPO	*7873.290*	*THA CHANG*	*PHUKET PORT, THAILAND*		
			Total	***12959.31***				

A. SCRUTINY OF SALES/PURCHASE CONTRACTS

6.2.26 The documents produced w.r.t. import vide vessel MT.FMT EFES V.202111 **[RUD-25]**during the statement of Shri Sidhant Agarwal dated 28.01.2022 reveal that **M/s. GVPL & M/s. TISPL**, had entered into the following contract nos. with Sellers at Indonesia and Thailand to procure respective goods as per below mentioned table: -

Page No.	**Product Description**	**Quantity**	**Contract No. and date**	**Sale Agreement Between (M/s.)**
207	Refined Bleached and Deodorised Palm Olein	5000 MT	142/SC/FOB/INV/IX/2021 dated 30.09.2021 **[RUD NO 25]**	M/s. GVPL and M/s.INL, Indonesia
199	Crude Palm Oil	3000 MT	CPO2564/00396 dated 05.10.2021 **[RUD No. 25]**	M/s. TISPL/ M/s. GVPL Singapore and M/s. Tha Chang Palm Industries Co. Ltd. Thailand
197	Crude Palm Oil	5000 MT	CPO 2564/00392 dated 30.09.2021 **[RUD No 25]**	M/s. TISPL/ M/s. GVPL Singapore and M/s. Tha Chang Palm Industries Co. Ltd. Thailand
	Total	**13000MT**		

The scanned images of one of such contracts are as below:

CONTRACT FOR SALE & PURCHASE
DATE: 2021/09/30
Contract Number: 142/SC/FOB/INL/IX/2021

Buyer : GLENTECH VENTURES PTE. LTD.
Address : 101 Cecil Street, # 23-12
Tong Eng Building Singapore 069533

Seller: PT. INDUSTRI NABATI LESTARI
Address: Kamp. Kawasan Ekonomi Khusus – Sei Mangkei, Kav 2-3 Kel. Sei Mangkei Kec. Bosar Maligas, Kab. Simalungun, Sumatera Utara 21184, Indonesia

This contract is made by and between the Buyer and Seller whereby the Buyer agrees to buy and the Seller agrees to sell the under mentioned goods on the terms and conditions stated below:

1. QUANTITY AND DESCRIPTION OF THE GOODS

SHIPMENTS	PRODUCT DESCRIPTION	QUANTITY	UNIT PRICE (USD)	TOTAL AMOUNT (USD)
October 2021	Refined Bleached and Deodorised Palm Olein	5,000.00 MT (+/- 2%)	1,174.00	5,870,000.00

The goods consist/are complying with the following specifications:

PARAMETER	Specification
Free Fatty Acid (As Palmitic Acid)	0.10 % Max
M & I	0.10 % Max
I.V (Wijs)	56 Min
Melting Point degree C (Aocs Cc 3-25)	24 Max
Color (5 1/4" Lovibond Cell)	3 Red Max

2. PACKING : IN BULK
3. PORT OF LOADING : KUALA TANJUNG, INDONESIA
4. PORT OF DESTINATION : To Be Advice with shipping instruction
5. SHIPMENT INCOTERM : FOB, Kuala Tanjung Port, Indonesia

The goods should be shipped before 31 October 2021
Partial shipment is allowed. Transhipment is not allowed.

6. Quality and Weight
6.1 Seller to appoint surveyor for quality (COA) and quantity (weight) determination. surveyor is to issue Tanker draft survey and Certificate of Weight. Weight from shore tank at the final of total quantity loaded to vessel and shall reflect on the Bill of Lading, Commercial Invoice.

Page 1 of 3

Image69: Scanned copy of the Contract No. 142/SC/FOB/INL/IX/2021 dated 30.09.2021 i.r.o. 5000 MT RBD Palmolein

From the above, it is revealed that M/s. GVPL. & M/s. TIWA DMCC, UAE had entered into sale and purchase contract No. 142/SC/FOB/INL/IX/2021 dated 30.09.2021 with M/s. INL, Indonesia for procurement of approx. 5000 MT of RBD Palmolein and which is at page no. 207 to 212 of the above said file produced during recording of the statements under section 108 of the customs act, 1962 of Shri Sidhant Agarwal, Director of M/s. GIPL i.r.o. imports vide vessel MT FMT EFES.

B. SCRUTINY OF INVOICES/BILLS OF LADING/ CHARTER PARTY ETC.

6.2.27 Page No. 163 is copy of Invoice No. 102/INV-E/INL/X/2021 dated 23.10.2021 **[RUD 25]** issued by M/s Pt. Industri Nebati Lestari, Indonesia to M/s. TIWA, UAE for Bills of Lading No. KTP/DEE/01 dated 26.10.2021, w.r.t 5086.015MTS of Refined Bleached and Deodorised Palm Olein (Edible Grade) in Bulk as per contract No. 142/SC/FOB/INL/IX/2021 dated 30.09.2021 loaded on vessel MT FMT EFES V.202111 from Kuala Tanjung Port, Indonesia. Payment made as per LC No. 5944604443 dated 22.10.2021.

COMMERCIAL INVOICE

1. Shipper/Exporter: PT. INDUSTRI NABATI LESTARI KOMP. KAWASAN EKONOMI KHUSUS (KEK) MANDIKI KAV. 1-4 KEL.SEI MANGKEI, KEC. BOSAR MALIGAS KAB. SIMALUNGUN, SUMATERA UTARA, 21184 INDONESIA.	8. No. & Date of Invoice: 102/INV-E/INL/X/2021 DATED : 23 OCTOBER 2021 9. Term Of Payment LC NO: 5044504443 10. Billing to Party
2. Consignee: TO ORDER OF CITIBANK N.A SINGAPORE BRANCH	11. Contract Number : 142/SC/POR/IN-I/X/2021.
3. Notify Party / Applicant: TATA INTERNATIONAL WEST ASIA DMCC 2001 TO 2003 AUNEB RAH BAY KS TOWER CLUSTER X, JLT, UNITED ARAB EMIRATES	12. Remarks FINAL DESTINATION: DEENDAYAL (KANDLA) PORT, INDIA FOB KUALA TANJUNG PORT, INDONESIA
Port of Loading KUALA TANJUNG PORT, INDONESIA	5. Port of Discharge DEENDAYAL (KANDLA) PORT, INDIA
6. Pre-Carriage By M/T. FMT EFES V.202111	7. Shipped on Board Date 26 OCTOBER 2021

13. Marks and Nos.	14. Description of Goods	15. Quantity (in MT)	16. Unit Price	17. Amount
	5085.015 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK AT USD 1174.00 PER MT AS PER CONTRACT NO.142/SC/POR/IN-I/X/2021 DATED: 30.09.2021 INCOTERM : FOB KUALA TANJUNG PORT, INDONESIA MERCHANDISE IS OF INDONESIA ORIGIN BL NO: KTP/DEE/02 DATED 26 OCTOBER 2021 LC NO: 5044504443 DATED 21/10/2021	5,085.015	USD 1,174.00	USD 5,970,981.61
TOTAL		5,085.015		USD 5,970,981.61

In word : US Dollar
FIVE MILLION NINE HUNDRED SEVENTY THOUSAND NINE HUNDRED EIGHTY ONE AND SIXTY ONE CENT ONLY

NOTE :
Payment please transfer to below account :
Bank Name : BANK MANDIRI
Beneficiary Name : PT INDUSTRI NABATI LESTARI
Account no : 105.001.525.5960 (USD)
Swift Code : BMRIIDJA
Address : Jalan Imam Bonjol No: 1B3

SIGNED BY

RULIA RENI ADHA
SALES EXPORT

Image 70: Scanned copy of Invoice No. 102/INV-E/INL/X/2021 dated 23.10.2021 i.r.o purchase of RBD

6.2.28. Page 165 of the containing documents i.r.o. import of consignments vide vessel MT EFES V.2021111 is a copy of Invoice No. IV2110-0001A dated 31.10.2021 **[RUD 25]** issued by M/s Tha Chang Oil Palm Industries Co. Ltd. to M/s. TIWA, UAE for Bills of Lading No. KTP/DEE/02, PHP/DEE/03 both dated 31.10.2021 loaded on vessel MT FMT EFES V.202111 from Phuket Port, Thailand and Port of Discharge as Kandla, India in respect of 4920.806 MTS Crude Palm Oil (Edible Grade) in Bulk as per contract No. CPO2564/00392 dated 30.09.2021 and 2952.484 MTCPO as per contract no. CPO2564/00396 dated 05.10.2021 respectively.

INVOICE

INVOICE NO.	IV2110-0001A
DATE	October 31, 2021
ISSUING BANK	CITIBANK, N.A., SINGAPORE BRANCH, 8 MARINA VIEW #23-01 ASIA SQUARE TOWER 1, SINGAPORE 018960
L/C No.	IRREVOCABLE DOCUMENTARY CREDIT NO.[illegible] DATED 21.10.21
CONTRACT NO.	3,000.000MTS CRUDE PALM OIL (EDIBLE GRADE) IN BULK AT USD 1200.00 PER MT AS PER CONTRACT NO.CPO2104/0002 DATE 01.09.2021 3,130.000MTS CRUDE PALM OIL (EDIBLE GRADE) IN BULK AT USD 1200.00 PER MT AS PER CONTRACT NO.CPO2104/0005 DATE 21.10.2021
For account and risk of Messrs.	TATA INTERNATIONAL WEST ASIA DMCC OFFICE 201 TO 205 NAKHEEL DAY XO TOWER, CLUSTER K, P.O. BOX 120035, DUBAI, UNITED ARAB EMIRATES
COMMODITY	CRUDE PALM OIL (EDIBLE GRADE) IN BULK PARAMETER SPECIFICATION IVA (AS PALMITIC) 3.5 PCT MAX II AND I 0.5 PCT MAX
B/L No.	ETVDSIN2109PHPUH109, B/L DATE October 31, 2021
VESSEL NO.	MT. FMT EFES V.02U, 21
BOARD DATE	October 31, 2021
PORT OF ENTRY/ENT	PHUKET PORT, THAILAND
PORT OF DISCHARGE	DEENDAYAL (KANDLA) PORT, INDIA
INCOTERMS	FOB PHUKET PORT, THAILAND

Description of goods	Quantity MTS	Unit Price USD / MTS	Amount USD
CRUDE PALM OIL(EDIBLE GRADE) IN BULK	4,841.896	1,200.00	5,804,267.20
AS PER CONTRACT NO. CPO2104/0002 DATE 01.09.2021			
CRUDE PALM OIL (EDIBLE GRADE) IN BULK	2,952.489	1,200.00	3,542,988.80
AS PER CONTRACT NO. CPO2104/0005 DATE 08.10.2021			
	Total		9,447,948.80
	TOTAL BALANCE		9,447,948.80

U.S.Dollar : Nine million, four hundred and forty-seven thousand, nine hundred and forty-eight dollars only

SHIPPING MARK : IN BULK
COUNTRY OF ORIGIN : THAILAND
QUANTITY : 7,793.250 MTS

For The Chang Oil Palm Industries Co.,Ltd.

Image 71: Scanned copy of Invoice no. IV2110-0001A dated 31.10.2021 i.r.o purchase of CPO

C. SCRUTINY OF CHARTER PARTY AGREEMENT & PAYMENT THEREOF

Page No. 173 to 182 of the said file is the clean recap of the Charger party dated 12.10.2021 between charterers M/s. GVPL as performance charterers and M/s. TIWA as payment charterers and vessel owner M/s. Telcom International Trading PTE Ltd. i.r.o. vessel MT FMT EFES. A charter Party agreement dated 12.10.2021 at Singapore was entered between vessel owner MT FMT EFES, viz. M/s. Telcom Singapore, M/s. GVPL (as performance charter), M/s. TIWA (as Payment Charterer). Accordingly, the said vessel undertook voyage as per below mentioned tentative itinerary: -

"*06 OCT DEPARTED SOHAR*
16-19 OCT HALDIA
23-24 OCT KUALATANJUNG
26-29 OCT PHUKET
06 NOV KANDLA

WITH CARGO BREAKDOWN :
4-5KT OLEIN (KUALA TANJUNG)
8-9KT CPO(PHUKET)
.....

-SWITHCING CLAUSE

"OWNER TO ISSUE SECOND SET (GLOBAL) BILLS OF LADING IN SIGAPORE OR ANY OTHER PLACE REQUIRED BY CHARTERRES THROUGH AGENT NOMINATED BY OWNERS AT THE COST WHICH IS TO BE MUTUALLY AGREED WITH CHARTERES. ONCE THE FULL FIRST SET (LOCAL) BILLS OF LADING ARE SURRENDERED TO VESSEL OWNERS ARE OT ISSUE/ RELEASE THE SECOND SET (GLOBAL) BILLS OF LADING TO CHARTERER WITHIN 24 HOURS SIMULTANEOUSLY. OWNER WILL EMAIL A SIGNED NON NEGOTIABLE COPY OF SECOND (GLOBAL) SET BILLS OF LADING TO CHARTERER FOR FILING MANIFEST ONLY WITH INDIAN CUSTOMS, SWITCH BL COST WILL BE ON CHARTERES ACCOUNT."

TELCOM

CLEAN RECAP

(122)

16 OCTOBER 2021

DANISH / BENJAMIN,

**MAIN TERMS AND RIDER AS PER LAST AS DISCUSSED AND ALSO INCUDED YOUR CLAUSE AS YOU MENTIONED THAT SHIFTING TIME NOT TO COUNT AS LAYTIME. KINDLY PLEASE DECLARE DISPORT INTENTION.

+++

WE ARE PLEASE TO RECAP ON BEHALF OF TELCOM INTERNATIONAL TRADING PTE LTD THAT CHTRS, GLENTECH VENTURES PTE LTD / TATA INTERNATIONAL HAVE FIXED CLEANED THE FOLLOWING VESSEL ON THE FOLLOWING TERMS AND CONDITIONS.

KINDLY PLEASE REVIEW THE ENSURE THAT ALL TERMS ARE AS AGREED AND SHOULD CHTRS NOT EVERT WITH ANY AMENDMENTS WITHIN 24 HOURS THEN THIS FIXTURE IS DEEM ENFORCED AS RECAP AS FOLLOWS

CHTRS ARE TO REVERT ON THE TOP LOADING / BLENDING SEQUENCE AND AS WELL AS TO CONFIRM THAT VESSEL IS ALLOWED TO TOP LOAD IN PHUKET, THAILAND. CHTRS TO FURNISH OWNERS WITH VOYAGE INSTRUCTIONS DETAILING AS SUCH. OWNERS TO REVERT WITH PROPOSED STOW IN ACCORDANCE.

+++++

CHARTERPARTY DTD : 12 OCTOBER 2021

CHRTRS : GLENTECH VENTURES PTE LTD AS PERFORMANCE CHTRS
TATA INTERNATIONAL WEST ASIA DMCC AS PAYMENT CHTRS EXCEPT IN CASE OF DEMURRAGE WHERE GLENTECH WILL BE RESPONSIBLE FOR PAYMENT

DISPONENT OWNERS : TELCOM INTERNATIONAL TRADING PTE LTD OR ITS NOMINEE RELOGISTICS OLUTION PTE LTD

VESSEL : MT FMT EFES 'OOS'
BUILT 2010, MALTA FLAG, ABS CLASS
14,374MT SDWT ON 8.7 M SDRAFT
LOA/DRAM 142.90m/21.70 M
MARINELINE COATED CARGO TANKS / DECK STEAM SIAINLESS STEEL HEATER STAINLESS STEEL HEATING COILS IN SLOP TANKS

ITINERARY:

08 OCT	DEPARTED SOHAR
16-19 OCT	HALDIA
23-24 OCT	KUALA TANJUNG
26-29 OCT	PHUKET
06 NOV	KANDLA

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TELCOM

CLEAN RECAP

(132)

16 OCTOBER 2021

DANISH / BENJAMIN,

**MAIN TERMS AND RIDER AS PER LAST AS DISCUSSED AND ALSO INCUDED YOUR CLAUSE AS YOU MENTIONED THAT SHIFTING TIME NOT TO COUNT AS LAYTIME. KINDLY PLEASE DECLARE DISPORT INTENTION.

+++

WE ARE PLEASE TO RECAP ON BEHALF OF TELCOM INTERNATIONAL TRADING PTE LTD THAT CHTRS, GLENTECH VENTURES PTE LTD / TATA INTERNATIONAL HAVE FIXED CLEANED THE FOLLOWING VESSEL ON THE FOLLOWING TERMS AND CONDITIONS.

KINDLY PLEASE REVIEW THE ENSURE THAT ALL TERMS ARE AS AGREED AND SHOULD CHTRS NOT EVERT WITH ANY AMENDMENTS WITHIN 24 HOURS THEN THIS FIXTURE IS DEEM ENFORCED AS RECAP AS FOLLOWS

CHTRS ARE TO REVERT ON THE TOP LOADING / BLENDING SEQUENCE AND AS WELL AS TO CONFIRM THAT VESSEL IS ALLOWED TO TOP LOAD IN PHUKET, THAILAND. CHTRS TO FURNISH OWNERS WITH VOYAGE INSTRUCTIONS DETAILING AS SUCH. OWNERS TO REVERT WITH PROPOSED STOW IN ACCORDANCE.

+++++

CHARTERPARTY DTD : 12 OCTOBER 2021

CHRTRS : GLENTECH VENTURES PTE LTD AS PERFORMANCE CHTRS
TATA INTERNATIONAL WEST ASIA DMCC AS PAYMENT CHTRS EXCEPT IN CASE OF DEMURRAGE WHERE GLENTECH WILL BE RESPONSIBLE FOR PAYMENT

DISPONENT OWNERS : TELCOM INTERNATIONAL TRADING PTE LTD OR ITS NOMINEE RELOGISTICS OLUTION PTE LTD

VESSEL : MT FMT EFES 'GOS'
BUILT 2010, MALTA FLAG, ABS CLASS
14,374MT SDWT ON 8.7 M SDRAFT
LOA/BEAM 142.90M/21.70 M
MARINELINE COATED CARGO TANKS / DECK STEAM STAINLESS STEEL HEATER
STAINLESS STEEL HEATING COILS IN SLOP TANKS

ITINERARY:

08 OCT	DEPARTED SOHAR
16-19 OCT	HALDIA
23-24 OCT	KUALA TANJUNG
26-29 OCT	PHUKET
06 NOV	KANDLA

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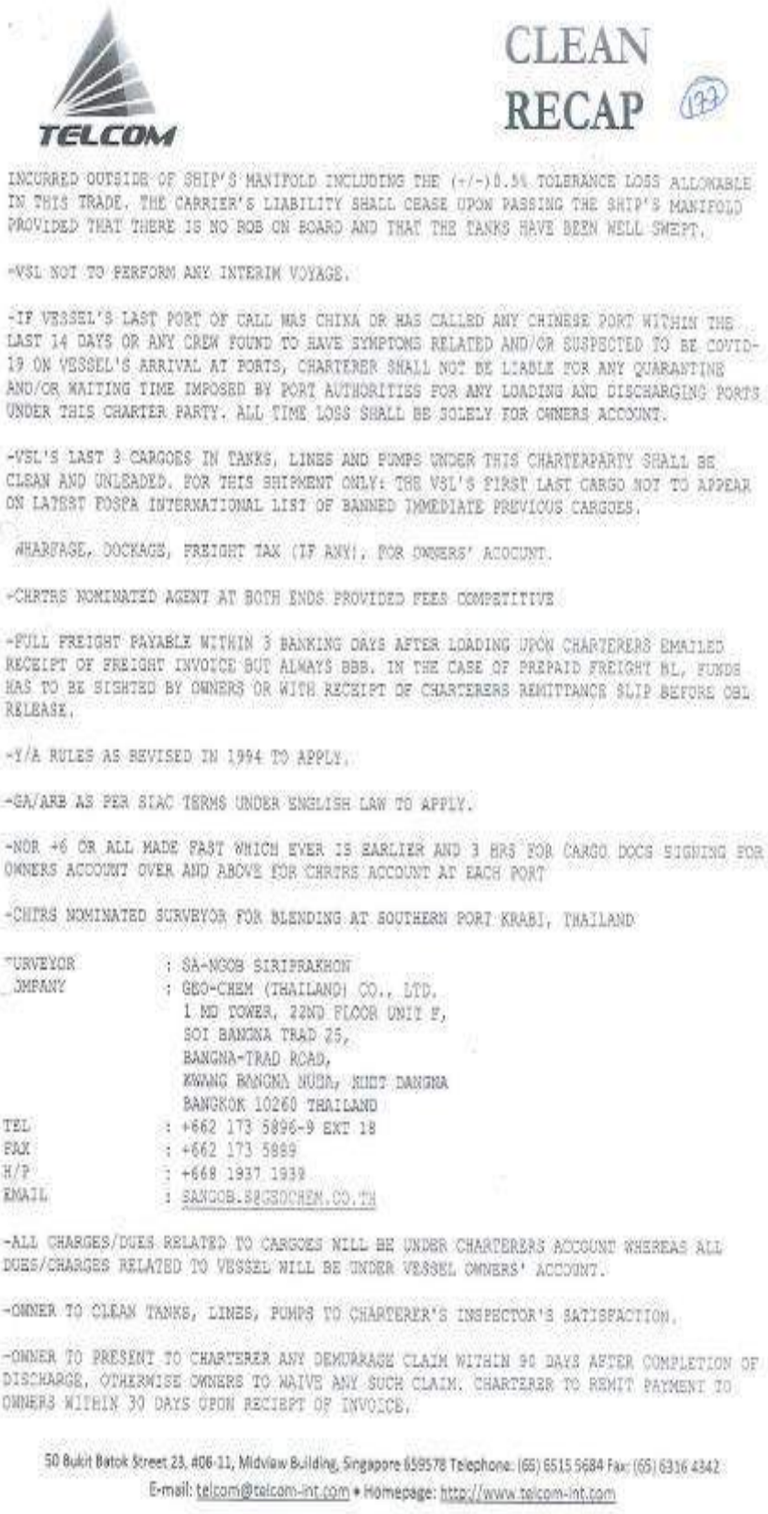

TELCOM

CLEAN
RECAP

INCURRED OUTSIDE OF SHIP'S MANIFOLD INCLUDING THE (+/-)0.5% TOLERANCE LOSS ALLOWABLE IN THIS TRADE. THE CARRIER'S LIABILITY SHALL CEASE UPON PASSING THE SHIP'S MANIFOLD PROVIDED THAT THERE IS NO ROB ON BOARD AND THAT THE TANKS HAVE BEEN WELL SWEPT.

-VSL NOT TO PERFORM ANY INTERIM VOYAGE.

-IF VESSEL'S LAST PORT OF CALL WAS CHINA OR HAS CALLED ANY CHINESE PORT WITHIN THE LAST 14 DAYS OR ANY CREW FOUND TO HAVE SYMPTONS RELATED AND/OR SUSPECTED TO BE COVID-19 ON VESSEL'S ARRIVAL AT PORTS, CHARTERER SHALL NOT BE LIABLE FOR ANY QUARANTINE AND/OR WAITING TIME IMPOSED BY PORT AUTHORITIES FOR ANY LOADING AND DISCHARGING PORTS UNDER THIS CHARTER PARTY. ALL TIME LOSS SHALL BE SOLELY FOR OWNERS ACCOUNT.

-VSL'S LAST 3 CARGOES IN TANKS, LINES AND PUMPS UNDER THIS CHARTERPARTY SHALL BE CLEAN AND UNLEADED. FOR THIS SHIPMENT ONLY: THE VSL'S FIRST LAST CARGO NOT TO APPEAR ON LATEST FOSPA INTERNATIONAL LIST OF BANNED IMMEDIATE PREVICUS CARGOES.

WHARFAGE, DOCKAGE, FREIGHT TAX (IF ANY), FOR OWNERS' ACCOUNT.

-CHRTRS NOMINATED AGENT AT BOTH ENDS PROVIDED FEES COMPETITIVE

-FULL FREIGHT PAYABLE WITHIN 3 BANKING DAYS AFTER LOADING UPON CHARTERERS EMAILED RECEIPT OF FREIGHT INVOICE BUT ALWAYS BBB. IN THE CASE OF PREPAID FREIGHT BL, FUNDS HAS TO BE SIGHTED BY OWNERS OR WITH RECEIPT OF CHARTERERS REMITTANCE SLIP BEFORE OBL RELEASE.

-Y/A RULES AS REVISED IN 1994 TO APPLY.

-GA/ARB AS PER SIAC TERMS UNDER ENGLISH LAW TO APPLY.

-NOR +6 OR ALL MADE FAST WHICH EVER IS EARLIER AND 3 HRS FOR CARGO DOCS SIGNING FOR OWNERS ACCOUNT OVER AND ABOVE FOR CHRTRS ACCOUNT AT EACH PORT

-CHTRS NOMINATED SURVEYOR FOR BLENDING AT SOUTHERN PORT KRABI, THAILAND

URVEYOR : SA-NGOB SIRIPRAKHON
OMPANY : GEO-CHEM (THAILAND) CO., LTD.
1 MD TOWER, 22ND FLOOR UNIT F,
SOI BANGNA TRAD 25,
BANGNA-TRAD ROAD,
KWANG BANGNA NUEA, KHET BANGNA
BANGKOK 10260 THAILAND
TEL : +662 173 5896-9 EXT 18
FAX : +662 173 5899
H/P : +668 1937 1939
EMAIL : SANGOB.S@GEOCHEM.CO.TH

-ALL CHARGES/DUES RELATED TO CARGOES WILL BE UNDER CHARTERERS ACCOUNT WHEREAS ALL DUES/CHARGES RELATED TO VESSEL WILL BE UNDER VESSEL OWNERS' ACCOUNT.

-OWNER TO CLEAN TANKS, LINES, PUMPS TO CHARTERER'S INSPECTOR'S SATISFACTION.

-OWNER TO PRESENT TO CHARTERER ANY DEMURRAGE CLAIM WITHIN 90 DAYS AFTER COMPLETION OF DISCHARGE, OTHERWISE OWNERS TO WAIVE ANY SUCH CLAIM. CHARTERER TO REMIT PAYMENT TO OWNERS WITHIN 30 DAYS UPON RECIEPT OF INVOICE.

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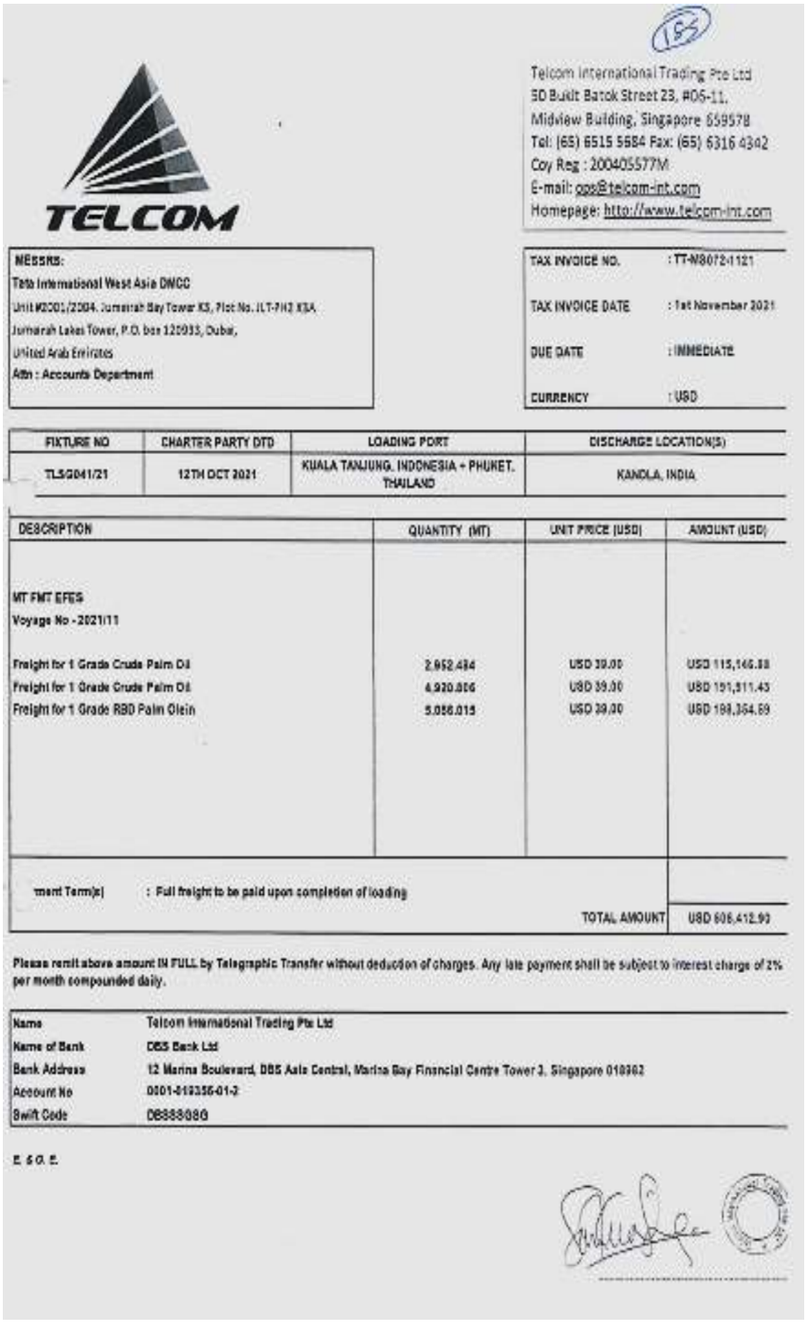
E-mail: telcom@telcom-int.com • Homepage: http://www.telcom-int.com

Image 72: Scanned image of Charter Party dated 12.10.2021

Further, Page No. 185 of the above mentioned file is Invoice No. TT-MS072-1121 dated 01.11.2021 raised by M/s. Telcom, Singapore as per Charter Party Agreement dated 12.10.2021 to M/s TIWA, UAE mentioning port of loading as Kuala Tanjung, Indonesia + Phuket, Thailand with discharge location as Kandla. Further the Vessel No. mentioned on the same is MT FMT EFES 202111 for charging freight of USD 505412.90 i.r.o. loading 2952.484MT of CPO, 4920.806MT of CPO and 5086.015 RBD Palmolein. Scanned copy of the said invoice is as below: -



TELCOM

Telcom International Trading Pte Ltd
50 Bukit Batok Street 23, #05-11,
Midview Building, Singapore 659578
Tel: (65) 6515 5684 Fax: (65) 6316 4302
Coy Reg : 200405577M
E-mail: ops@telcom-int.com
Homepage: http://www.telcom-int.com

MESSRS:
Tata International West Asia DWCC
Unit #2201/2204, Jumeirah Bay Tower X3, Plot No. JLT-PH2 X3A
Jumeirah Lakes Tower, P.O. box 122033, Dubai,
United Arab Emirates
Attn : Accounts Department

TAX INVOICE NO.	: TT-MS072-1121
TAX INVOICE DATE	: 1st November 2021
DUE DATE	: IMMEDIATE
CURRENCY	: USD

FIXTURE NO	CHARTER PARTY DTD	LOADING PORT	DISCHARGE LOCATION(S)
TLSG041/21	12TH OCT 2021	KUALA TANJUNG, INDONESIA + PHUKET, THAILAND	KANDLA, INDIA

DESCRIPTION	QUANTITY (MT)	UNIT PRICE (USD)	AMOUNT (USD)
MT FMT EFES Voyage No - 2021/11			
Freight for 1 Grade Crude Palm Oil	2,952.434	USD 39.00	USD 115,144.88
Freight for 1 Grade Crude Palm Oil	4,920.806	USD 39.00	USD 191,911.43
Freight for 1 Grade RBD Palm Olein	5,086.015	USD 39.00	USD 198,354.59
ment Term(s) : Full freight to be paid upon completion of loading		TOTAL AMOUNT	USD 505,412.90

Please remit above amount IN FULL by Telegraphic Transfer without deduction of charges. Any late payment shall be subject to interest charge of 2% per month compounded daily.

Name	Telcom International Trading Pte Ltd
Name of Bank	DBS Bank Ltd
Bank Address	12 Marina Boulevard, DBS Asia Central, Marina Bay Financial Centre Tower 3, Singapore 018982
Account No	0301-019356-01-2
Swift Code	DBSSSGSG

E. & O. E.

Image73.: Scanned copy of Invoice No. TT-MS072-1121 dated 01.11.2021 issued by M/s. Telcom International PTE Ltd.

D. Original Bills of Lading raised by the Master of vessel at ports at Indonesia and Thailand,

6.2.29. Furthermore, the Tanker Bills of Lading No. KTP/DEE/01 dated 26.10.2021 issued at Kuala Tanjung Indonesia **[pg 171 of RUD No. 25]** Capt. Julio Uytiepo Conejero, Master of Mt FMT EFES w.r.t. loading of 5086.015 MTS Refined Bleached and Deodorised Palm Olein as per contract No. 142/SC/FOB/INL/IX/2021 dated 30.09.2021 on board tanker MT FMT EFES Voy. 202111 stowed in 1P, 1S, 2P, 2 2P, 2S, 3S, 4P, 6P, 7P and 7S respectively, freight payable as per charter party dated 12.10.2021. It mentions the name of the shipper as Pt. Industri Nebati Lestaro, Indonesia, notified party- M/s. TIWA UAE**,** which clearly shows that 5086.015 MT RBD Palm Olein was loaded on the Vessel MT FMT EFES Voy.202111 on 26th October, 2021 at Kuala Tanjung, Indonesia.

Tanker Bill of Lading

BILL NO. KTG/DEE/01

FIRST ORIGINAL

Consignee/Order of
TO ORDER OF CITIBANK N.A. SINGAPORE BRANCH

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
1002 TO 2005 JUMEIRAH BAY X3 TOWER,
CLUSTER X, J.L.T. UNITED ARAB EMIRATES

On board the tanker | Flag | Master
MT FMT EFES VOY. 202111 | MALTA | CAPT. JULIO DITTEPO CONEJERO

Loaded at the port of | To be delivered to the port of
KUALA TANJUNG PORT, INDONESIA | DEENDAYAL(KANDLA) PORT, INDIA

A quantity in bulk said by the Shipper to be :

COMMODITY (Name of Product) | QUANTITY (No., tonnes, barrels, gallons)
5086.015 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK AS PER CONTRACT NO.1423/CIF/DEI/NL/00/2021 DATED: 30.09.2021 INCO TERM: FOB KUALA TANJUNG PORT, INDONESIA | 5086.015 MTS

VESSEL IMO NO. 9427600
FREIGHT PAYABLE AS PER CHARTER PARTY
H.S. CODE 15119037

CLEAN ON BOARD
OCTOBER 26TH, 2021

DOWN CARRIAGE STOWAGE 1P,1S,2P,2S,3P,3S,4P,4S,5P,5S,6P,6S,7P,7S,8LOP C

5086.015 | 5086.015
1P,1S,2P,2S,3P,3S,4P,4S,5P,3S,4P
6S,7P,7S,8LOP C | ONE

12 OCTOBER 2021

AS PER CHARTER PARTY | AS PER CHARTER PARTY

THREE (3) ORIGINALS

KUALA TANJUNG, INDONESIA | 26TH | OCTOBER, 2021

AS AGENTS FOR AND ON BEHALF OF THE MASTER MT. FMT EFES
CAPT. JULIO DITTEPO CONEJERO

Image74.: Scanned copy of Original Bill of Lading No. KTP/DEE/01 dated 12.10.2021 showing loading of 5086.015 MTS of RBD Palmolein at Kuala Tanjung, Indonesia

6.2.30 Page No. 159 of RUD-24 as reproduced below is shipping certificate dated 26.10.2021 issued by Pt. USDA SEROJA JAYA, at Kuala Tanjung, Indonesia ir.o. 5086.015 MTs of RBD Palmolein under B/L No. KTG/DEE/01 dated 26.102.2021 on board vessel MT. FMT EFES VOY.202111

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PT. USDA SEROJA JAYA

AGENCY DIVISION

HEAD OFFICE : B & G TOWER 10TH FLOOR, MEDAN 20111 - INDONESIA
TELP : +62 (61) 4102 999, FAX : +62 (61) 4102 10040, EMAIL : USDA.MEDAN@USDA.CO.ID

INSA No. 150/INSA VIII/90

BRANCH : BELAWAN - KUALA TANJUNG - DUMAI - BATAM - PADANG - PALEMBANG - GRESIK - BALIKPAPAN - KUMAI - BITUNG

26th OCTOBER 2021

SHIPPING CERTIFICATE

VESSEL	: MT. FMT EFES VOY. 202111
COMMODITY	: 5086.015 MTS REFINED BLEACHED AND DEODORISED PALM OLEIN (EDIBLE GRADE) IN BULK AS PER CONTRACT NO.142/SC/FOB/INL/IX/2021 DATED: 30.09.2021 INCOTERM: FOB KUALA TANJUNG PORT, INDONESIA
TOTAL QUANTITY	: 5,086.015 MTS
PORT OF LOADING	: KUALA TANJUNG, INDONESIA
PORT OF DISCHARGE	: DEENDAYAL (KANDLA) PORT, INDIA
BL NO/DATE	: KTP/DEE/01 DATED 26.10.2021

WE CERTIFYING THAT THE CARRYING VESSEL "MT. FMT EFESVOY. 202111" IS A SEAWORTHY VESSEL NOT MORE THAN 25 YEARS OLD, AND HAS BEEN REGISTERED WITH AN APPROVED CLASSIFICATION SOCIETY (AMERICAN BUREAU OF SHIPPING).

.....

AS AGENT FOR AND ON BEHALF OF THE MASTER,

MASTER: CAPT. JULIO UYTIEPO CONEJERO

Image75: Scanned Copy of Shipping certificate dated 26-10-2021 issued by Capt. Julio Uytiepo Conejero, Master of "MT FMT EFES VOY.202111" in respect of 5086.015 RBD

From the perusal of the above, it clearly shows that 5086.015 MTS of RBD Palmolein was loaded on vessel MT FMT EFES 202111 and shipped on 26.10.2021.

6.2.31. Page No. 169 and 167 of the RUD-24 are the Tanker Bills of lading issued at Phuket, Thailand on 31.10.2021 and as per the tanker Bill of Lading No. KTP/DEE/02 dated 31.10.2021 loading of **4920.806 MTS** only of Crude Palm Oil (Edible Grade) in Bulk Stowed in C, 1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S, 7P, 7S both of one original lot of **7873.290 MTS** only. The shipment is carried under and pursuant to the terms of the Charter dated 12.10.2021. It mentions the name of the shipper as Tha Chang Oil Palm Industries Co. Ltd, Thailand, notified party- M/s. TIWA, UAE,which clearly shows that the respective quantity i.e. 2952.484MT CPO and 4920.806 MT of Crude Palm Oil(Edible Grade) in Bulk was loaded on the Vessel MT FMT EFES Voy.202111 on 31st October, 2021 at Phuket, Thailand.

Tanker Bill of Lading

FIRST ORIGINAL

THA CHANG OIL PALM INDUSTRIES CO. LTD.
19 MOO 3 THACHANG DISTRICT, THACHANG
SURAT THANI, 84190 THAILAND

Consignee/Order of
TO ORDER OF CITIBANK N.A. SINGAPORE BRANCH

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
2001 TO 2005 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, UNITED ARAB EMIRATES

On board the tanker	Flag	Master
MT FMT EFES VOY: 202111	MALTA	CAPT. JULIO UYTIEPO CONEJERO

Loaded at the port of	To be delivered to the port of
PHUKET PORT, THAILAND	DEENDAYAL(KANDLA) PORT, INDIA

A quantity in bulk said by the Shipper to be:

COMMODITY (Name of Product)	QUANTITY (lbs., tonnes, barrels, gallons)
CRUDE PALM OIL (EDIBLE GRADE) IN BULK	2,952.484 MTS

PARAMETER Specification
FFA (AS PALMITIC) 5.0 PCT MAX
M AND I 0.5 PCT MAX
QUANTITY: 3000.00 MTS AS PER CONTRACT NO CPO/2024/0388
DATED: 09/09/2021
VESSEL IMO NO: 9427666
FREIGHT PAYABLE AS PER CHARTER PARTY
H.S. CODE 1511.1000
INCOTERMS: FOB PHUKET PORT, THAILAND
CLEAN ON BOARD
OCTOBER 31, 2021
DEMAN DAMMAGE STORAGE: C 1P 1S 2P 2S 3P 3S 4P 4S 5P 5S 6P 6S 7P 7S

This oil parcel of 2,952.484 MTS loaded into cargo tanks C 1P 1S 2P 2S 3P 3S 4P 4S 5P 5S 6P 6S 7P 7S 7,873.290 MTS

Metric tons received in 6S /P /S with no segregation as to grades, for the whole shipment ONE(ONE) sea

Of bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one bill only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the pro rata cargo that the total amount specified in the Bills of Lading bears to the total of the commingled shipments delivered at destination, whether the Vessel has the custody actually any responsibility for the correct ullage of each commingling nor for the supervision she form at the time of delivery in respect of the quality, colour and specification of the cargo.

The quantity, measurement, weight, gauge, quality, nature and value and actual condition of the cargo unknown to the Vessel and the master, is not delivered to the port of discharge at or near thereto on the normal cost safety pier, always afloat upon arrival at port/s of freight as agreed. Cargo is warranted free of damage in Vessel except for the usual risks inherent in the carriage of the commodity as described.

This shipment is carried under and pursuant to the terms of the Charter dated 12TH OCTOBER 2021

Between AS PER CHARTER PARTY As Disponent Owner and AS PER CHARTER PARTY As Charterer, and all terms & conditions

And everywhere whatsoever. All the said Charter apply to and govern the rights of the parties concerned in this shipment. The Clause Paramount, New Jason Clause and Both to Blame Collision Clause as set out on the reverse of this Bill of Lading are hereby incorporated herein and shall remain in effect even if inapplicable in the United States of America. General Average payment according to the York-Antwerp Rules 1974, as amended 1994.
The Master is authorized to act for all interests in arranging for salvage assistance on terms of Lloyd's Open Form. The freight is payable deadfreight pro rata to be assessed consistent with loading, ship, and/or cargo lost or not lost or abandoned.
The Owner's shall have an absolute lien on the cargo for all freight, demurrage, damages for detention and all other monies due under the above mentioned Charter or under this Bill of Lading, together with the costs and expenses, including attorneys fees, of recovering same, and shall be entitled to sell or otherwise dispose of the property seized and apply the proceeds towards satisfaction of such liability.

The contract of carriage evidenced by this Bill of Lading is between the shipper, consignee and/or owner of the cargo and the owner or demise charterers of the vessel named herein or on by the cargo described above.
It is voluntarily and agreed that, other than said shipowner or demise charterer, no person, firm or corporation or other legal entity whatsoever, is or shall be deemed to be liable with respect to the oil content as owner, bailee or otherwise in contract or in tort. It, however, it shall be adjudged that any other than said shipowner or demise charterer is carrier or bailee of said shipment or under any responsibility with respect thereto, all limitations of or exonerations from liability and all defenses provided by law or by this terms of the contract of carriage shall be available to such other.

All of the provisions herein, printed or stamped on either side hereof are part of this Bill of Lading Contract.
In Witness Whereof, the master has signed THREE (3) ORIGINALS all of this tenor and date, one of which being accomplished, the others will be void.
Dated at PHUKET, THAILAND this 31ST day of OCTOBER 2021

Witherspoon Ships Service
As Agents Only
Witherspoon Ships Service (Thailand) Limited
As agents for and behalf of Master MT. FMT EFES
CAPT. JULIO UYTIEPO CONEJERO

Image76 :Scanned copy of Tanker Original B/ L No. PHP/DEE/03 dated 31.10.2021 issued at Phuket, Thailand

As per the Tanker Bill of Lading No.PHP/DEE/03 DATED 31.10.2021 issued at Phuket, Thailand by Capt. Julio Uytiepo Conejero, Master of MT FMT EFES w.r.t. loading of 2952.484MTS only of Crude Palm Oil (Edible Grade) in Bulk stowed in C, 1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S, 7P, 7S

Tanker Bill of Lading

B/L NO. KTP/DEE/02

FIRST ORIGINAL

Shipper
THA CHANG OIL PALM INDUSTRIES CO. LTD.
79 MOO 3 THACHANG DISTRICT, THACHANG,
SURATTHANI, 84150 THAILAND

Consignee/Order of
TO ORDER OF CITIBANK N.A. SINGAPORE BRANCH

Notify address
TATA INTERNATIONAL WEST ASIA DMCC
2001 TO 2006 JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, UNITED ARAB EMIRATES

On board the tanker	Flag	Master
MT FMT EFES VOY. 202111	MALTA	CAPT. JULIO UYTIEPO CONEJERO

Loaded at the port of	To be delivered to the port of
PHUKET PORT, THAILAND	DEENDAYAL(KANDLA) PORT, INDIA

A quantity in bulk said by the Shipper to be :

COMMODITY (Name of Product)	QUANTITY (lbs., tonnes, barrels, gallons)
CRUDE PALM OIL (EDIBLE GRADE) IN BULK	4,920.808 MTS

PARAMETER specification
FFA (AS PALMITIC) 5.0 PCT MAX
M AND I 0.5 PCT MAX
QUANTITY: 5000.00 MTS AS PER CONTRACT NO CPO3564/00302
DATED 30.09.2021
VESSEL IMO NO. 9427680
FREIGHT PAYABLE AS PER CHARTER PARTY
H.S. CODE 15111000
INCOTERM: FOB PHUKET PORT, THAILAND

CLEAN ON BOARD
OCTOBER 31, 2021

OCEAN CARRIAGE STORAGE: C,1P,1S,2P,2S,3P,3S,4P,4S,5P,5S,6P

This shipment of 4,920.808 MTS Mat to bots was loaded on board the Vessel as part of one original lot of 7,873.280 MTS
C,1P,1S,2P,2S,3P,3S,4P,4S,5P,5S,6P

Mat to bots stowed in 6S,7P,7S with no segregation as to parcels. For the whole shipment 01(ONE) sets

Of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quantity, colour and specification of the cargo.

The quantity, measurement, weight, gauge, quality, nature and value and actual condition of the cargo unknown to the Vessel and the Master. To be delivered to the port of discharge or as near thereto as the Vessel can safely get, always afloat upon payment of freight as agreed. Cargo is warranted free of danger to Vessel except for the usual risks inherent in the carriage of the commodity as described.

This shipment is carried under and pursuant to the terms of the Charter dated 12TH OCTOBER 2021

Between AS PER CHARTER PARTY As Disponent Owner and AS PER CHARTER PARTY As Charterers, and all conditions, Liberties

And exceptions whatsoever of the said Charter apply in and govern the rights of the parties concerned in this shipment. The Clause Paramount, New Jason Clause and Both to Blame Collision Clause as set out on the reverse of this Bill of Lading are hereby incorporated herein and shall remain in effect even if unenforceable in the United States of America. General Average payment according to the York-Antwerp Rules 1974, as amended 1994.
The Master is authorized to act for the interests of and standing for salvage assistance on terms of Lloyd's Open Form. The freight is payable 4Consecutive and is earned concurrent with loading, ship and/or cargo lost or not lost or abandoned.
The Owners shall have an absolute lien on the cargo for all freight, Deadfreight, demurrage, damages for detention and all other monies due under the above mentioned Charter or under this Bill of Lading, together with the costs and expenses, including attorneys fees, of recovering same, and shall be entitled to sell or otherwise dispose of the property lienee and apply the proceeds towards satisfaction of such liability.

The contract of carriage evidenced by this Bill of Lading is between the shipper, consignee and/or owner of the cargo and the owner or demise charterers of the Vessel named herein to carry the cargo described above.
It is understood and agreed that, other than said shipowner or demise charterer, no person, firm or corporation or other legal entity whatsoever, is or shall be deemed to be liable with respect to this shipment as carrier, bailee or otherwise in contract or in tort. If, however, it shall be adjudged that any other than said shipowner or demise charterer is carrier or bailee of said shipment or under any responsibility with respect thereto, all immunities or limitations of liability and all defenses provided by law or by the terms of the contract of carriage shall be available to such other.

All of the provisions written, printed or stamped on either side hereof are part of this Bill of Lading Contract.
In Witness Whereof, the master has signed THREE (3) ORIGINALS
Bills of Lading of this tenor and date, one of which being accomplished, the others will be void.
Dated at PHUKET, THAILAND this 31ST day of OCTOBER 2021

Wilhelmsen Ships Service
As Agents Only

Wilhelmsen Ships Service (Thailand) Limited
As agents for and behalf of Master MT. FMT EFES
CAPT. JULIO UYTIEPO CONEJERO

Image77 :Scanned copy of Tanker Original B/ L No. KTP/DEE/02 dated 31.10.2021 issued at Phuket, Thailand

From the above it is forthcoming that 5086.015 MT of RBD Palmolein was actually loaded onto the vessel at Kuala Tanjung, Indonesia on 26.10.2021 and 7872.29 MT of Crude Palm Oil (Edible Grade) in Bulk is actually loaded onto the vessel on 31.10.2021 at Phuket, Thailand. Therefore, total quantities of 12959.31 MT of aforementioned cargos were loaded on vessel MT FMT EFES V.202111.

6.2.32. Page No. 183 of the said file is the copy of the email from Sachin.deshpande@tatainternational.com to Sudhanshu, Sidhant Agarwal and others sending the payment details dated 03.11.2021 i.r.o. telegraphic transfer of USD 5,05,413 from M/s.TISPL towards Telcom International Trading PTE Ltd. (the vessel owner).

PAYMENT DETAILS : FYI : MT FMT EFES V2
09 Nov / Freight Invoice - Ops Matter External

Sachin Deshpande <sachin.deshpande@tatainternational.com>
to me, Ravi, AMIT, Sudhanshu, Sidhant, Amit, Kushal, Rajesh

Dear Team,

Please find below the freight Payment details

From: Danish Faisal [mailto:shipping@glentech.co]
Sent: Monday, November 01, 2021 4:47 PM
To: Sachin Deshpande <sachin.deshpande@tatainternational.com>; Ravi T
Cc: 'AMIT AGARWAL' <operations@glentech.co>; 'Sudhanshu' <sudhanshu.
tatainternational.com>; Kushal Bothra <kushal.bothra@tatainternational.c
Subject: RE: FYI : MT FMT EFES V2109 202111 / GLENTECH/TATA / CP 12 O

** External Email: This message originated outside

Dear Sachin,

Good day,

Kindly find the attached for your ref.

Thanks & Regards,
SM Danish Faisal

Image78: Scanned copy of the email dated 01.11.2021 intimating the payment details

From the above, it is clear that M/s. TISPL had paid towards the freight charges of 5086.015 MTS of RBD Palmolein from Kuala Tanjung, Indonesia., 4920.806 MTS of CPO at Phuket, Thailand, and 2952.484 MTof CPO at Phuket, Thailand.

E. Switched/Manipulated Bills of Lading raised for the purpose of production before Indian Customs

6.2.33. As per the switching cause of the charter party agreement dated 12.10.2021 agreement entered between the charterers, viz M/s. TIWA, UAE as Payment Charter, M/s. GVPL, Singapore, as performance charter and the vessel owner, M/s. Telcom International Trading PTE Ltd, Singapore it appears that the original Bills of Lading No. KTP/DEE/01 dated 26.10.2021 issued at Kuala Tanjung, Indonesia i.r.o. 5086.015MT of RBD Palm Olein were switched and a second set of Bills of Lading Bearing No. KTG/DEE-01 to KTG/DEE-21 dated 26.10.2021 were issued, out of which KTG/DEE/01 to 20 dated 26.10.2021 are for 250MTs mentioning description of goods as CPO loaded on the vessel and KTG/DEE/21 dated 26.10.2021 is for 86.015MT mentioning description of goods as CPO loaded on the vessel at Kuala Tanjung with port of discharge at Kandla Port, India with the mention of: -

This shipment of **250.00** Liquid Metric Tons was loaded on the Vessel as part of one original lot of **12,959.305** Liquid Metric Tons stowed in **1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S, 7P, 7S AND SLOP C** where 5086.015mt was loaded into the same tanks on 26th october 2021 and 7,873.290mt that was commingled into the same tanks at phuket on 31st october 2021 with no segregation as to parcels. For the whole shipment 54 (FIFTY FOUR) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

TANKER BILL OF LADING
B/L No. KTG/DEE/01

TO BE USED WITH CHARTER-PARTIES

FIRST ORIGINAL

Shipper
TATA INTERNATIONAL WEST ASIA DMCC
3001 TO 3006, JUMEIRAH BAY X3 TOWER,
CLUSTER X, JLT, P O BOX 120003 DUBAI,
UNITED ARAB EMIRATES

Consignee
TO ORDER

Notify address
TATA INTERNATIONAL LTD
OFFICE NO. 11, GROUND FLOOR, PLOT NO.40, SECTOR
NO.8 GANDHIDHAM KACHCHH, GUJRAT, 370201, INDIA

Vessel Port of loading KUALA TANJUNG PORT, INDONESIA
MT. PMT EFES VOY.2021/11

Port of discharge
DEENDAYAL (KANDLA) PORT, INDIA

Type's description of goods	Gross Weight
CRUDE PALM OIL (EDIBLE GRADE) IN BULK	250.00 MTS
IEC:0388024251 GST :24AAACT3199F1ZE PAN:AAACT3199F EMAIL:RAVI.THAKKAR(AT)TATAINTERNATIONAL.COM H.S. CODE: 15111090 VESSEL IMO NO. 9427990	"FREIGHT PREPAID" CLEAN ON BOARD

This shipment of 250.00 Liquid Metric Tons was loaded on the Vessel as part of one original lot of 12,959.305 Liquid Metric Tons stowed in 1P, 1S, 2P, 2S, 3P, 3S, 4P, 4S, 5P, 5S, 6P, 6S, 7P, 7S AND SLOP C where 5080.075mt was loaded into the same tanks on 26th october 2021 and 7,879.230mt that was commingled into the same tanks as ghaket on 31st october 2021 with no segregation as to parcels. For the whole shipment, 04 (FORTY FOUR) sets of Bill of Lading have been issued for which the Vessel is relieved from all responsibilities to the extent it would be if one set only would have been issued. The Vessel undertakes to deliver only that portion of the cargo actually loaded which is represented by the percentage that the total amount specified in the Bill(s) of Lading bears to the total of the commingling shipment delivered at destination. Neither the Vessel nor the owners assume any responsibility for the consequences of such commingling nor for the separation thereof at the time of delivery in respect of the quality, colour and specification of the cargo.

(Owner)
being responsible for loss or damage however arising

IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

FOR CONDITIONS OF CARRIAGE SEE OVERLEAF

Received on account of freight

Time used for loading ..... days ..... hours.

As Per Charter Party Dated 12/10/2021

Place and date of issue
SINGAPORE AS AT KUALA TANJUNG PORT, INDONESIA 26TH OCTOBER 2021

Number of original Bs/L
THREE (3)

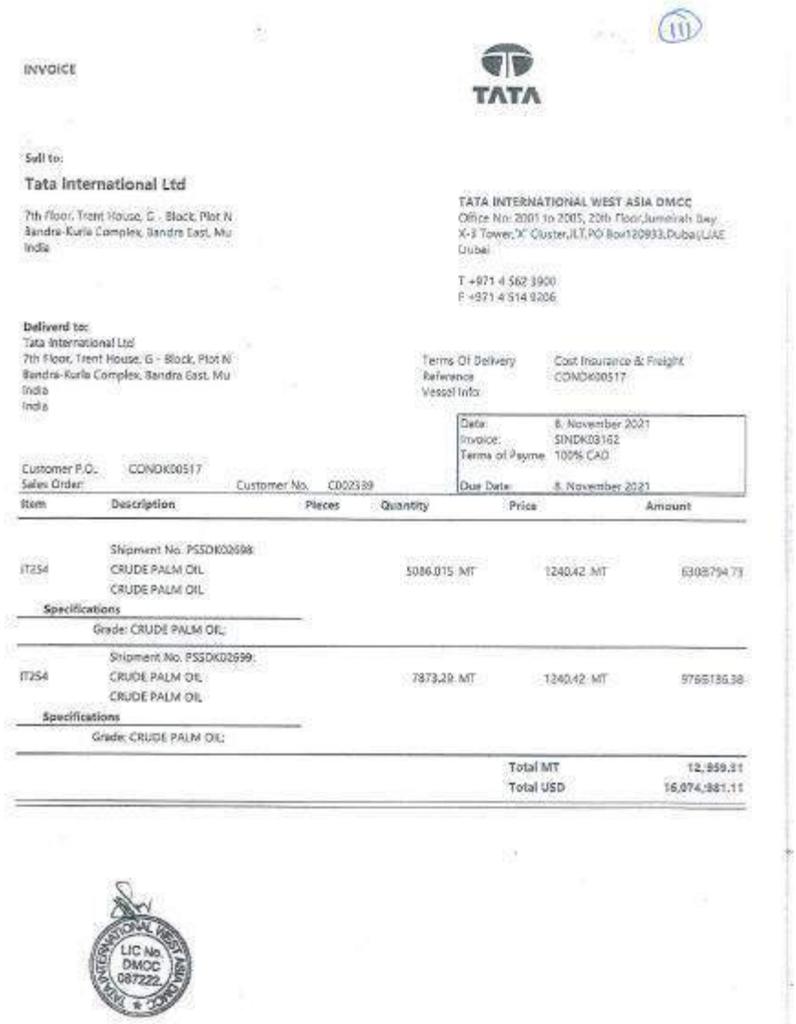
Signature

AS AGENTS FOR AND ON BEHALF OF THE MASTER,
CAPT. JULIO LITTEPO CORELERO

Image 79.: - Scanned copy of one of the switched B/L No. KTG/DEE/01 dated 26.10.2021

F. Sale of total 12959.31 MT of admixture (CPO and RBD) by to M/s TIL by mentioning the Goods as CPO

6.2.34. At Page No. 113 of the said file is an Invoice No. SINDK03162 dated 08.11.2021 **[RUD No 25]** which is raised by M/s. TIWA UAE to M/s. TIL, with mention of description of Goods: Crude Palm Oil, Qty: 12959.31, Total Value: 16,074,981.11 USD.



INVOICE

TATA

Sell to:
Tata International Ltd
7th Floor, Trent House, G - Block, Plot N
Bandra-Kurla Complex, Bandra East, Mu
India

TATA INTERNATIONAL WEST ASIA DMCC
Office No: 2001 to 2005, 20th Floor,Jumeirah Bay
X-3 Tower,"X" Cluster,JLT,PO Box120933,Dubai,UAE
Dubai
T +971 4 562 3900
F +971 4 514 8206

Delivered to:
Tata International Ltd
7th Floor, Trent House, G - Block, Plot N
Bandra-Kurla Complex, Bandra East, Mu
India
India

Terms Of Delivery: Cost Insurance & Freight
Reference: CONDK00517
Vessel Info:

Date: 8. November 2021
Invoice: SINDK03162
Terms of Payme: 100% CAD
Due Date: 8. November 2021

Customer P.O.: CONDK00517
Sales Order: Customer No. CD02389

Item	Description	Pieces	Quantity	Price	Amount
	Shipment No. PSSDK02698				
IT254	CRUDE PALM OIL CRUDE PALM OIL		5086.015 MT	1240.42 MT	6308794.73
	Specifications				
	Grade: CRUDE PALM OIL;				
	Shipment No. PSSDK02699				
IT254	CRUDE PALM OIL CRUDE PALM OIL		7873.29 MT	1240.42 MT	9765186.38
	Specifications				
	Grade: CRUDE PALM OIL;				
				Total MT	12,959.31
				Total USD	16,074,981.11

LIC No. DMCC 087222

Image 80: Scanned copy of invoice dated 08.11.2021 raised by M/s. TIWA to M/s. TIL. after issuance of switch B/L.

6.2.35 From the scrutiny of the documents as discussed herein above, it is safe to conclude that the goods viz. 5086.015 MT of RBD Palm Olein was procured/purchased by M/s. TIWA, UAE in Indonesia from M/s. Pt. Industri Nebati Lestari, Indonesia and was loaded on the vessel at Kuala Tanjung, Indonesia on 26th October, 2021 and the goods viz., 7872.29 MT of Crude Palm Oil (CPO) was procured/purchased by M/s. TIWA, UAE from M/s. Tha Chang Oil Palm Industries Co. Ltd. was loaded on the vessel at Phuket, Thailand on 31st October, 2021 on the vessel MT FMT EFES Voy. 202111; that the cargo was stowed as mentioned in the original Bills of Lading in the same tanks where CPO was loaded at Phuket Thailand on 31.10.2021; that the comingling of cargo was carried out and the Original Bills of Entry were switched into the second (Global) set of Bills of Lading analogously to the process of blending/comingling carried out in the vessel MT Distya Pushti V.072021, MT. HongHai6 V.2106 and MT GUMULDUR VOY. 202109. Further, M/s. GVPL, Singapore & M/s. TIWA DMCC, UAE had entered into charter party agreement dated 12.10.2021 with M/s. Telcom International Trading PTE Ltd, Singapore with explicit mention of blending option and the switching clause. Further, M/s. TIWA made payments towards the freight charges of the said vessel MT FMT EFES V.2021111 for its voyage from Indonesia to India.

6.2.36. All the above documents conclusively establish that though CPO, RBD and PFAD were purchased in Indonesia, the importer M/s. TIL in active connivance of M/s. GVPL and vessel owner viz. M/s. Telcom International Trading PTE Ltd, Singapore manipulated the documents to camouflage the

import of above goods and prepared another set of documents showing loading /import of CPO on the vessel. Such action led to evasion of customs duty on import of such goods at the time of clearance of such goods from Customs Port, i.e. Kandla.

OUTCOME OF THE INVESTIGATION:

7.1 From the above scrutiny of documents gathered during the course of investigation viz. Contracts of sales-purchase with sellers at Indonesia/ Thailand, copies of invoices, copies of original and switched Bills of Ladings, charter party agreements with various vessel owners, LC etc., it is gathered that M/s. TIL in association with M/s. GIPL and vessel owner viz. M/s. Telcom International Trading PTE Ltd., Singapore/M/s. OKA Tankers PTE Ltd., Singapore had procured CPO, RBD Palmolein, PFAD from different sellers at Thailand and Indonesia respectively and imported the goods viz. CPO, RBD and PFAD, by blending them on board vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106", "MT FMT EFES V.2021111"; that M/s. TIL were aware that the blending on board vessel has to be undertaken in order to make it marketable in domestic market; that post blending/comingling, the said goods become admixture of CPO, RBD, PFAD. M/s. TIL (as financial charterer) and M/s. GIPL (as operational charterer) had entered into charter party agreement with vessel owners. Such agreements with the vessel owner were agreed upon by all parties with explicit condition of having blending as well as switching of B/L clauses. M/s. Oka Tankers PTE Ltd., Singapore, and M/s. Telcom International PTE Ltd., Singapore had inserted these clauses and subsequently charged for the same from M/s. TIL, which they agreed to pay vide said agreement(s). The documentary evidences also indicate that the payment charterer viz. M/s. TIL had made the payments to the vessel owners. Thus, by allowing the blending of different cargos on board vessel, M/s. Oka Tankers PTE Ltd., Singapore, and M/s. Telcom International PTE Ltd., Singapore had concerned themselves in the wrongful act of blending the cargo and camouflaging the documents by switching the original Bills of Lading with second set of Bills of Lading with mis- declaration of the goods as CPO. They were in due knowledge of such wrongful act on the part of themselves, had been instrumental in the entire scheme of mis-declaration of goods imported into India. M/s. TIL classified the goods so mis-declared goods under CTH 15111000 in the 12 W.H Bills of Entry as mentioned in **Annexure-A** to this show cause, which were otherwise an admixture of 3499.71MTs of CPO, 8500MTs of RBD Palm Olein and 200MTs of PFAD imported vide vessel MTs Gumuldur Voy.202109, 8948.55MTs of CPO, 6513.52MTs of RBD Palmolein imported vide vessel Hong Hai6 V.2106 and 7873.29MTs CPO and 5086.015MTs RBD Palmolein imported vide vessel MT FMT EFES Voy.202111, with an intent to suppress the correct description of goods and to evade the appropriate duties of Customs at the time of clearance and to earn commission on such imports. M/s. TIL mis-declared the entire cargo as 'CPO' in the documents presented before Customs Authorities at Kandla. Such imported goods were cleared by them as well as further sold in the domestic market.

7.2 Further, it was only when a case was booked by the investigative agency in respect of 20300 MTs of goods imported vide 'MT Distya Pushti', they admitted that they had imported the said goods i.r.o. 3 previous consignments vide vessels MT Gumuldur V.202109, Hong Hai6 V.2106, MT EFES V.202111 using similar modus operandi as in respect of import of consignments on 'MT

Distya Pushti'. A Show Cause Notice to the effect is already issued to M/s. TIL in this context. Thus, by such act they had supressed this information from the Customs department and continued mis-declaring the said goods in the 12 W.H. Bills of Entry**(Annexure-A)** and subsequently which were cleared by various importers (M/s. DIL being one of them) resulting into short payment of duties of Customs of account of mis-declaration and mis-classification in W/H BoE as mentioned in table below:

Sr. No.	VESSEL NAME	SELLER	COMMODITY loaded at load Port	QTY (MTs)	SUPPLIER (M/s.)	LOAD PORT	Warehouse Bill of Entry no.	Bill of Entry date	Description of imported goods declared in bill of entry	QTY (MTs)
1	FMT GUMULDUR V.202109	M/s. TIWA	CPO	3499.71	OLAM	DUMAI, INDONESIA	5302477, 5302489, 5302500, 5302513, 5302519 & 5302523	03.09.2021	CPO	12199.71
			RBD PALM OLEIN	8500	INL	KUALA TANJUBG, INDONESIA				
			PFAD	200	INL	KUALA TANJUBG, INDONESIA				
			Total	12199.7						
2	MT HONG HAI6 V.2106	M/s. TISPL	RBD PALM OLEIN	6513.520		KUALA TANJUBG, INDONESIA	5916265, 5916285, 5916291 & 5916292	20.10.2021	CPO	15462.070
			CPO	8948.550		Phuket, Thailand				
			Total	15462.070						
3	MT FMT EFES VOY. 202111	M/s. TIWA	RBD PALM OLEIN	5086.015	PT INL	KAULA TANJUNG, INDONESIA	6212683 & 6212824	11.11.2021	CPO	12959.31
			CPO	7873.290	THA CHANG	PHUKAT PORT, THAILAND				
			Total	12959.31						

7.3 The buyers/importers, filed the corresponding Bills of Entry for Home Consumption in respect of the aforementioned W.H Bills of Entry by M/s. TIL mentioning the description of goods as 'CPO', which is incorrect in as much as the said goods were *admixture* of *CPO, RBD Palmolein and PFAD* as discussed hereinabove. Further the buyers of such goods from M/s. TIL importers had already cleared the said goods from the warehouse by way of Filing Ex-Bond Bills of Entry for Home Clearance (**as per Annexure –B**) and thus short paid the duties of Customs on account of mis-declaration and mis-classification of subject goods. The total differential duty recoverable on such goods imported and cleared already by them by way of mis-declaration and mis-classification of the goods as CPO under CTH 15111000 in Bills of Entry for Home Consumption by M/s. DIL is as per **Annexure –C** to this show cause notice. The differential duty is required to be recovered from them by invoking the provisions of Section 28(4) of the Customs Act, 1962 as M/s. TIL had suppressed the information regarding actual contents of the cargo from the department. In the said Bills of Entry for home consumption, the ex-bond filer viz. M/s. DIL had actually imported '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*' by mis-declaring the same as '*Crude Palm Oil*', by classifying it under CTH 15111000 instead of correct classification under CTH 15119090(Others- Palmolein), which is the appropriate classification of imported goods.

7.4 Further, M/s. DIL had filed the Ex-Bond BoE for Home consumption for clearance of quantity of **2717 MTS** i.r.o. such goods which were mis-declared in the W.H. Bills of Entry and imported vide aforementioned vessels are tabulated in **Annexure –C** to this show cause notice. Vide said Bills of Entry

M/s. DIL had mis-declared the goods as 'CPO' instead of declaring the same under CTH 15119090(Others). The declared assessable value of **2717 MTS** of such goods is **Rs.23,03,57,612/-**and accordingly paidCustoms Duties of **Rs.4,45,50,301/-.** The actual assessable value appears to be **Rs.24,64,06,525/-** as per relevant customs notifications for correct CTH 15119090 issued from time to time and duty payable appears to be **Rs.8,55,64,804/-.** Thus, M/s. DIL had short paid the Customs duties to the tune of **Rs.4,10,14,504/**- by way of mis-declaring and misclassifying the goods as 'CPO' under CTH 15111000 instead of declaring the said goods under CTH 15119090 which is correct classification of subject goods. From the above, it appears that M/s. DIL had paid lesser amount of customs duty and defrauded the government exchequer. The same is required to be recovered from them on account of mis-classification and mis-declaration.

8 CLASSIFICATION OF GOODS IMPORTED:

8.1 As discussed in the preceding paragraphs, though it appears that M/s. TIL had purchased different goods, viz., CPO, RBD and PFAD, blended them on board vessel and brought them into warehouse in the country. Further, in the import documents presented before Customs, they declared the warehoused cargo as CPO, by classifying the same under CTH 15111000. Furthermore, from the test reports, evidences recovered during investigation and statements of various persons recorded revealed that M/s. TIL had procured CPO, RBD and PFAD from the suppliers in Indonesia and blended all the three products during voyage of the vessels as discussed above.

8.2 In view of the above, the product imported by M/s. TIL is not CPO but admixture of Crude Palm Oil, Palmolein and other palm-based oil. Therefore, it is safe to conclude that the classification presented by M/s. TIL vide 12 W.H. Bills of Entry i.e. 15111000 and subsequently cleared vide 104 BoE for Home Consumption by various importers is not the correct classification. Thus, they have wrongly classified the product under CTH 15111000 and the said classification is required to be rejected and the goods need to be reclassified under appropriate CTH which is 15119090. The Customs Tariff Heading 1511 covers Palm Oil and its fractions, whether or not Refined, but not chemically modified. The Tariff Sub-Headings of CTH 1511 are as under: -

Tariff Item		**Description of goods**
(1)	(2)	(3)
15111000	-	Crude oil
151190	-	Other:
15119010	---	Refined bleached deodorised palm oil
15119020	---	Refined bleached deodorised Palmolein
15119030	---	Refined bleached deodorised palm stearin
15119090	---	Other

8.3 From the tariff sub-headings, it can be seen that CTH 15111000 covers Crude Palm Oil. The product in question imported by M/s. TIL is not Crude Palm Oil, but, is an admixture of Crude Palm Oil, Palmolein and other palm-

based oil. Therefore, the product imported by M/s. TIL viz. admixture of Crude Palm Oil, Palmolein and other palm-based oil merits classification under CTH 15119090. Therefore, the correct classification of goods imported by M/s. TIL is 15119090. Hence, classification of the imported goods, done by M/s. TIL under CTH 15111000, is required to be rejected and goods is to be re-classified under CTH 15119090.

8.4 Further, the goods imported by M/s. TIL at Kandla Port, India by mis-declaring the same as Crude Palm Oil (CPO), under CTH 15111000 attracts duties of customs over different period of time during 2021-22, as per the following duty structure: -

DUTY STRUCTURE ON CPO UNDER CTH 15111000 OVER DIFFERENT PERIOD OF TIME

Effective Date	**BCD (%)**	**AIDC (%)**	**SWS (SWS (@10% of all duties) (%))**	**IGST (%)**
30.06.2021 to 10.09.2021	10% [BCD as per Ntfn No. 34/2021 – Cus. dated 29.06.2021]	17.5% [AIDC @ 17.5% as per Ntfn No. 11/2021 - Cus dated 01.02.2021]	2.75	5
11.09.2021 to 13.10.2021	2.5% [BCD @ 2.5%, amended vide Ntfn No. 42/2021-Cus. dated 11.09.2021; Exemption from BCD on CPO withdrawn vide Ntfn. 43/2021 dated 10.09.2021]	20% [AIDC @ 20%, Ntfn. No. 11/2021 - Cus dated 01.02.2021 amended vide Ntfn No. 42/2021-Cus. dated 10.09.2021	2.25	5
14.10.2021 to 20.12.2021	NIL [as amended vide Ntfn No. 48/2021- Cus. dated 11.09.2021]	7.5% [AIDC @ 7.5% as amended vide Ntfn. No. 49/2021-Cus dated	0.75	5
21.12.2021 to 15.02.2022	NIL	7.5%	0.75	5

8.4.1 However, the goods actually imported viz., admixture of Crude Palm Oil, Palmolein and other palm-based oil which merits classification under CTH 15119090 (Others- Palmolein) attracts duties as per the following duty structure: -

DUTY STRUCTURE ON ADMIXTURE OF CPO, RBD PALMOLEIN & PFAD UNDER CTH 15119090 OVER DIFFERENT PERIOD OF TIME

Effective Date	**BCD (%)**	**AIDC (%)**	**SWS (@10% of all duties) (%)**	**IGST (%)**
30.06.2021 to 10.09.2021	37.5% [BCD @37.5% as per Ntfn No. 34/2021 – Cus. dated 29.06.2021]	NIL	3.75%	5%
11.09.2021 to 13.10.2021	32.50% [BCD @ 32.5%, amended vide Ntfn No. 42/2021- Cus. dated 11.09.2021]	NIL	3.25%	5%
14.10.2021 to 20.12.2021	17.50% [as amended vide Ntfn No. 48/2021- Cus. dated 11.09.2021]	NIL	1.75%	5%
21.12.2021 to 15.02.2022	12.5% [as amended vide Ntfn no. 53/2021-Cus dated 20.12.2021	NIL	1.25%	5%

8.4.2. From the above, it is apparent that the duty on goods falling under CTH 15111000 vis-a-vis duty on the goods falling under CTH 15119090, which is the correct classification of actually imported goods, appears to be lesser at different points of time. Despite being aware of the true nature of the impugned goods (i.e. the blended goods having FFA<3.5 and refining is cheaper in respect of such goods as percentage of RBD is more and their resultant product is RBD only), the manner adopted by the importer for mis-classification of impugned goods for the sole purpose of claiming lower rates of duty appears to be indicative of their *Mensrea*. Therefore, by not declaring the true and correct facts, at the time of import in the Warehouse Bills of Entry by M/s. TIL, which mis-declared and mis-classified the goods as 'CPO', they appears to have indulged in mis-declaration & misclassification and suppression of facts with intent to evade payment of applicable BCD and Additional duty of Customs. In view of the foregoing, the amount of customs duty short paid duty on account of mis-declaration and misclassification by M/s. TIL and other ex-Bond filers of the Bills of Entry for Home Consumption as per Annexure-B is required to be recovered from such importers. The above action on the part of M/s. TIL and such Ex-Bond filers of Bills of Entry for Home Consumption rendered the goods(non-seized and already cleared) liable for confiscation under Section 111 of the Customs Act, 1962, which are already cleared on payment of lesser amount of customs duty.

9. STATUTORY LEGAL/PENAL PROVISIONS UNDER CUSTOMS ACT, 1962:

9.1 Section 17(1) of Customs Act 1962:

An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self - assess the duty, if any, leviable on such goods.

9.2 Section 46 of the Customs Act, 1962 - Entry of goods on importation:

(1) *The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:*

Provided .....
(2) .....
(3) .....
(4) *The importer while presenting a bill of entry shall make and subscribe to a declaration as to* ***the truth of the contents of such bill of entry*** *and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*
(4A) *The****importer who presents a bill of entry shall ensure*** *the following, namely:*
*(a) the****accuracy and completeness of the information given therein****;*
*(b) the****authenticity and validity of any document supporting it****; and*
(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force'.

9.3 Section 15 of the Customs Act, 1962:Date for determination of rate of duty and tariff valuation of imported goods.—

(1) 1[The rate of duty 2[***]] and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,—

(a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(b) ***in the case of goods cleared from a warehouse under section 68, on the date on which 3[a bill of entry for home consumption in respect of such goods is presented under that section];***

(c) in the case of any other goods, on the date of payment of duty: 4[Provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.]

9.4 Section 28 of the Customs Act, 1962 Recovery of 2**[duties not levied or not paid or short-levied or short-paid] or erroneously refunded.**
(1) ....
(2) ....
(3) ....
(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of—

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied 11[or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

9.5 SECTION 111 - Confiscation of improperly imported goods etc.:

The relevant clauses of Section 111 are reproduced below:

The following goods brought from a place outside India shall be liable to confiscation: -
(d) any goods which are imported or attempted to be imported or are brought within the Indian Customs 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;
(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under 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.

9.6 SECTION 114A - Penalty for short-levy or non-levy of duty in certain cases:

Where the duty has not been levied or has not been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall, also be liable to pay a penalty equal to the duty or interest so determined.

9.7. Section 30 of the Customs Act, 1962:

Delivery of arrival manifest or import manifest or import report.

30.*(1) The person-in-charge of —*

(i) a vessel; or

(ii) an aircraft; or

(iii) a vehicle,

carrying imported goods or export goodsor any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf

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

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

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

(3) If the proper officer is satisfied that the arrival manifest or import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.

9.8 Section 132 of the Customs Act, 1962 -False declaration, false documents etc.:

Whoever makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

10. OBLIGATIONS UNDER SELF-ASSESSMENT AND PENAL LIABILITY UNDER SECTION 114A OF THE CUSTOMS ACT, 1962

Section 17 of the Customs Act, 1962, was substituted with effect from 08.04.2011 introducing self-assessment of goods imported by the importers. Accordingly, self-assessed warehouse Bills of Entry vide which the impugned goods of quantity 40521.398 MTs were imported through vessels viz., MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 by M/s. TIL were self-assessed by M/s. TIL. These subject goods were subsequently cleared by various importers as such as per Annexure –B to this show cause by way of mis-declaration and misclassification of the goods as CPO under CTH 15111000. The said imported goods were however, an admixture of CPO, RBD Palmolein and PFAD which merits classification under CTH 15119090 (Others-Palmolein). Such act on the part of M/s. TIL resulted into short payment of Customs Duty by the different ex-bond filers.

Under the self-assessment procedure, it is obligatory on the part of importers to declare all the particulars such as description of the goods, appropriate CTH so as to arrive at a proper assessment of the applicable rate of duties by the proper Customs officer. While claiming any classification, it is obligatory on the part of the importer to check applicability of classification claimed by them to the imported goods. Despite being aware of the true nature of the impugned goods, to make the product marketable, and to earn commission on such imported goods, the manner adopted by the importer for mis-classification of impugned goods for the sole purpose of claiming lower rate of Basic Customs duty appears to be indicative of their *Mensrea*. Therefore, by not declaring the true and correct facts, at the time of import in the warehouse bills of entry, M/s. TIL mis-declared and misclassified the goods as 'CPO' appears to have indulged in mis-declaration & misclassification and suppression of facts with intent to evade payment of applicable BCD and Additional duty of Customs. These goods mis-declared/ mis-classfified in W.H. Bills of Entry were subsequently led to the mis-declaration and mis-classification in Ex-Bond Bills of Entry for Home Consumption presented before Customs for clearance of such goods by such importers who purchased said goods from M/s. TIL, thus, leading to short payment of duties. M/s. DIL, being one of them had filed the Ex Bond BoE for Home consumption (**Annexure-C**) and had short paid the customs duty to the tune of **Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five hundred and Four only)**

It is well settled principle in law that buyers (Filers of Bills of Entry for Home Consumption in this case) are obligated to verify the source/antecedent of their supply (M/s TIL in the instant case); Caveat emptor "*let the buyer beware*." Potential buyers are warned by the phrase to do their research and ask pointed questions of the seller. The seller isn't responsible for problems that the buyer encounters with the product after the sale, which in this case such filers of Bills of Entry for Home Consumption have done so by mis-declaring with intent to supress and falsity. The onus was on such filers of ex-Bond Bills of Entry for Home Consumption to perform due diligence before making the purchase and subsequent removal of goods from warehouse by filing Bills of Entry for Home Consumption.

Thus, in view of the omissions and commissions mentioned above, the total amount of duties which were short paid by **Rs**. **4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five hundred and Four only)**is due to be recovered from M/s. DIL, being a filer of Ex-BoE for Home Consumption by invoking extended period of limitation. Also, by such act of purchase of goods/ clearance of goods from warehouse without verifying the correctness of the such goods, M/s. DIL they have indulged themselves in such act of omission which rendered themselves liable to imposition of penalty under provisions of the Customs Act, 1962.

11. The subject SCN is being issued in view of the provisions of Section 28 of the Customs Act, 1962, under which Show Cause Notice is required to be given within period of five years where any duty has not been levied or not paid or has been short-levied or short-paid, by reason of suppression by the importer or the exporter or the agent or employee of the importer or exporter.

12. ROLE PLAYED BY VARIOUS COMPANIES/PERSONS:

This appears a case of connivance amongst all the parties involved, wherein every stakeholder involved was aware of their illegal role being played by them. It appears that each stakeholder intended to suppress the facts before Indian Customs, to mis-declare the subject cargo to defraud the government exchequer. There are evidences of determinative character which complied with the inference arising from the dubious conduct of stakeholders seems to lead to the conclusion it was all planned to mis-declare the subject cargo and suppress the information from the department. The role in brief is reproduced below:-

12.1 M/s. TATA INTERNATIONAL LTD:

12.1.1. Scrutiny of the various documents/records as well as facts stated by various persons during investigation revealed that M/s. TIL and M/s. GIPL, in connivance with each other devised a strategic plan to import admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO. They purchased CPO, RBD and PFAD in Indonesia from different suppliers. M/s. TIL facilitated M/s. GIPL, for procurement of Oil products i.e. CPO, RBD, PFAD from Indonesia.They gave go ahead to M/s. GIPL to enter into Charter Agreement with M/s. Oka Tankers PTE Ltd., Singapore & M/s. Telcom International Trading PTE. Ltd., Singapore for transporting the goods viz. RBD Palmolein, CPO, PFAD from different ports at Indonesia/ Thailand to India through vessels viz., MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 as discussed in foregoing paragraphs; loaded on the vessels. As per the said Charter Agreement, after loading the above goods on vessel, blending of the above goods was carried out with the help of Owners of the vessel. After blending, they manipulated various documents to show the goods imported as CPO and presented the same before Customs. M/s. TIL (being the financial charterer of the vessels) filed W.H. Bills of Entry for entire quantity of **40486.172 MTs** cargo, by mis-declaring the same as CPO, though they knew that the goods imported were actually admixture of CPO, RBD and PFAD, CPO & RBD respectively to earn commission. M/s. TIL mis-classified the goods so mis-declared under CTH 15111000, with intent which led to evasion of the appropriate duties of Customs by various ex-bond filers and to earn commission of such goods.

12.1.2 From the above, it appears that M/s. TIL, Mumbai imported '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*' by mis-declaring the same as '*Crude Palm Oil*', classifying under CTH 15111000 instead of correct classification under CTH 15119090, which is the appropriate classification of the goods viz. '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*', imported by them. It further appears that M/s. TIL played active role in ensuring the blending of CPO, PFAD & RBD Olien, which is not only prohibited, but also the act of agreeing/allowing to blend clearly demonstrates that the entire activity right from planning, creation, monitoring and managing of all the operations was with a mala fide intention of evading customs duty. Thus, this appears to be is a clear case of suppression of information from the department and mis-declaration.

12.1.3 The above action on the part of M/s. TIL. had rendered the goods liable for confiscation under Section 111 of the Customs Act, 1962. The acts of omission and commission on the part of M/s. TIL rendered the imported goods

liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962 and rendered themselves liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

12.2 M/s. GLENTECH INDUSTRIES PRIVATE LIMITED/ M/s. Glentech Ventures PTE Ltd.:-

12.2.1 Scrutiny of the various documents/records, as well as facts stated by various persons during investigation, as discussed hereinabove, revealed that M/s. GIPL and M/s. TIL, in connivance with each other devised a strategic plan to import admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO. They purchased CPO, RBD and PFAD in Indonesia from different suppliers. They entered into Charter Agreement with M/s. OKA Tankers PTE Ltd., Singapore and M/s. Telcom Trading International PTE Ltd., Singapore for transporting the goods from Indonesia to India through vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111; loaded CPO on the vessels at different ports at Indonesia/ Thailand. As per the Charter Agreement, after loading the above goods on vessel, blending of the above goods was carried out with the help of the Owner(s) of the vessel(s). After blending, they arranged manipulated various documents to show the goods imported as CPO and presented the same before Customs. As per the instructions of Charterers the original documents viz. Bills of Lading etc. were secreted in the vessel and intentionally not produced before Customs. After import of the goods into India, the importer M/s. TIL filed W.H. Bills of Entry, by mis-declaring the goods as CPO, though they knew that the goods imported are admixture of CPO, RBD and PFAD. Further, after import of the goods into India, it was the responsibility of M/s. GIPL to get buyers for M/s. TIL for such goods/sell the goods into Indian market. The goods so mis-declared and mis-classified under CTH 15111000, with intent to evade the appropriate duties of Customs.

12.2.2 Thus, M/s. GIPL played active role in the purchase, transport, blending of the cargo during voyage of the vessels and import of the said goods by mis-declaring the same as CPO in W.H. Bills of Entry. From the above, it appears that M/s. GIPL actively connived/ concerned themselves in the import of '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*' by mis-declaring the same as '*Crude Palm Oil*', and mis-classifying under CTH 15111000 instead of correct classification under CTH 15119090, which is the appropriate classification of the goods imported viz. '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*'. It further appears that as a charterer, M/s. GIPL played active role in ensuring the blending of CPO, PFAD & RBD olein onboard vessel, which is not only prohibited, but also the act of agreeing/allowing to blend clearly demonstrates that the entire activity right from planning, creation, monitoring and managing of all the operations was with a mala fide intention of evading customs duty. Thus, this appears to be is a clear case of mis-declaration. Thus, M/s. GIPL has concerned themselves in mis-declaration and mis-classification which rendered the goods liable for confiscation. The above action on the part of M/s. GIPL had rendered themselves liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

12.3. M/s. OKA Tankers Pvt. Ltd. and M/s. Telcom International PTE Ltd.

12.3.1. M/s. OKA Tankers Pvt. Ltd., 77 High Street Road, #8-10, High Street Plaza, Singapore 17943 were owner of the vessel MT Hong Hai6 and M/s. Telcom International PTE Ltd., 50 Bukit Batok Street 23, #06-11, Midview Building, Singapore 659578, were the owners of the vessels 'MT FMT Gumuldur', 'MT FMT EFES'. They entered into Tanker Voyage Charter Party agreement with M/s. TIWA, UAE/M/s. TISPL/ M/s. TIL and M/s. GIPL for transporting cargo from the ports in Indonesia/ Thailand to Kandla port in India. Further, as per the agreement, the above goods were to be blended on board, which were confirmed by all the parties viz. payment charterer, operational charterer and despondent owners; actively connived to replace the original BLs prepared at the port of loading with manipulated BLs after blending of the cargo on board; to present the manipulated documents before Customs at the time of arrival of the cargo at discharge port. The switching of Bills of Lading was done by the crew of the vessel owners, under guidance of their management. The Vessel owners viz., M/s. OKA Tankers Pvt. Ltd. and M/s. Telcom International PTE Ltd. entered into agreement which allowed blending of cargo i.e. CPO, RBD Palmolein and PFAD on board vessel, which is otherwise prohibited. Therefore, by indulging in such act of blending on board, manipulation of documents viz. IGM, Bills of Lading etc. in connivance with M/s. GIPL and M/s. TIL., allowing their conveyance to be used in such a manner which rendered the goods (non-seized – cleared in past) as well as vessel (non-seized – cleared in past) liable for confiscation under section 111 and 115 of the Customs Act, 1962. Accordingly, by indulging in such act of omission and commission, on their part abetted the importer to import goods by mis-declaring the same as CPO, by classifying the same under CTH 15111000, by allowing comingling/blending of cargo with led to evasion of the Customs Duty. Accordingly, it appears that they are liable for penal action under Sections under 112(a) & 112(b), 114AA and 117 of the Customs Act, 1962.

12.3.2. The indulging in the act of manipulation of the documents is punishable offence and thus by concerning themselves in such act of manipulation of documents concerned themselves liable to be charged for violations of Section 30 (Arrival Manifest production) read with Section 38 (Production of the documents) of the Customs Act, and therefore liable to be charged under Section 132 (false documentation). Further, he also concerned themselves in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to make the goods marketable leading to evasion of Customs Duty. By such acts of omission and commission, the goods so imported(non-seized and cleared) by mis-declaring the same as CPO became liable for confiscation and they rendered themselves liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 and also under Section 132 and 135(1) of the Customs Act, 1962.

12.4. ROLE OF CAPT. SHRI SANJAY KUMAR, MASTER OF VESSEL MT FMT GUMULDUR V.202109:

12.4.1 Capt. Shri Sanjay Kumar, Master of vessel 'MT FMT Gumuldur V.202109' looked after the supervision of all activities relating to the vessel and responsible for all activities pertaining to the vessel including issuance of documents like Bill of Lading, Mate receipt, IGM/EGM related Customs documentation etc. Therefore, a summons dated 20.12.2023 was issued to

him(via e-mail) to join the investigation, which was not responded to by him nor the vessel owner. Further, he allowed blending of 3499.71 MT Crude Palm Oil (CPO), loaded from Dumai (Indonesia), 8400.309 MT RBD and 200 MT PFAD, loaded from Kuala Tanjung Port, Indonesia and accordingly as per the instructions of their management; presented manipulated BLs, showing import of CPO thereby hiding the true nature of the goods onboard vessel. Thus, he was instrumental in blending of all the three cargos loaded on the vessel, preparation of manipulated documents, and presenting manipulated documents before Customs at the port of discharge, i.e., Customs, Kandla. It is pertinent to mention here that he issued/signed the switched Bill of lading by mis-declaring the goods as CPO instead of admixture of CPO and RBD Plamolein and filed the same before Indian Customs.

12.4.2 Thus, he failed in discharging his duties in the capacity of Master of vessel to declare and submit the documents received at load port at the discharge port with correct descriptions and other material particulars. Instead, he produced false documents viz. switched/ manipulated Bills of Lading before Customs for clearance of the cargo and supressed the original Bills of Lading issued at the port of load. Thus, he abetted in blending/comingling of the goods onboard vessel, failed in declaring the correct particulars of the subject cargo in the documents, abetted in manipulation of original documents pertaining to the subject imported goods and mis-declared the same as 'CPO' instead of 'admixture of Crude Palm Oil, RBD olein and PFAD'. He actively assisted the importer to enable them to mis-declare the imported goods as 'CPO'.

12.4.3 The act of manipulation of the documents is punishable offence and he rendered himself liable to be charged for violations of Section 30 (Arrival Manifest production) read with Section 38 (Production of the documents) of the Customs Act, and therefore liable to be charged under Section 132 (false documentation). Further, he also concerned himself in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported by mis-declaring the same as CPO became liable for confiscation and he rendered himself liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 and also under Section 132 and 135(1) of the Customs Act, 1962.

12.5. ROLE OF CAPT. SHRI LIU YOUYI, MASTER OF VESSEL MT. HONG HAI6 V.2106:

12.5.1 Capt. Shri Liu Youyi, Master of Vessel MT. Hong Hai6 V.2106, looked after the supervision of all activities relating to the vessel and responsible for all activities pertaining to the vessel including issuance of documents like Bills of Lading, IGM/EGM related Customs documentation etc. Therefore, a summons dated 20.12.2023 was issued to him(via e-mail) to join the investigation, which was not responded to by him nor the vessel owner. Further, he allowed blending of 8948.55 MT Crude Palm Oil (CPO), loaded from Phuket (Thailand), 6513.52 MT RBD, loaded from Kuala Tanjung Port, Indonesia and accordingly as per the instructions of their management, presented manipulated BLs, showing import of CPO thereby hiding the true nature of the goods onboard vessel. Thus, he was instrumental in blending of all the three cargos loaded on the vessel, preparation of manipulated

documents, and presenting manipulated documents before Customs at the port of discharge, i.e. Customs, Kandla. It is pertinent to mention here that he issued/signed the switched Bill of lading by mis-declaring the goods as CPO instead of admixture of CPO and RBD Plamolein and filed the same before Indian Customs.

12.5.2 Thus, he failed in discharging his duties in the capacity of Master of vessel to declare and submit the documents received at load port at the discharge port with correct descriptions and other material particulars. Instead, he produced false documents viz. switched/ manipulated Bills of Lading before Customs for clearance of the cargo and supressed the original Bills of Lading issued at the port of load. Thus, he abetted in blending/comingling of the goods on-board vessel, failed in declaring the correct particulars of the subject cargo in the documents, abetted in manipulation of original documents pertaining to the subject imported goods and mis-declared the same as 'CPO' instead of 'admixture of Crude Palm Oil, RBD olein and PFAD'. He actively assisted the importer to enable them to mis-declare the imported goods as 'CPO'.

12.5.3 The act of manipulation of the documents is punishable offence and he rendered himself liable to be charged for violations of Section 30 (Arrival Manifest production) read with Section 38 (Production of the documents) of the Customs Act, and therefore liable to be charged under Section 132 (false documentation). Further, he also concerned himself in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported by mis-declaring the same as CPO became liable for confiscation and he rendered himself liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 and also under Section 132 and 135(1) of the Customs Act, 1962.

12.6. ROLE OF CAPT. SHRI JULIO UTIYEPO CONEJERO, MASTER OF VESSEL MT FMT EFES VOY.202111:

12.6.1 Capt. Shri Julio Utiyepo Conejero, Master Of Vessel MT FMT EFES Voy.202111, looked after the supervision of all activities relating to the vessel and responsible for all activities pertaining to the vessel including issuance of documents like Bills of Lading, IGM/EGM related Customs documentation etc. Therefore, a summons dated 20.12.2023 was issued to him(via e-mail) to join the investigation, which was not responded to by him nor the vessel owner. Further, he allowed blending of 7873.290 MT Crude Palm Oil (CPO), loaded from Phuket (Thailand), 5086.015 MT RBD, loaded from Kuala Tanjung Port, Indonesia and accordingly as per the instructions of their management, presented manipulated BLs, showing import of CPO thereby hiding the true nature of the goods onboard vessel. Thus, he was instrumental in blending of all the three cargos loaded on the vessel, preparation of manipulated documents, and presenting manipulated documents before Customs at the port of discharge, i.e Customs, Kandla. It is pertinent to mention here that he issued/signed the switched Bill of lading by mis-declaring the goods as CPO instead of admixture of CPO and RBD Palmolein and filed the same before Indian Customs.

12.6.2 Thus, he failed in discharging his duties in the capacity of Master of vessel to declare and submit the documents received at load port at the discharge port with correct descriptions and other material particulars. Instead, he produced false documents viz. switched/ manipulated Bills of Lading before Customs for clearance of the cargo and supressed the original Bills of Lading issued at the port of load. Thus, he abetted in blending/comingling of the goods onboard vessel, failed in declaring the correct particulars of the subject cargo in the documents, abetted in manipulation of original documents pertaining to the subject imported goods and mis-declared the same as 'CPO' instead of 'admixture of Crude Palm Oil and RBDOlein'. He actively assisted the importer to enable them to mis-declare the imported goods as 'CPO'.

12.6.3 The act of manipulation of the documents is punishable offence and he rendered himself liable to be charged for violations of Section 30 (Arrival Manifest production) read with Section 38 (Production of the documents) of the Customs Act, and therefore liable to be charged under Section 132 (false documentation). Further, he also concerned himself in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported by mis-declaring the same as CPO became liable for confiscation and he rendered himself liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 and also under Section 132 and 135(1) of the Customs Act, 1962.

12.7 SHRI SIDHANT AGARWAL, DIRECTOR OF M/S. GLENTECH INDUSTRIES PRIVATE LIMITED, INDIA & M/s. GLENTECH VENTURES PRIVATE LIMITED, SINGAPORE:

12.7.1 Shri Sidhant Agarwal, Director of M/s. GIPL and M/s. GVPL, Singapore was the key person in the entire racket of import of '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*', by mis-declaring the same as Crude Palm Oil. M/s. GVPL, Singapore purchased and/or arranged purchase of the goods CPO, RBD and PFAD in Indonesia and sold to/ changed the contracts to the name of M/s. TIWA, UAE/ M/s. TISPL, who in turn sold the goods to M/s. TIL. Mumbai, the importer and filer of W.H. Bills of Entry of the goods in the present case, as per the agreement between M/s. TIWA &M/s. GVPL. The said goods viz. CPO, RBD & PFAD were blended during voyage of the Vessels MT FMT Gumuldur V.202109, CPO & RBD were blended during the voyage of MT Hong Hai6 V.2106 and MT FMT EFES V.202111 at the behest of charterer M/s. GIPL and M/s. GVPL(operational charterer).M/s. TIL (being the financial charterer) filed the W.H. Bills of Entry, by mis-declaring the goods as CPO, by classifying the same under CTH 15111000 for earning commission. Further, after import of the goods into India, it was the responsibility of M/s. GIPL to sell the goods into Indian market.

12.7.2 Further, M/s. GIPL in connivance with M/s. TIL entered into agreement with respective vessel owners for transporting the goods into India. It was decided to blend the goods onboard during voyage of the vessel. The instructions for blending were given by M/s. GIPL to M/s. Midas Tankers Pvt. Ltd. Thus, Shri Sidhant Agarwal, Director of M/s. GIPL played active role in ensuring the blending of CPO, PFAD & RBD olien. The above act of import of goods by blending the three products right from planning, creation, monitoring

and managing of all the operations was with a mala fide intention to evade Customs duty. Thus, he knowingly played an important role in effecting the said unscrupulous import which became liable to confiscation under Section 111 of the Customs Act, 1962. The acts of omission and commission on the part of Shri Sidhant Agarwal rendered the imported goods (non-seized- cleared in past) liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m)of the Customs Act, 1962. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 112(a), 112(b), 114AA, 117 of the Customs Act, 1962.

12.8 SHRI SUDHANSU AGARWAL, REPRESENTATIVE AND EX-CEO OF M/S. GIPL:

12.8.1 Shri Sudhanshu Agarwal, Representative and Ex-CEO of M/s. GIPL is looking after all the business affairs of the company. He used to execute business deals of M/s. GIPL, got business support through M/s. GVPL, which is parent company of M/s. GIPL M/s. GIPL entered into contract with the vessel owners to blend the different cargoes viz. CPO, RBD Palmolein and PFAD as discussed in foregoing paras and accordingly issued directions for blending of CPO, RBD & PFAD. He was in direct touch with Shri Amit Thakkar of M/s. TIL to obtain concurrence for blending of goods; and also appointed the surveyor, in agreement with M/s. TIL who approved the blending plan. He on behalf of M/s. GIPL, being operational charterer floated inquiry with the vessel broker for requirement of vessel with blending facility only.

12.8.2 Though the title of the goods always remained with M/s. TIL, he passed the orders/directions in connivance with M/s. TIL. M/s. GIPL in connivance with M/s.TIL imported the cargo after blending RBD, CPO, PFAD on board and indulged in bond to bond sale of the said quantity of 40486.172 MT of imported cargo through vessels MT FMT Gumuldur, MT Hong Hai6, MT FMT EFES which were mis-declared as CPO under CTH 15111000 instead of appropriate CTH 15119090 with an intent to evade the Customs duty by them as well as to make it marketable and to sell such goods in Indian market. By such acts of omission and commission he has rendered himself liable to penalty for mis-declaration of imported goods under section 112(a) and 112(b) of the Customs Act, 1962. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section(s) 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

12.9 ROLE OF SHRI AMIT THAKKAR, SENIOR MANAGER, M/S. TATA INTERNATIONAL LTD (AGRI DIVISION):

12.9.1 Shri Amit Thakkar, Senior Manager, M/s. TIL (Agri Division) was aware of the fact that “RBD” and “PFAD” were loaded at Kuala Tanjung Port, Indonesia and CPO was loaded in DUMAI port and Phuket Port, Thailand. He was also aware that after blending, the original BLs were switched and were replaced by manipulated BLs, showing entire cargo as CPO. Despite the facts that he knew that the goods imported were not CPO, but an admixture of CPO,

RBD and PFAD, BL and other documents, showing import of CPO were submitted before the Customs Authority. He admitted that post blending of the goods onboard, the original Bills of Lading were switched to Global Bills of Lading, showing entire quantity as CPO.

12.9.2 Thus, Shri Amit Thakkar played active role in import of admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO, classifying under CTH 15111000 instead of appropriate CTH 15119090 with intent to evade the Customs duty. By such acts of omission and commission he has rendered himself liable to penalty for mis-declaration of imported goods under section 112 (a) and 112(b) of the Customs Act, 1962. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

12.10 ROLE OF SHRI SHRIKANT SUBBARAYAN, HEAD OF AGRI (BUSINESS) DIVISION, M/S. TIL (AGRI DIVISION):

12.10.1 Shri Shrikant Subbarayan had given approval for finalizing the deal in providing Trade Facilitation to M/s. GIPL/GVPL. He approved the final contract between M/s. TIL and M/s. GVPL to facilitate the latter in import of goods by way of mis-declaration and mis-classification of goods. He was aware of the purchase of CPO, RBD and PFAD in Indonesia, blending of all the three cargo onboard, preparation of manipulated documents. He was also aware that at the time of import the W.H. Bills of Entry were filed mis-declaring the goods as CPO, by classifying the same under CTH 15111000, though he knew that the goods imported is admixture of CPO, RBD and PFAD, which merits classification under CTH 15119090 (non –seized and cleared), with an intent to earn commission and evade the Customs duty. By such acts of omission and commission he has rendered himself liable to penalty under section 112 (a) and 112(b) of the Customs Act, 1962. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

12.11 ROLE OF SHRI AMIT AGARWAL, ASSTT. VICE PRESIDENT, M/S. GLENTECH INDUSTRIES PRIVATE LIMITED & M/S. GLENTECH VENTURE PTE LTD., SINGAPORE:

12.11.1 He was actively involved in purchase of imported cargo imported in the name of M/s. TIL., from overseas suppliers. Being Authorized Signatory of M/s. GIPL., he was instrumental in entering into the agreement for commodity supply and service agreement dated 09.03.2021 between M/s. GIPL & M/s. TIL. He was aware of the fact that CPO, RBD and PFAD were purchased from the overseas suppliers in Indonesia. He was also aware that the above goods were blended on board vessel. Being authorised signatory, he concerned himself in signing of charter party agreement with M/s Telcom International PTE Ltd and M/s. Oka Tankers PTE Ltd. As per the agreement, CPO was to be loaded from Dumai port and RBD and PFAD were to be loaded from Kuala

Tanjung port. After loading the above goods, all the goods were blended on board. After blending, manipulated documents, switch BL was prepared, showing cargo as CPO, though it was an admixture of CPO, RBD and PFAD.

12.11.2 Thus, he was actively involved in the acts of omission and commission to assist the importer to import goods by mis-declaring the same as CPO, by classifying the same under CTH 15111000, though the goods imported was admixture of CPO, RBD and PFAD, which merits classification under CTH 15119090, with an intent to evade the Customs duty. The above act on his part rendered the goods liable for confiscation and rendered himself liable to penalty under section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

12.12 ROLE OF M/s. DIL EXIM COMMODITIES PRIVATE LTD.

12.12.1 M/s DIL had purchased the **2717 MTs** of said blended goods viz. admixture of CPO, RBD Palmolein, PFAD which were originally imported by M/s TIL by the way of mis-declaration and mis-classifying as CPO under CTH 15111000 in the W.H. B.E.s filed before Kandla Customs with intent to evade the appropriate duties of Customs. M/s. TIL had suppressed this information from Department while filing W.H.B.Es. Also, by entering into charter agreement as financial charterer they were aware that the blending on board vessel has to be undertaken in order to make it marketable in domestic market.

12.12.2 Further, M/s. DIL cleared a portion of such imported goods having quantity of 2717 MTs of goods having assessable value of Rs. 24,64,06,525/- (Rupees Twenty Four Crores Sixty Four Lakhs Six Thousand Five Hundred and Twenty Five only) by way of mis-declaring the same as 'CPO' in the Ex-Bond Bills of Entry filed by them and thus evaded Customs Duty amounting to Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only) under the following Bills of Entries as **per Annexure - C.**

12.12.3 M/s DIL being a buyer has the obligation to verify the source/antecedent of their supply. Thus, Onus was on the M/s DIL to perform due diligence before making purchase and subsequent clearance of gods from Warehouse by filing Ex-Bond BoE. Thus, in view of the omisisons mentioned herein above, the differential duty of **Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only)**has been short paid by them on account of suppression, mis-declaration and misclassification of goods in the respective Ex- Bond Bills of Entry and is due to be recovered from them. The acts of omission and commission on the part of M/s. DIL rendered the imported goods (non-seized – cleared in past) liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962 and rendered themselves liable to penalty under Section 112(a), 112(b), 114A and 114AA, 117 of the Customs Act, 1962.

13 LIABILITY TO CONFISCATION OF THE IMPORTED GOODS, WHICH WERE NOT SEIZED AND CLEARED:

13.1 Further, in view of the above, it appears that M/s. Tata International Ltd wilfully mis-declared, mis-stated and suppressed the facts regarding description and classification of the impugned goods at the time of filing W.H. Bills of Entry and which were subsequently cleared by various ex-bond filers vide various Bills of Entry (as detailed in **Annexure–B**) and had claimed lower rates of Customs duties as discussed herein above. Due to this deliberate act of mis-classification and mis-declaration in the import of entire quantity of 40521.39 MT vide vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106 and MT FMT EFES V.202111 on the part of M/s. TIL and lead to short payment of Customs duties by various Ex-bond filers on goods non-seized and already cleared by them. Further, by this deliberate act of mis-declaration and mis-classification appears to be with intent to evade Customs duty. Therefore, it appears that the liability to pay the dues arise on the part of actual beneficial owners, i.e. importers of such goods who cleared these goods by way of filing Ex-Bond Bills of Entry for home consumption.

13.2 It further appears that since the duty on the goods imported by M/s. DIL was short levied on account of mis-declaration and misclassification, which is liable to be demanded and recovered under the provisions of Section 28(4) of the Customs Act, 1962 and clearance of **2717 MTs**(non-seized- cleared in past) of the said goods by M/s DIL also appears to be liable for confiscation. Accordingly, M/s. DIL also appears liable for imposition of penalty under section 112(a) & 112(b), 114A and 117 of the Customs Act, 1962.

14 CALCULATION OF DIFFERENTIAL DUTY RECOVERABLE:

14.1. M/s. TIL and M/s. GIPL, in connivance with each other devised a strategic plan to import admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO. They purchased CPO, RBD and PFAD in Indonesia/ Thailand from different suppliers. They entered into Charter Agreement for transporting the goods from Indonesia and Thailand to India with M/s. OKA Tankers PTE Ltd. through vessel 'MT Hong Hai6 V.2106' and M/s. Telcom International PTE Ltd, through vessels 'MT FMT Gumuldur V.202109' and 'MT FMT EFES V.202111' having blending facility and switching of Bills of Lading clause in the agreements. The details of the goods loaded at different ports and imported vide different vessels and after blending, the goods described in the bill of entry are as per below mentioned table-

Sr. No.	*VESSEL NAME*	*COMMODITY loaded at load Port*	*QTY (MTs)*	*LOAD PORT*	*Bill of Lading no.*	*Ware House Bill of Entry*
1	FMT GUMULDUR Voy.202109	CPO	3499.71	DUMAI, INDONESIA	DMI/DEE/02 and DMI/DEE/03 dated 12.08.2021	5302477, 5302489, 5302500, 5302513, 5302519 & 5302523 ; all dated 03.09.2021
		RBD PALM OLEIN	8400.300	KUALA TANJUBG, INDONESIA	KTG/DEE/01 dated 17.08.2021	
		PFAD	200	KUALA TANJUBG, INDONESIA	KTG/DEE/02 dated 16.08.2021	
		Total	**12100.01**			
2	MT HONG HAI6 V.2106	RBD PALM OLEIN	6513.520	KUALA TANJUBG, INDONESIA	KTG/DEE/01 dated 30.09.2021	5916265, 5916285, 5916291 & 5916292 all dated 20.10.2021
		CPO	8948.550	Phuket, Thailand	HH6V2106PHU-02 , HH6V2106PHU-02 dated 06.10.2021	

		Total	**15462.07**			
3	MT FMT EFES VOY. 202111	RBD PALM OLEIN	5086.015	KAULA TANJUNG, INDONESIA	KTP/DEE/01 dated 26.10.2021	6212683 & 6212824 ; both dated 11.11.2021
		CPO	7873.290	PHUKET PORT, THAILAND	KTP/DEE/02 and PHP/DEE/03 dated 31.10.2021	
		Total	**12959.31**			

In view of above, total 40521.398 MT of admixture of CPO, RBD and PFAD were imported through the above mentioned 03 vessels viz., MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 and mis-declared the same as 'CPO' before Customs Authorities at Kandla Port in Warehouse Bills of Entry (Annexure-A).

14.2 The documentary as well as oral evidences, as discussed in brief in foregoing paras conclusively establish that though M/s. TIL had imported admixture of CPO, RBD and PFAD and while filing warehouse bill of entry at the Kandla port, M/s TIL in the import documents mis-declared the entire quantity of 40521.39 MT cargo as CPO brought into the country vide vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 and mis-classified the same under CTH 15111000. It is safe to conclude that the same was done by suppressing the facts that the goods imported were actually admixture of CPO, RBD and PFAD, CPO and RBD respectively which merits classification under CTH 15119090. The above act on the part of M/s. TIL subsequently resulted in short payment of customs duties to the tune of **Rs. 4,10,14,504/-** at the time of clearance of such imported goods from warehouse by M/s. DIL and thus, defrauding the government exchequer.

14.3 CBIC vide following notification have notified the tariff rate of items vide various non- tariff notification of Customs. The notifications applicable on the date of presentation of Bills of Entry for Home consumption by M/s. DIL are:- Notification No. 69/2021 – Customs (N.T.) dated 31.08.2021, 81/2021-Customs (N.T.) dated 14.10.2021 and 87/2021- Customs (N.T.) dated 29.10.2021 respectively. The tariff rate (USD per metric Ton) are notified therein, and mentioned as below:-

Notification No.	Sr No.	Chapter/ heading/ sub-heading/ tariff item	Description of Goods	Tariff rate (US$ per metric Ton)
69/2021 - Customs (N.T) dated 31-08-2021	6 of Table - I	15119090	Others - Palmolein	1063
81/2021-Customs (N.T.) dated 14.10.2021	6 of Table -I	15119090	Others - Palmolein	1223
87/2021-Customs (N.T.) dated 29.10.2021	6 of Table -I	15119090	Others - Palmolein	1261

14.3 Further, M/s. DIL had filed the self- assessed Ex-Bond BoE for Home consumption for clearance of goods **(approx. 2717 MTs)** imported vide aforementioned vessels as discussed above **(Annexure-C)**. The above act on the part of importer resulted into short payment of Customs duties which appears to be payable under CTH 15119090 as per the below mentioned Customs Tariff notifications: -

DUTY STRUCTURE ON ADMIXTURE OF CPO, RBD PALMOLEIN & PFAD UNDER CTH 15119090 OVER DIFFERENT PERIOD OF TIME

Effective Date	**BCD (%)**	**AIDC (%)**	**SWS (@10% of all duties) (%)**	**IGST (%)**
30.06.2021 to 10.09.2021	37.5% [BCD @37.5% as per Ntfn No. 34/2021 – Cus. dated 29.06.2021]	NIL	3.75%	5%
11.09.2021 to 13.10.2021	32.50% [BCD @ 32.5%, amended vide Ntfn No. 42/2021- Cus. dated 11.09.2021]	NIL	3.25%	5%
14.10.2021 to 20.12.2021	17.50% [as amended vide Ntfn No. 48/2021- Cus. dated 11.09.2021]	NIL	1.75%	5%
21.12.2021 to 15.02.2022	12.5% [as amended vide Ntfn no. 5.3/2021-Cus dated 20.12.2021	NIL	1.25%	5%

Further, the duty paid by M/s. DIL vis-à-vis duty actually payable by M/s. DIL is calculated as per **Annexure –C** to this show cause.

14.4 The total differential duty to be paid by M/s. DIL on the goods imported by way of mis-declaration and misclassification of the goods as CPO under CTH 15111000 amounts to Rs.4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only) in respect of goods already cleared by them having assessable value, arrived as per the aforementioned tariff notification equivalent to Rs.24,64,06,525/- (Rupees Twenty Four Crores, Sixty Four Lakhs, Six Thousand Five Hundred and Twenty Five only). The differential duty is required to be recovered from them by invoking the provisions of Section 28 of the Customs Act, 1962 along with interest under Section 28AA.

15. SHOW CAUSE:

15.1. Now therefore, it is proposed that **M/s. DIL Exim Commodities Private Limited having its registered office at THE MILLENIUM, 12TH FLOOR, OFFICE NO 1206 TO 1211 , 150FT RING ROAD, NEAR NANA MAUVA CIRCLE, RAJKOT, GUJARAT, 360005having IEC AAHCD7279A**, may be called upon to show cause in writing to the Commissioner of Customs, Kandla as to why: -

(i) The declared value of the imported goods (non-seized and cleared) imported vide vessels “FMT GUMULDUR V.202109”, “MT HONG HAI6 V.2106”, “MT FMT EFES V.202111” should not be rejected on account of mis-declaration and mis-classification of goods and the total assessable

value of **Rs.24,64,06,525/- (Rupees Twenty Four Crores Sixty Four Lakhs and Six Thousands Five Hundred and Twenty Five only)** should not be taken as assessable for calculation of customs duty as detailed in Annexure C and as per the relevant Customs Tariff notifications as discussed in foregoing paras;

(ii) The declared classification of the subject goods, i.e. 2717 MT of imported cargo vide vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106", "MT FMT EFES V.202111" under CTH 15111000 in the Ex-Bond Bills of Entry as detailed in **Annexure – C** should not be rejected and re-classified under CTH 15119090 of the Customs Tariff Heading of the First Schedule to the Customs Tariff Act, 1975 and why the subject Ex- Bond Bills of Entry should not be reassessed accordingly;

(iii) The total imported goods(non-seized and cleared in the past) by way of mis-declaration and mis-classification as discussed in above paragraphs should not be held liable for confiscation under Section 111 of the Customs Act, 1962;

(iv) The Customs Duty **Rs.4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only)**which is short paid on account of misclassification and mis-declaration in various Ex- Bond Bills of Entry for Home Consumption (non-seized and cleared) should not be recovered from them under the provisions of Section 28(4) of the Customs Act, 1962, along with the applicable interest thereon under Section 28AA, ibid;

(v) Penalty should not be imposed upon them under the provisions of Section 112(a) & 112(b) and 114A, 114AA and 117 of the Customs Act, 1962 for the goods mentioned at (ii) above;

15.2 Now therefore, it is proposed that **M/s. Tata International Limited, Office No. 11, Ground Floor, Plot No. 40, Sector 8, Gandhidham, Kachchh-370201 having IEC 388024291** may be called upon to show cause in writing to the Commissioner of Customs, Kandla so as to why: -

(i) Penalty should not be imposed upon them under the provisions of Section 112(a) & 112(b), 114AA and 117 of the Customs Act, 1962 for such act of mis-classification and mis-declaration of imported goods in the warehouse Bills of Entry on their part which subsequently led to short payment of duty by M/s. DIL as discussed in above para.

15.3. Now therefore, it is proposed that **M/s. GIPL, having office at 508, 5th Floor, Wegmans Business Park, Plot No. 3, Sector-Knowledge Park-III, Surajpur Kasna Main Road, Greater Noida, Gautam Budh Nagar-201308 (UP)** may be called upon to show cause in writing to the Commissioner of Customs, Kandla so as to why: -

(i) Penalty should not be imposed upon them under the provisions of Section 112(a) & 112(b), 114AA and 117 of the Customs Act, 1962 for such act of connivance with M/s. TIL for getting such buyers of goods for M/s TIL which subsequently led to short payment of duty.

15.4. Now therefore, it is proposed that **M/s. OKA Tankers PTE Ltd. having their Regd Office at 77 HIGH STREET, #08-10, HIGH STREET PLAZA, SINGAPORE (179433),** may be called upon to show cause in writing to

the Commissioner of Customs, Kandla in view of them being in knowledge of wrongful act of omission or commission, knowingly abetted or instrumental/facilitator in the entire scheme of mis-declaration with an intent of falsity and defraud the government exchequer it is proposed that: -

(i) The vessel MT Hong Hai6 (non-seized- cleared in past), used for transporting the said goods should not be held liable for confiscation under Section 115 of the Customs Act, 1962;

(ii) Penalty should not be imposed upon them under the provisions of Section 112(a) & 112(b), 114AA and 117 of the Customs Act, 1962 for the reason mentioned at (i) above;

15.5. Now therefore, it is proposed that M/s. **Telcom International PTE Ltd.** having their Regd. Office at 50 Bukit Batok Street 23, #06-11, Midview Building, Singapore 659578, may be called upon to show cause in writing to the Commissioner of Customs, Kandla in view of them being in knowledge of wrongful act of omission or commission, knowingly abetted or instrumental/facilitator in the entire scheme of mis-declaration with an intent of defraud the government exchequer it is proposed that: -

(i) The vessel MT FMT Gumuldur (non-seized- cleared in past), and MT.FMT EFES (non-seized- cleared in past), used for transporting the said goods should not be held liable for confiscation under Section 115 of the Customs Act, 1962;

(ii) Penalty should not be imposed upon them under the provisions of Section 112(a) & 112(b), 114AA and 117 of the Customs Act, 1962 for the reason mentioned at (i) above;

16. Now, therefore, the following persons may be called upon to show cause in writing to the Commissioner of Customs, Kandla as why personal penalty under Section 112(a) & 112(b), Section 117 and Section 114AA of the Customs Act, 1962 should not be imposed on them being in knowledge of wrongful act of omission or commission, having knowingly abetted or been instrumental/facilitator in the entire scheme of mis-declaration with an intent of suppression and falsity and to defraud the government exchequer: -

(1) Shri Sidhant Agarwal, Director of M/s. GIPL & M/s. GVPL
(2) Shri Sudhanshu Agarwal, Director of M/s. GIPL & M/s. GVPL
(3) Shri Amit Agarwal, Assistant Vice President of M/s. GIPL & M/s. GVPL
(4) Shri Shrikant Subbarayan, Head Agri Businees Division, M/s. Tata International Ltd.
(5) Shri Amit Thakkar, Senior Manager M/s. Tata International Ltd.
(6) Capt. Shri Sanjay Kumar, Master of Vessel MT FMT Gumuldur V.202109
(7) Capt. Liu Youyi, Master of Vessel MT Hong Hai6 V.2106
(8) Capt. Julio Uytiepo Conejero, Master of Vessel MT FMT EFES Voy.202111

17. Now, therefore, Shri Ricky Mukeshkumar Pabari, Director of M/s. DIL Exim Commodities Private Limited may be called upon to show cause in writing to the Commissioner of Customs, Kandla as why personal penalty under Section 112(a) & 112(b), Section 117, Section 114A and Section 114AA of the Customs Act, 1962 should not be imposed on him.

18. Now, therefore, the following persons may be called upon to show cause in writing to the Commissioner of Customs, Kandla as why action under under Section 132 of the Customs Act, 1962 should not be taken against;

(1) Capt. Shri Sanjay Kumar, Master of Vessel MT FMT Gumuldur V.202109

(2) Capt. Liu Youyi, Master of Vessel MT Hong Hai6 V.2106

(3) Capt. Julio Uytiepo Conejero, Master of Vessel MT FMT EFES Voy.202111

WRITTEN SUBMISSIONS:

19. M/s DIL EXIM Commodities Private Limited along with Shri Ricky Mukeshkumar Pabari, Director of M/s. DIL Exim Commodities Private Limited in their submission have stated *interalia* that:

i. M/s. DIL Exim Commodities Pvt. Ltd. is private limited company incorporated under the Companies Act, 2013 and engaged in trading of edible oils like Palm Oil, Soyabean Oils, Sunflower Oils, Crude Oils etc. It purchases locally as well as importing goods on bond to bond basis and also clearing for home consumption after filing ex-bond bills of entry at warehouse etc. It is having IEC AAHCD7279A and also registered with GST Department vide GSTIN – 24AAHCD7279A1ZR. It is law abiding company and paying all the taxes of the land from time to time regularly and also filing returns regularly under the Income Tax Act, 1962, GST Acts etc. Its track record is unblemished and nothing adverse has been noticed against it by any of the department under any of the law of the land.

ii. According to the impugned SCN, the information gathered by the Directorate of Revenue Intelligence (referred as 'DRI' hereinafter) indicated that M/s. Tata International Limited, Gandhidham, Kachchh having IEC 388024291, (Herein after referred as 'M/s TIL'), have imported 20300 MTs goods **consisting of 75% RBD Olein (i.e. Refined Bleached and Deodorised Palm Olein) by mis-declaring the same as "Crude Palm Oil (Edible Grade) in Bulk"** (herein after referred to as 'CPO') in the vessel "MT-Distya Pushti", at Deendayal Port, Kandla with intent to evade Customs duty. The intelligence also indicated that a Singapore based trading entity M/s. Glentech Ventures PTE Ltd. Singapore (referred as 'M/s. GVPL' hereinafter) (Indian sister concern M/s. Glentech Industries Private Limited (referred as 'M/s. GIPL'), whose operations were managed by Shri Sudhanshu Agarwal and was looking into purchase of the said cargo from Indonesian Mill Owners and sell to M/s. TIWA, UAE (referred as 'M/s. TIWA' hereinafter) who in turn would sell the consignment to its Indian Counterpart/sister concern M/s. TIL, India. It was also gathered that Master of the vessel along with the Chief Officer of the vessel had manipulated the documents related to the said consignment on the vessel for mis-declaration of the goods.

iii. Acting on the said intelligence, the vessel "MT-Distya Pushti" was boarded by the Officers of DRI, Gandhidham Regional Unit along with officers of Customs House, Kandla and Chemical Examiner, CRCL, Kandla under Panchnama dated 02/03.01.2022 **[RUD No. 01]**. During the course of search/rummaging of the vessel, various documents such as (1) Pre cargo meeting documents, (2) Manifest, (3) Mate receipt, (4) Tanker Bill of Lading at Port of Kuala Tanjung, Indonesia, (6) Statement of the Facts, (7) Notice of readiness, (8)

Letter of Protest showing 69 MTs shortage of loaded RBD Olein,(9) Testing and sampling reports were taken and placed in a file marked as "Made up file containing e-mail printouts and print outs of ledgers, Pro-forma Invoices, Sales Contract etc." and the same were retrieved alongwith other documents, as mentioned in the Panchnama dated 02/ 03.01.2021

iv. During investigation searches were conducted at various premises and statements of various persons were recorded. During searches incriminating documents were recovered / retrieved. During recording of statements also some documents were produced. The scrutiny of the records/documents revealed that the importer had imported **15000 MT RBD, 5000 MT CPO and 300 MT PFAD**, which were procured / purchased from the suppliers in Indonesia.

a. On scrutiny of the documents as discussed hereinabove, it appears that 5000 MT CPO, 15000 MT RBD and 300 MT PFAD were purchased by M/s. GVPL/M/s. TIWA in Indonesia from M/s. KPBN and M/s. INL. The 'CPO' was loaded on the vessel Distya Pushti at Dumai port whereas RBD and PFAD were loaded on the said vessel at Kuala Tanjung port.

b. Further, as per the Charter agreement dated 03.11.2021 of the vessel 'MT Distya Pushti' between M/s. Midas Tankers Pvt. Ltd., Mumbai (Owner) and Performance Charterer M/s. GVPL, Singapore and Payment Charterer M/s. TIWA, 5000 MT CPO was to be loaded from Dumai port, Indonesia; 15000 MT Palm Olein and about 400 MT PFAD from Kuala Tanjung port, Indonesia. As per the instructions from the management team of M/s. Midas Tankers Pvt. Ltd., vide E-mail dated 02.12.2021 to the Master of the Vessel was instructed to proceed to blend the entire 15000 MTs of Olein with 5000 MT CPO and 250 MT PFAD while underway to Linggi or Tanjung Bruas.

c. Similarly, instructions in context of switching of Bills of Lading of RBD Palmolein and PFAD with all B/Ls of CPO were communicated to the master of the vessel by the M/s. Midas Tankers Pvt. Ltd. Further, the original bills of lading of RBD and PFAD were replaced with the manipulated Bills of Lading, showing the cargo as CPO. It was also instructed to conceal the original load port documents and to produce the manipulated Bills of Lading declaring the goods as CPO at the port of discharge, i.e. Kandla.

d. As the manipulated Bills of Lading, IGM were filed declaring the goods as CPO and M/s TIL had filed 83 bills of entry dated 16.12.2021 and the description of goods mentioned as CPO (Edible Grade) in Bulk.

e. From the investigation conducted, it appears that the importer M/s. TIL in active connivance of M/s. GIPL, attempted to import **admixture of CPO, RBD and PFAD, falling under CTH 15119090 through Kandla Customs Port, by way of mis-declaration of the same as CPO falling under CTH 15111000** and suppression of the facts of actual loaded goods on the vessel MT Distya Pushti, to evade higher customs duty payment to Indian Customs.

v. It was further gathered during the course of investigation of import by M/s. TIL vide vessel 'MT Distya Pushti' that they had imported admixture of CPO, RBD and PFAD, in the manner of mixing/blending the said constituents on board vessel 'MT Distya Pushti Voy.07/21' **previously as well**. It is further gathered from the documentary as well as oral evidences, that M/s. TIL had imported admixture of CPO, RBD and PFAD, in the import consignments and mis-declared the cargo as CPO and classified the same under CTH 15111000 in the documents presented before Customs by suppressing the facts that the goods imported were admixture of **CPO, RBD and PFAD with maximum constituents of palmolein, which merits classification under CTH 15119090**. The above act on the part of importer resulted into short payment of Customs duties by ex-bond filers in the previous consignments as well.

a. It was further gathered that the import of CPO was undertaken by M/s TIL, using similar *modus operandi* in the previous imported consignments imported vide Vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106" and "MT FMT EFES V.202111" as per below mentioned details, which resulted in short payment of Customs duties by various ex-

bond filers.

i. The details of the 12199.71 MT of admixture imported vide vessel **FMT GUMULDUR V.202109** was purchased from M/s TIWA and declared the goods as CPO in the bills of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
1	***CPO***	*3499.71*	*OLAM*	*DUMAI, INDONESIA*	*5302477, 5302489, 5302500, 5302513, 5302519 & 5302523*	*03.09.2021*
	RBD PALM OLEIN	*8500*	*INL*	*KUALA TANJUNG, INDONESIA*		
	PFAD	*200*	*INL*	*KUALA TANJUNG, INDONESIA*		
	Total	***12199.7***				

ii. The details of the 15462.070 MT of admixture imported vide vessel **MT HONG HAI6 V.2106** was purchased from M/s. Tata International Singapore PTE Ltd (referred as 'M/s. TISPL' hereinafter), and declared the goods as CPO in the bills of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
1	***RBD PALM OLEIN***	*6513.520*	*KUALA TANJUBG, INDONESIA*	*5916265, 5916285, 5916291 & 5916292*	*20.10.2021*
	CPO	*8948.550*	*Phuket, Thailand*		
	Total	***15462.070***			

vi. The details of the 12959.31MT of admixture imported vide vessel **MT FMT EFES VOY. 202111** was purchased from M/s. TIWA and declared the goods as CPO in the bills of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry dat***

						e
1	***RBD PALM OLEIN***	*5086.015*	*PT INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824*	*11.11.2021*
	CPO	*7873.290*	*THA CHANG*	*PHUKAT PORT, THAILAND*		
	Total	***12959.31***				

a. M/s. TIL had filed 12 Warehouse Bills of Entries at Kandla Customs House as mentioned in **Annexure-A** to this notice, **mis-declaring the cargo as "CPO"**, which were imported vide aforementioned vessels, "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106" and "MT FMT EFES V.202111", **wherein, it appears that blending of goods as detailed above was undertaken on board vessel(s)**. The copies of said W.H. Bills of Entries are already available with the importer M/s. TIL. With respect to the aforementioned W.H. Bills of Entry, it appears that the goods have been mis-declared as 'CPO' by M/s. TIL which are further sold, and subsequently cleared by various importers by filing Ex-Bond Bills of Entry for Home Consumption as per **Annexure- B** attached to this notice. The copies of such Bills of Entry are available with the respective Ex- Bond filers of the said cargo.

b. Further, M/s. DIL Exim Commodities Private Limited having IEC - AAHCD7279A(Herein after referred as 'M/s DIL') had filed the Ex-Bond BoE for Home consumption in respect of clearance of goods which were imported after blending vide aforementioned vessels, as listed under **Annexure – C** to this show cause, **by mis-declaring the goods as CPO under CTH 15111000 in the said Bills of Entry instead of correct CTH, i.e. 15119090**. The copies of such Bills of Entry are already available with them. [M/s. DIL].

i. Crude palm Oil is classifiable under the chapter heading 15111000 of the Customs Tariff attracting duties leviable thereunder while admixture of RBD Palmolein, CPO and PFAD falls under the Chapter Heading is under CTH 15119090 of the Customs Tariff and attracts duties leviable there under.

vii. Statement of Shri Ricky Mukeshkumar Pabari, Director of M/s. DIL, was recorded under Section 108 of the Customs Act, 1962 on 28.02.2022 **[RUD No. 21]** wherein *inter-alia* he stated that M/s. DIL Exim Commodities Pvt. Ltd. is having IEC AAHCD7279A and is engaged in trading of edible oils; that he looks after sale-purchase work, sellers/buyers payment etc. of M/s. DIL; that M/s. DIL has purchased and filed Ex-Bond Bills of Entry w.r.t. total 2717 MTS of Crude Palm Oil which were imported by M/s. Tata International Ltd. through vessels namely, MT FMT Gumuldur, MT Hong Hai 6 and MT FMT EFES and produced the details of such Bills of Entry. He was shown the statements dated 27.01.2022 and 28.01.2022 of Shri Sidhant Agarwal, Director of M/s. Glentech Industries Private Limited wherein it is stated that M/s. Tata International Limited in connivance with M/s GIPL **imported blended foods viz. admixture of CPO, RBD Palmolein & PFAD through vessels namely MT FMT Gumuldur, MT Hong Hai6 and MT FMT EFES and the said admixture of CPO with RBD & PFAD were declared as Crude Palm Oil (CPO)** before Customs, Kandla. On perusal of the same, **it is stated and affirmed that the said goods viz. admixture of CPO,**

RBD & PFAD purchased by M/s. DIL from M/s. Tata International Ltd. which was imported through vessel MT FMT Gumuldur, MT Hong hai 6 and MT FMT EFES; that the said goods were mentioned as CPO Edible Grade (in Bulk) in the bond to bond agreement with respective seller. He also stated that refining cost and refining time in case of the blended goods with FFA 3.5 is lesser than natural CPO (generally FFA as 4.5-5) as proportion of impurities are less in the said blended goods in comparison to the natural CPO. Further he agreed to the fact that there is a presence of RBD Palm Olien, which is a refined product, thus the said imported goods are partially refined.

viii. From the above scrutiny of documents gathered during the course of investigation viz. Contracts of sales-purchase with sellers at Indonesia/Thailand, copies of invoices, copies of original and switched Bills of Ladings, charter party agreements with various vessel owners, LC etc., it is gathered that M/s. TIL in association with M/s. GIPL and vessel owner viz. M/s. Telcom International Trading PTE Ltd., Singapore/M/s. OKA Tankers PTE Ltd., Singapore had **procured CPO, RBD Palmolein, PFAD from different sellers at Thailand and Indonesia respectively and imported the goods viz. CPO, RBD and PFAD, by blending them on board vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106", "MT FMT EFES V.2021111"; that M/s. TIL were aware that the blending on board vessel has to be undertaken in order to make it marketable in domestic market; that post blending/comingling, the said goods become admixture of CPO, RBD, PFAD.** M/s. TIL (as financial charterer) and M/s. GIPL (as operational charterer) had entered into charter party agreement with vessel owners. Such agreements with the vessel owner were agreed upon by all parties with explicit condition of having blending as well as switching of B/L clauses. M/s. Oka Tankers PTE Ltd., Singapore, and M/s. Telcom International PTE Ltd., Singapore had inserted these clauses and subsequently charged for the same from M/s. TIL, which they agreed to pay vide said agreement(s). The documentary evidences also indicate that the payment charterer viz. M/s. TIL had made the payments to the vessel owners. **Thus, by allowing the blending of different cargos on board vessel, M/s. Oka Tankers PTE Ltd., Singapore, and M/s. Telcom International PTE Ltd., Singapore had concerned themselves in the wrongful act of blending the cargo and camouflaging the documents by switching the original Bills of Lading with second set of Bills of Lading with mis- declaration of the goods as CPO.** They were in due knowledge of such wrongful act on the part of themselves, had been instrumental in the entire scheme of mis-declaration of goods imported into India. M/s. TIL classified the goods so mis-declared goods under CTH 15111000 in the 12 W.H Bills of Entry as mentioned in **Annexure-A** to this show cause, **which were otherwise an admixture of 3499.71MTs of CPO, 8500MTs of RBD Palm Olein and 200MTs of PFAD imported vide vessel MTs Gumuldur Voy.202109, 8948.55MTs of CPO, 6513.52MTs of RBD Palmolein imported vide vessel Hong Hai6 V.2106 and 7873.29MTs CPO and 5086.015MTs RBD Palmolein imported vide vessel MT FMT EFES Voy.202111,** with an intent to suppress the correct description of goods and to evade the appropriate duties of Customs at the time of clearance and to earn commission on such imports. M/s. TIL mis-declared the entire cargo as 'CPO' in the documents presented before Customs Authorities at Kandla. Such imported goods were cleared by them as well as further sold in the domestic market.

a. Further, it was only when a case was booked by the investigative agency in respect of 20300 MTs of goods imported vide 'MT Distya Pushti', they admitted that they had imported the said goods i.r.o. 3 previous consignments vide vessels MT Gumuldur V.202109, Hong Hai6 V.2106, MT EFES V.202111 using similar modus operandi as in respect of import of consignments on 'MT Distya Pushti'. **A Show Cause Notice to**

the effect is already issued to M/s. TIL in this context. Thus, by such act they had suppressed this information from the Customs department and continued mis-declaring the said goods in the 12 W.H. Bills of Entry **(Annexure-A)** and subsequently which were cleared by various importers (M/s. DIL being one of them) resulting into short payment of duties of Customs of account of mis-declaration and mis-classification in W/H BoE.

b. The buyers/importers, filed the corresponding Bills of Entry for Home Consumption in respect of the aforementioned W.H Bills of Entry by M/s. TIL mentioning the description of goods as 'CPO', which is incorrect in as much as the said goods were *admixture* of *CPO, RBD Palmolein and PFAD* as discussed hereinabove. Further the buyers of such goods from M/s. TIL importers had already cleared the said goods from the warehouse by way of Filing Ex-Bond Bills of Entry for Home Clearance (**as per Annexure–B**) and thus short paid the duties of Customs on account of mis-declaration and mis-classification of subject goods. **The total differential duty recoverable on such goods imported and cleared already by them by way of mis-declaration and mis-classification of the goods as CPO under CTH 15111000 in Bills of Entry for Home Consumption by M/s. DIL is as per Annexure–C to this show cause notice**. The differential duty is required to be recovered from them by invoking the provisions of Section 28(4) of the Customs Act, 1962 **as M/s. TIL had suppressed the information regarding actual contents of the cargo from the department. In the said Bills of Entry for home consumption, the ex-bond filer viz. M/s. DIL had actually imported '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*' by mis-declaring the same as '*Crude Palm Oil*', by classifying it under CTH 15111000 instead of correct classification under CTH 15119090 (Others-Palmolein), which is the appropriate classification of imported goods.**

c. Further, M/s. DIL had filed the Ex-Bond BoE for Home consumption for clearance of quantity of **2717 MTS** i.r.o. **such goods which were mis-declared in the W.H. Bills of Entry and imported** vide aforementioned vessels are tabulated in **Annexure –C** to this show cause notice. Vide said Bills of Entry **M/s. DIL had mis-declared the goods as 'CPO' instead of declaring the same under CTH 15119090(Others)**. The declared assessable value of **2717 MTS** of such goods is **Rs. 23,03,57,612/-** and accordingly paid Customs Duties of **Rs. 4,45,50,301/-.** The actual assessable value appears to be **Rs. 24,64,06,525/-** as per relevant customs notifications for correct CTH 15119090 issued from time to time and duty payable appears to be **Rs. 8,55,64,804/-.** Thus, M/s. DIL had short paid the Customs duties to the tune of **Rs. 4,10,14,504/-** **by way of mis-declaring and misclassifying the goods as 'CPO' under CTH 15111000 instead of declaring the said goods under CTH 15119090 which is correct classification of subject goods.** From the above, it appears that M/s. DIL had paid lesser amount of customs duty and defrauded the government exchequer. The same is required to be recovered from them on account of mis-classification and mis-declaration.

ix. As discussed in the preceding paragraphs, though it appears that M/s. TIL had purchased different goods, viz., CPO, RBD and PFAD, blended them on board vessel and brought them into warehouse in the country. Further, in the import documents presented before Customs, they declared the warehoused cargo as CPO, by classifying the same under CTH 15111000. Furthermore, from the test reports, evidences recovered during investigation and statements of various persons recorded revealed that M/s. TIL had procured CPO, RBD and PFAD from the suppliers in Indonesia and blended all the three products during voyage of the vessels as discussed above.

a. In view of the above, **the product imported by M/s. TIL is not CPO but admixture of Crude Palm Oil, Palmolein and other palm-based oil.** Therefore, it is safe to conclude that the classification presented by M/s. TIL vide 12 W.H. Bills of Entry i.e. 15111000 and subsequently cleared vide 104 BoE for Home Consumption by various importers is not the correct classification. **Thus, they have wrongly classified the product under CTH 15111000 and the said classification is required to be rejected and the goods need to be reclassified under appropriate CTH which is 15119090.** The Customs Tariff Heading 1511 covers Palm Oil and its fractions, whether or not Refined, but not chemically modified. The Tariff Sub-Headings of CTH 1511 are as under:

Tariff Item		**Description of goods**
(1)	(2)	(3)
15111000	-	Crude oil
151190	-	Other:
15119010	---	Refined bleached deodorised palm oil
15119020	---	Refined bleached deodorised Palmolein
15119030	---	Refined bleached deodorised palm stearin

b. From the tariff sub-headings, it can be seen that CTH 15111000 covers Crude Palm Oil. The product in question imported by M/s. TIL is not Crude Palm Oil, but, is an admixture of Crude Palm Oil, Palmolein and other palm- based oil. Therefore, the product imported by M/s. TIL viz. admixture of Crude Palm Oil, Palmolein and other palm-based oil merits classification under CTH 15119090. Therefore, the correct classification of goods imported by M/s. TIL is 15119090. Hence, classification of the imported goods, done by M/s. TIL under CTH 15111000, is required to be rejected and goods is to be re-classified under CTH 15119090.

c. Further, the goods imported by M/s. TIL at Kandla Port, India by mis-declaring the same as Crude Palm Oil (CPO), under CTH 15111000 attracts duties of customs over different period of time during 2021-22, as per the following duty structure: -

x. DUTY STRUCTURE ON CPO UNDER CTH 15111000 OVER DIFFERENT PERIOD OF TIME

Effective Date	**BCD (%)**	**AIDC (%)**	**SWS (SWS (@10 % of all duties) (%))**	**IGST (%)**
30.06.2021 to 10.09.2021	10% [BCD as per Ntfn No. 34/2021 – Cus. Dated 29.06.2021]	17.5% [AIDC @ 17.5% as per Ntfn No. 11/2021 - Cus dated	2.75	5

		01.02.2021]		
11.09.2021 to 13.10.2021	2.5% [BCD @ 2.5%, amended vide Ntfn No. 42/2021- Cus. dated 11.09.2021; Exemption from BCD on CPO withdrawn vide Ntfn. 43/2021 dated 10.09.2021]	20% [AIDC @ 20%, Ntfn. No. 11/2021 - Cus dated 01.02.2021 amended vide Ntfn No. 42/2021- Cus. dated 10.09.2021	2.25	5
14.10.2021 to 20.12.2021	NIL [as amended vide Ntfn No. 48/2021- Cus. Dated 11.09.2021]	7.5% [AIDC @ 7.5% as amended vide Ntfn. No. 49/2021- Cus dated	0.75	5
21.12.2021 to 15.02.2022	NIL	7.5%	0.75	5

However, the goods actually imported viz., admixture of Crude Palm Oil, Palmolein and other palm-based oil which merits classification under CTH 15119090 (Others-Palmolein) attracts duties as per the following duty structure: -

xi. <u>DUTY STRUCTURE ON ADMIXTURE OF CPO, RBD PALMOLEIN & PFAD</u> <u>UNDER CTH 15119090 OVER DIFFERENT PERIOD OF TIME</u>

Effective Date	**BCD (%)**	**AIDC (%)**	**SWS (@10% of all duties) (%)**	**IGST (%)**
30.06.2021 to 10.09.2021	37.5% [BCD @37.5% as per Ntfn No. 34/2021 – Cus. Dated 29.06.2021]	NIL	3.75%	5%
11.09.2021 to 13.10.2021	32.50% [BCD @ 32.5%, amended vide Ntfn No. 42/2021- Cus. dated 11.09.2021]	NIL	3.25%	5%
14.10.2021 to 20.12.2021	17.50% [as amended vide Ntfn No. 48/2021- Cus. Dated 11.09.2021]	NIL	1.75%	5%
21.12.2021 to 15.02.2022	12.5% [as amended vide Ntfn no. 53/2021-Cus dated 20.12.2021	NIL	1.25%	5%

i. From the above, it is apparent that the duty on goods falling under CTH 15111000 vis-a-vis duty on the goods falling under CTH 15119090, which is the correct classification of actually imported goods, appears to be lesser at different points of time. **Despite being aware of the true nature of the impugned goods (i.e. the blended goods having FFA<3.5 and refining is cheaper in respect of such goods as percentage of RBD is more and their resultant product is RBD only), the manner adopted by the importer for mis-classification of impugned goods for the sole purpose of claiming lower rates of duty appears to be indicative of their *Mensrea***. Therefore, by not declaring the true and correct facts, at the time of import in the **Warehouse Bills of Entry by M/s. TIL, which mis-declared and mis-classified the goods as 'CPO', they appears to have indulged in mis-declaration & misclassification and suppression of facts with intent to evade payment of applicable BCD and Additional duty of Customs. In view of the foregoing, the amount of customs duty short paid duty on account of mis-declaration and misclassification by M/s. TIL and other ex-Bond filers of the Bills of Entry for Home Consumption as per Annexure-B is required to be recovered from such importers.** The above action on the part of M/s. TIL and such Ex-Bond filers of Bills of Entry for Home Consumption rendered the goods(non-seized and already cleared) liable for confiscation under Section 111 of the Customs Act, 1962, which are already cleared on payment of lesser amount of customs duty.

xii. M/s DIL had purchased the **2717 MTs** of said blended goods viz. admixture of CPO, RBD Palmolein, PFAD which were originally imported by M/s TIL by the way of mis-declaration and mis-classifying as CPO under CTH 15111000 in the W.H. B.E.s filed before Kandla Customs with intent to evade the appropriate duties of Customs. M/s. TIL had suppressed this information from Department while filing W.H.B.Es. Also, by entering into charter agreement as financial charterer they were aware that the blending on board vessel has to be undertaken in order to make it marketable in domestic market.

a. Further, M/s. DIL cleared a portion of such imported goods having quantity of 2717 MTs of goods having assessable value of Rs. 24,64,06,525/- (Rupees Twenty Four Crores Sixty Four Lakhs Six Thousand Five Hundred and Twenty Five only) by way of mis-declaring the same as 'CPO' in the Ex-Bond Bills of Entry filed by them and thus evaded Customs Duty amounting to Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only) under the following Bills of Entries as **per Annexure - C.**

b. M/s DIL being a buyer has the obligation to verify the source/antecedent of their supply. Thus, Onus was on the M/s DIL to perform due diligence before making purchase and subsequent clearance of gods from Warehouse by filing Ex-Bond BoE. Thus, in view of the omissions mentioned herein above, the differential duty of **Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only)**has been short paid by them on account of suppression, mis-declaration and misclassification of goods in the respective Ex- Bond Bills of Entry and is due to be recovered from them. The acts of omission and commission on the part of M/s. DIL rendered the imported goods (non-seized – cleared in past) liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962 and rendered themselves liable to penalty under Section 112(a), 112(b), 114A and 114AA, 117 of the Customs Act, 1962.

xiii. Further, in view of the above, it appears that M/s. TIL willfully mis-declared, mis-stated and suppressed the facts regarding description and classification of the impugned goods at the time of filing W.H. Bills of Entry and which were subsequently cleared by

various ex-bond filers vide various Bills of Entry (as detailed in **Annexure–B**) and had claimed lower rates of Customs duties as discussed herein above. Due to this deliberate act of mis-classification and mis-declaration in the import of entire quantity of 40521.39 MT vide vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106 and MT FMT EFES V.202111 on the part of M/s. TIL and lead to short payment of Customs duties by various Ex-bond filers on goods non- seized and already cleared by them. Further, by this deliberate act of mis- declaration and mis-classification appears to be with intent to evade Customs duty. **Therefore, it appears that the liability to pay the dues arise on the part of actual beneficial owners, i.e. importers of such goods who cleared these goods by way of filing Ex-Bond Bills of Entry for home consumption.**

a. It further appears that since the duty on the goods imported by M/s. DIL was short levied **on account of mis-declaration and misclassification,** which is liable to be demanded and recovered under the provisions of Section 28(4) of the Customs Act, 1962 and clearance of **2717 MTs**(non-seized- cleared in past) of the said goods by M/s DIL also appears to be liable for confiscation. Accordingly, M/s. DIL also appears liable for imposition of penalty under section 112(a) & 112(b), 114A and 117 of the Customs Act, 1962.

b. M/s. TIL and M/s. GIPL, in connivance with each other devised a strategic plan to import admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO. They purchased CPO, RBD and PFAD in Indonesia/ Thailand from different suppliers. They entered into Charter Agreement for transporting the goods from Indonesia and Thailand to India with M/s. OKA Tankers PTE Ltd. through vessel 'MT Hong Hai6 V.2106' and M/s. Telcom International PTE Ltd, through vessels 'MT FMT Gumuldur V.202109' and 'MT FMT EFES V.202111' having blending facility and switching of Bills of Lading clause in the agreements.

xiv. In view of above, total 40521.398 MT of admixture of CPO, RBD and PFAD were imported through the above mentioned 03 vessels viz., MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 and mis- declared the same as 'CPO' before Customs Authorities at Kandla Port in Warehouse Bills of Entry (Annexure-A).

a. The documentary as well as oral evidences, as discussed in brief in foregoing paras conclusively establish that though M/s. TIL had imported admixture of CPO, RBD and PFAD and while filing warehouse bill of entry at the Kandla port, M/s TIL in the import documents mis-declared the entire quantity of 40521.39 MT cargo as CPO brought into the country vide vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 and mis-classified the same under CTH 15111000. **It is safe to conclude that the same was done by suppressing the facts that the goods imported were actually admixture of CPO, RBD and PFAD, CPO and RBD respectively which merits classification under CTH 15119090.** The above act on the part of M/s. TIL subsequently resulted in short payment of customs duties to the tune of **Rs. 4,10,14,504/-** at the time of clearance of such imported goods from warehouse by M/s. DIL and thus, defrauding the government exchequer.

i. CBIC vide following notification have notified the tariff rate of items vide various non- tariff notification of Customs. The notifications applicable on the date of presentation of Bills of Entry for Home consumption by M/s. DIL are: - Notification No. 69/2021 – Customs (N.T.) dated 31.08.2021, 81/2021- Customs (N.T.) dated 14.10.2021 and 87/2021- Customs (N.T.) dated 29.10.2021 respectively. The tariff rate (USD per metric Ton) are

notified therein, and mentioned as below:-

Notification No.	Sr No.	Chapter/ heading/ sub-heading/ tariffitem	Description of Goods	Tariff rate (US$ per metric Ton)
69/2021 - Customs (N.T) dated 31-08-2021	6 Of Table – I	1511 9090	**Others - Palmolein**	1063
81/2021- Customs (N.T.) dated 14.10.2021	6 Of Table –I	1511 9090	**Others - Palmolein**	1223
87/2021- Customs (N.T.) dated	6 Of Table –I	1511 9090	**Others - Palmolein**	1261

b. Further, M/s. DIL had filed the self- assessed Ex-Bond BoE for Home consumption for clearance of goods **(approx. 2717 MTs)** imported vide aforementioned vessels as discussed above **(Annexure-C)**. The above act on the part of importer resulted into short payment of Customs duties which appears to be payable under CTH 15119090 as per the below mentioned Customs Tariff notifications: -

Effective Date	**BCD (%)**	**AIDC (%)**	**SWS (@10 % of all duties) (%)**	**IGST (%)**
30.06.2021 to 10.09.2021	37.5% [BCD @37.5% as per Ntfn No. 34/2021 – Cus. dated 29.06.2021]	NIL	3.75%	5%
11.09.2021 to 13.10.2021	32.50% [BCD @ 32.5%, amended vide Ntfn No. 42/2021- Cus. dated 11.09.2021]	NIL	3.25%	5%
14.10.2021 to 20.12.2021	17.50% [as amended vide Ntfn No. 48/2021- Cus. dated 11.09.2021]	NIL	1.75%	5%
21.12.2021 to 15.02.2022	12.5% [as amended vide Ntfn no. 5.3/2021-Cus dated 20.12.2021	NIL	1.25%	5%

xv. Further, the duty paid by M/s. DIL vis-à-vis duty actually payable by M/s. DILis calculated as per **Annexure –C** to this show cause.

a. The total differential duty to be paid by M/s. DIL on the goods imported by way of mis-declaration and misclassification of the goods as CPO under CTH 15111000 amounts to Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen

Thousand Five Hundred and Four only) in respect of goods already cleared by them having assessable value, arrived as per the aforementioned tariff notification equivalent to Rs. 24,64,06,525/- **(Rupees Twenty Four Crores, Sixty Four Lakhs, Six Thousand Five Hundred and Twenty Five only)**. The differential duty is required to be recovered from them by invoking the provisions of Section 28 of the Customs Act, 1962 along with interest under Section 28AA.

xvi. Now therefore, **M/s. DIL** are called upon to show cause in writing to your good office as to why: -

(i) The declared value of the imported goods (non-seized and cleared) imported vide vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106", "MT FMT EFES V.202111" should not be rejected on account of mis-declaration and mis-classification of goods and the total assessable value of **Rs.24,64,06,525/- (Rupees Twenty Four Crores Sixty Four Lakhs and Six Thousands Five Hundred and Twenty Five only) s**hould not be taken as assessable for calculation of customs duty as detailed in Annexure C and as per the relevant Customs Tariff notifications as discussed in foregoing paras;

(ii) The declared classification of the subject goods, i.e. 2717 MT of imported cargo vide vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106", "MT FMT EFES V.202111" under CTH 15111000 in the Ex- Bond Bills of Entry as detailed in **Annexure – C** should not be rejected and re-classified under CTH 15119090 of the Customs Tariff Heading of the First Schedule to the Customs Tariff Act, 1975 and why the subject Ex- Bond Bills of Entry should not be reassessed accordingly;

(iii) The total imported goods (non-seized and cleared in the past) by way of mis-declaration and mis-classification as discussed in above paragraphs should not be held liable for confiscation under Section 111 of the Customs Act, 1962;

(iv) The Customs Duty **Rs.4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only)**which is short paid on account of misclassification and mis-declaration in various Ex- Bond Bills of Entry for Home Consumption (non-seized and cleared) should not be recovered from them under the provisions of Section 28(4) of the Customs Act, 1962, along with the applicable interest thereon under Section 28AA, ibid;

(v) Penalty should not be imposed upon them under the provisions of Section 112(a) & 112(b) and 114A, 114AA and 117 of the Customs Act, 1962 for the goods mentioned at (ii) above;

b. In the same way Ricky M. Pabari, Director of M/s. DIL is also called upon to show cause to your good office as to why personal penalty under Section 112(a), Section 112(b), Section 117, Section 114A and Section 114AA of the Customs Act, 1962 should not be imposed.

xvii. M/s. DIL at the very outset disown the allegations made in the impugned SCN and before making submission on law submits that on receipt of the said SCN it has vide its letter dated 29.05.2024 inter alia requested for missing RUD viz. RUD-21 and all Annexure viz. Annexure – A, Annexure – B, Annexure – C and Annexure – R. It was also stated that it reserves it right to call for more documents and cross examination of department's witnesses. The said letter was sent by email on 30.05.2024 and also sent by courier.

a. Reminder to the said email/letter was sent by email on 01.08.2024 and in response to the said email received PDF of RUD – 21 by email dated 02.08.2024 but said Annexure are not received. So again reminder was sent by email for Annexure on 05.08.2024 and 09.10.2024. However same was furnished by email on 30.11.2024.

b. M/s. DIL also requests your good office to arrange to furnish legible certified copies of test memos and test results for the goods imported under 3 Vessels namely FMT GUMULDUR VOY.202109, MT HONG HA16 V.2106 AND MT EFES VOY.202111 at an early date.

c. M/s. DIL submits that as per Annexure – R – List of Relied Upon Documents to the SCN total 25 RUDs are relied upon in the impugned SCN but except document at Sr. No. 21 – Statement of Shri Ricky M. Pabari, Sr. No. 23, 24 and 25 appears to be documents not related to said 3 vessels viz FMT GUMULDUR VOY.202109, MT HONG HA16 V.2106 AND MT EFES VOY.202111. Even documents at Sr. No. 23, 24 and 25 of Annexure – R are without referring specific documents for import, warehouse and ex-bond etc for M/s. DIL and how same are relevant for M/s. DIL in the impugned SCN. It is not clear from the copy of statements relied upon in the impugned SCN about relevancy in the present SCN especially when most of are in relation to import of goods under vessel MT-Distya Pushti. **Therefore, it is prayed that kindly arrange to furnish specific documents in relation to allegations made against M/s. DIL that goods imported by it by filing ex bond bills of entry from warehouse were not "Crude Palm Oil", mis-declared and mis-classified by M/s. DIL before taking adverse decision in the matter.**

xviii. M/s. DIL further submits that it is admitted facts on record that it had filed ex-bond bills of entry for home consumption from warehouse and goods were originally imported by M/s. TIL and they had filed into bond bills of entry. It is also not matter of dispute that ex-bond bills of entry were filed based on the documents furnished by original importer viz. M/s. TIL and there is no change in the declaration regarding classification and valuation of goods while filing ex-bond bills of entry subsequent to into bond warehouse bills of entry filed by the importer M/s. TIL. Whatever, baseless allegations if any regarding mis-declaration and classifications of goods are mainly made against M/s. TIL and others based on the documents and it is nowhere any whisper about M/s. DIL's knowledge, awareness, involved about import of 3 or 2 said different goods, their blending on board etc. nor any such allegation is made against it. Entire allegations are made against it solely on the ground that M/s TIL and its allies had mis-declared and mis-classified the goods and M/s. DIL has filed ex-bond bills of entry for clearance of goods in home consumption.

a. M/s. DIL submits that the entire SCN has been prepared based on one of the live consignments imported by M/s. TIL vide vessel "MT – Distya Pushti" which are discussed at length in the impugned SCN at paragraph 1 to 2.10 (Page 1 to 58 of the SCN) though it has no direct or indirect connection with M/s. DIL.

i. M/s. DIL further submits that though it has no direct or indirect any connection with the import made under said vessel "MV-Distya Phshti", the SCN issued to M/s. TIL and others, reply filed by M/s. TIL and outcome of the said SCN have direct connection and huge impact on the outcome of the present SCN issued to it. **Therefore, it is prayed that before taking any adverse decision in the matter, legible certified copy of the SCN(s) if any issued to M/s. TIL, replies filed by them and order if any passed in the said SCN(s) may please be made available to M/s. DIL in the interest of justice.**

ii. M/s. DIL further submits that at Para 2.6 with its sub-paragraphs Page 3 to 8 three test reports for goods viz. Palm Fatty Acid Distillate (PFAD), Refine Bleached Deodorised Palmolein (RBD Palmolein) and Crude Palm Oil which were separately imported in different hatches of the said vessel "MT Distya Pushti". M/s. DIL failed understand that if the 3 goods were blended on board vessel how first two test reports of the goods can be of Palm Fatty Acid Distillate (PFAD), Refine Bleached Deodorised Palmolein (RBD Palmolein). However, 3rd Test Result dated 02.02.2022 re-produced at page 6 and 7 of the impugned SCN gives details of quality parameters, unit, prescribed standards as per (a) provisions of the FSS Act, Rules and

Regulations & IS-8323-2018, Test Results and Test Method. At the bottom of the same it also gives

"Opinion: Above analyzed parameters reveals that the sample u/r does not meet the requirement of Crude Palm Oil & Palm Oil (Raw) as per norms under regulation 2.2.1(16) of Food Safety and Standards (Food Products and Food Additive) Regulations, 2011 and provision of Food Safety Standards Act, 2006 and rule made thereunder & IS-8323-2018 respectively.

2. Carotendoids content in the sample u/r is below the limit?. However, crude palm oil normally contains 500-700 ppm carotenoids (Ref. Bailey's Industrial Oil and Fat Products, Vol2 page 340).

b. In view of the above, it is concluded that sample u/r is an admixture of Crude Palm POil, Pamoline and other Palm Based Oil."

xix. The above, opinion and conclusion are totally vague and baseless. The learned Head/Chemical Examiner Grade-I, Central Excise & Customs Laboratory, Vadodara has exceeded his power in concluding. He miserably failed to give any cogent ground that how and under which authority he had concluded that goods is not "Crude Palm Oil" as per the 2.2.1(16) of Food Safety and Standards (Food Products and Food Additive) Regulations, 2011 and provision of Food Safety Standards Act, 2006 and rule made thereunder & IS-8323-2018 respectively but same is "Admixture of Crude Palm Oil, Pamolein and Other Palm Based Oil". Though he has in 4th column heading it is stated "prescribed standards as per (a) provisions of the FSS Act, Rules and Regulations & IS-8323-2018", against Sr. No. 13 "Carotendoids" he has made reference of "Baily's Industrial Oil and Fat Products, Vol.-2" instead of the said Acts and Rules and adopted the same, without quoting for adoption of the said standard to determine that goods are not "Crude Palm Oil. He has also baselessly concluded that "same is an admixture of Crude Palm Oil, Palmolein and Other Palm based oil". He also miserably failed to quote the authority under which, why and how he has concluded that sample is of admixture of Crude Palm Oil, Pamolein and Other Palm based oil and not "Crude Palm Oil".

(i) M/s. DIL further submits that the learned Head/Chemical Examiner Gr.-I, Central Excise & Customs Laboratory, Vadodara has given Opinion for sample of "Crude Palm Oil" at para 2.6.3 page 4 and 5 of the SCN at the bottom of the test result gives **"Opinion": Above analyzed parameters reveals that the sample u/r does not meet the requirement of RBD Palmolein as per the standards laid under regulation 2.2.1(16) of Food Safety and Standards (Food Products and Food Additive) Regulations, 2011 and provision of Food Safety Standards Act, 2006 but without** any cogent ground that how and under which authority he had concluded that goods is not "Crude Palm Oil" as per the 2.2.1(16) of Food Safety and Standards (Food Products and Food Additive) Regulations, 2011 and provision of Food Safety Standards Act, 2006 but same is "RBD Palmolein".

b. Even **initial part of the said opinion is exactly same as referred at Para supra.** Even quality parameters of both the test results are almost similar/nearby except for "Carotenoids". Therefore, it appears that only ground to conclude that goods is "admixture of Crude Palm Oil, Pamolein and Other Palm based oil" and not "Crude Palm Oil" on the basis of para meter of "Carotenoids" is totally baseless, especially when test result nowhere specify in the quality parameters of Crude Palm Oil, Pamolein and Other Palm based oil.

c. The learned Chemical Examiner has nowhere given the details with authority that how, why the goods were Crude Palm Oil, Pamolein and Other Palm based oil and same is known as Admixture and not "Crude

Palm Oil.

d. Based on such investigation, it is alleged that the importer M/s. TIL has attempted to import admixture of CPO, RBD and PFAD of tariff item 15119090 by way of mis-declaration of the same as CPO of tariff item 15111000 and suppressed the actual fact to evade payment of higher customs duty.

(i) M/s. DIL therefore prays to arrange to furnish copy of test memo of the samples sent by the Customs and the said literature referred by the learned Chemical Examiner viz. 2.2.1(16) of Food Safety and Standards (Food Products and Food Additive) Regulations, 2011 and provision of Food Safety Standards Act, 2006 and rule made thereunder & IS-8323-2018, Bailey's Industrial Oil and Fat Products, Vol2 page 340 and such authority to conclude such goods as "admixture of Crude Palm Oil, Palmolein and Other Palm based oil".

(ii) M/s. DIL also wishes to cross examine the learned Chemical Examiner so to know that how and on what basis he has given above opinions and conclusions.

e. M/s. DIL submits that at paragraph 3 and its sub-paragraphs, 4 and its sub-paragraph has simply discussed the details of goods imported by M/s. TIL under 3 vessels namely "FMT GUMULDUR V.202109", "MT HONG HA16 V. 2106" and "MT FMT EFES VOY. 202111" and drawn conclusion without any base that Crude classifiable under tariff item 15111000 while admixture of RBD Palmolein, CPO and PFAD classifiable under tariff item 1511990 and attracts duties leviable thereunder. As discussed at length in para infra goods imported by it were only "Crude Palm Oil" only and not "Other-Palmolien" as considered by the investigation.

f. M/s. DIL submits that paragraph 6 and its sub-paragraphs upto 6.1.10 of the SCN discuss statement of various persons for the goods imported under the said vessel "MV Distya Pushti" with few details on previous import made under said 3 other vessels. M/s. DIL most respectfully prays that it wishes to cross examination of them if any part of any statement of them is to be used against it for fasting duty liability. While granting their cross examination, specific part of their statements/questions answers may also be made available to it so that cross examination can be requested upto that extent only as those statements are not specific for the goods import made by M/s. DIL.

i. M/s. DIL most respectfully submits that at para 6.1.9 at page 74 statement dated 28.02.2022 of Shri Ricky M. Pabari, one of the directors of M/s. DIL is discussed by twisting the exact deposition by discussing part of his deposition by choose and pick instead of entire statement. In fact his statement is exculpatory and what exactly he had deposed is re-produced here in under for ready reference:

xx. **"Question-5:** Were the said goods viz. admixture of CPO, RBD & PFAD imported by Tata International Ltd. through MT FMT Gumuldur, MT Hong Hai 6 & MT FMT EFES, purchased by M/s. DIL Exim Commodities Pvt. Ltd.?

Answer: Yes. M/s. DIL Exim Commodities Pvt. Ltd. has purchased goods from M/ s. Tata International Limited which were imported through MT FMT Gumuldur, MT Hong Hai 6 & MT FMT EFES. We purchased the said goods directly from Tata, through M/ s. U. G. Enterprises, M/ s. K. R. Foods Purchase, M/s Dipak oils as mentioned in above table A through bond. Further I want to add that the said goods sold to us with goods description as "Crude Palm Oil (Edible grade) in Bulk" not as "admixture of CPO, RBD & PFAD". The said goods purchased by M/s. DIL Exim Commodities Pvt. Ltd. were mentioned as CPO Edible Grade (in Bulk) in our Bond agreement with respective seller mentioned in above Table-A & in Commercial Invoices raised by them.

a. Now my attention is invited to the answer of question no. 02 given by Shri Sidhant Agarwal, director of M/ s. Glentech Industries Private Limited in his statement dated 28.01.2022 recorded under Section 108 of the Customs Act, 1962. As per

which Sidhant stated that to reduce the FFA value from 4.5-5 to 3.5, they blended CPO with RBD 85 PFAD as the demand of CPO with lower FFA is more than natural CPO in Indian Market.

xxi. **Question-6:** With what description, the said blended goods were further sold by M/ s. DIL Exim Commodities Pvt. Ltd.?

Answer: In this regard, I state that M/ s. DIL Exim Commodities Pvt. Ltd. sold the said blended goods as "**Crude Palm Oil (Edible grade) in Bulk" to our clients i.e. refiners as the said good sold to us as "Crude Palm Oil (Edible grade) in Bulk".**

xxii. **Question-7:** Why demand for CPO with lower FFA value i.e. 3.5 is more than natural CPO in Market?

Answer: In this regard, I state that as per my knowledge, as impurities are less in the said blended goods with lower FFA i.e. 3.5, refining cost & refining time would be lower in comparison with refining cost & refining time the natural CPO with FFA value as 4.5-05.

xxiii. **Question-8:** RBD Palmolein and PFAD are "Crude" or "refined"?

Answer: In this regard, I state that RBD palmolein is not crude, it is purely refined product. Further I state that PFAD is by product obtained during refining process of CPO.

xxiv. **Question-9:** "Crude" or "refined" goods are same or different?

Answer: In this regard, I state that Crude goods & refined goods are not same/ similar and both are totally different. I add that crude can be termed as the raw/ Input whereas refined product is the finished product.

xxv. **Question-10:** Is the said blended goods is only CPO or only RBD or only PFAD or product other than CPO/ RBD / PFAD?

Answer: As per my best understanding we cannot call the said blended goods only CPO or only RBD or only PFAD. The said blended goods is other than CPO/ RBD / PFAD but can be used only as CPO.

xxvi. **Question No.11** Can you say that the said blended goods which has not gone under any refining process?

Ans: No. it cannot be said that the said blended goods is a goods which has not gone under any refining process. As per my understanding and submission in their statement by the representative of M/s TIL and M/s Glentech, there is a presence of RBD Palm Olien, which is refined product. Actually RBD Palmolein is refined product and the same is part of the said blended goods, hence it can be said that the said blended goods has gone through refining process and the said blended goods can be said partially refined.

xxvii. **Question-12:** Did you have knowledge regarding the said blending of CPO with RBD & PFAD done on vessels i.e. MT FMT Gumuldur, MT Hong Hai 6 & MT FMT EFES?

Answer: No. **I didn't have any knowledge regarding the said blending of CPO with RBD & PFAD done on vessels** i.e. MT FMT Gumuldur, MT Hong Hai 6 & MT FMT EFES. In bond to bond agreement of M/s. DIL Exim Commodities Pvt. Ltd. with the sellers M/s. TIL & others, goods were mentioned as **"Crude Palm Oil (Edible grade) in bulk" by them and in Bill of Lading & Commercial invoice also, goods were mentioned as "Crude Palm Oil (Edible grade) in bulk.**

xxviii. **Question-13:** What description of goods and CTH were mentioned in

Ex-Bond Bills of Entry filed by M/s. DIL Exim Commodities Pvt. Ltd. w.r.t. goods procured from TIL, M/s. U. G. Enterprises, M/s. K. R. Foods Purchase & M/s Dipak Oils?

Answer: M/ s. DIL Exim Commodities Pvt. Ltd. mentioned the description of goods as "Crude Palm Oil Edible grade" (in bulk) in Ex-Bond Bills of Entry and CTH as 15111000 on the basis of description of goods mentioned in the Bond, Bill of Lading provided by the seller & commercial invoice given by our seller.

xxix. **Question-14:** Is there any reference of FFA value of goods in any of the above said documents?

Answer: No. Only goods description as "Crude Palm Oil (Edible grade) in bulk" were mentioned in the above bond and No FFA value were mentioned in the said bond/ Bill of lading/ commercial invoice with our sellers.

xxx. **Question-15:** Kindly peruse the Different types of Palm Oil and its fractions specified under CTH sub-heading 1511 of Customs Tariff, 1975 as under:

1511 10 00: Crude Oil
1511 90
1511 90 10: Refined bleached deodorized palm oil
1511 90 20: Refined bleached deodorized palmolein
1511 90 30: Refined bleached dorized palm stearin
1511 90 90: Other

xxxi. Please specify in which Tariff heading (CTH) the aforesaid blended goods (admixture of CPO, RBD Palmolein 86 PFAD) would fall?

Answer: In this regard, I state that that as it is neither pure Crude Palm Oil (1511 10 00) nor pure RBD Palmolein (1511 90 20) nor PFDA and it is admixture of all the above three. In my best opinion it should fall under the category of CTH 1511 90 90- 'Other'.

a. I add that our buyers are refiners and **use it as crude palm oil and Crude Palm oil is mentioned in the documents been received from our sellers i.e. Bills of lading & commercial invoice/ test report of FSSAI and accordingly we declared it as Crude Palm Oil (CTH 15111000) in Ex-Bond Bills of Entry and got clearance from Port Health Officer (PHO) and Customs.** Further I want to add that CHA for clearance of the said goods imported by M/ s. Tata International Ltd., was appointed by M/ s. Tata International Ltd. itself and payment for the said custom clearance also paid by M/s. Tata International Ltd. itself. Even charges for storage in tank terminal also borne by our seller i.e. M/ s. Tata International Ltd. I hereby undertook to produce the documents w.r.t. payment to CHA & payment for storage of the said goods procured by M/ s. DIL in 2-3 days."

xxxii. M/s. DIL submits that though statement is exculpatory the investigating officer has got answers suitable to it like answer to Question No. 7, 10 and 11. All these are of technical nature and if the same was stated by the director may be based on common man knowledge. The investigating officer has also tried to get confession about classification and it is settled position of law that confession on law has no evidential value at all. To determine the classification of goods is the job of the department and department is not able to give any cogent reason for the said classification as discussed in this reply, how a common man can decide the correct classification of goods that too without having any base about nature of goods whether crude or refined especially when there is no other description of goods is available or any base to know such goods as Admixture of said goods. If one may look at the SCN even investigation is confused

about the nomenclature of goods as discussed in para infra. Thus, if any inconsistent is written in the statement than what was written in the following letter dated 07.03.2022 are not the version of the director of M/s. DIL.

i. The said Director vide his letter dated 07.03.2022 addressed to the investigating officer inter alia submitted that he had remained present on 15.02.2022 in response to summons dated 07.02.2022 and submitted required documents as stated in their letter dated 15.02.2022. He also remained present on 28.02.2022 and his statement was recorded wherein amongst other various questions were asked to him regarding import of Crude Palm Oil of 1511 10 00 purchased from M/s. TIL by filing ex-bond bills of entry at Kandla.

xxxiii. As deposed therein they have purchased Crude Palm Oil and supplied to refineries only for refining purpose. However, according to the investigation the goods imported by them may classifiable under 1511 90 90 as Other due to reasons that into bond importer had imported goods other than Crude Palm Oil. Therefore, being importer they are liable to pay differential Customs Duty etc. on the goods imported by filing ex-bond bills of entry against the purchase made from M/s. TIL. They were informed / asked to make deposit/pay certain amount being importer during the course of investigation.

xxxiv. They further clarified that they have purchased from M/s. TIL and imported the goods "Crude Palm Oil (Edible Grade) in bulk" only and supplied for refining purpose to refineries only. Though being an importer they were supposed to clear the goods but practically all the clearance formalities in their name were arranged by the supplier of goods M/s. TIL through Customs Brokers and necessary papers including Test Results etc. were furnished by them directly to Customs Broker. They are not having copies of all Test Results of load port and discharge ports for the imported goods, after initiation of inquiry they had requested for the same and some of them are furnished and some of them are still not furnished to them.

xxxv. Their Customs Broker had filed ex-bond bills of entry based on documents furnished by them well as their said supplier only. So in their humble views they are not liable to pay any differential duty, however, as per your office if any differential customs duty amount etc is payable, they have written to their supplier in the matter but they have not responded to their emails. On being contacted they telephonically do not agree about liable to pay differential customs duty on the goods supplied to them.

xxxvi. They are being bona fide purchaser of goods as mentioned in the import documents not liable to pay any differential customs duty etc. if any payable on such goods. However, if any amount payable as per your good office and if they pay at this juncture then they will not able to claim from M/s. TIL. Apart from that they are being a small businessman/trader at present not in a position to pay any amount at this stage during the investigation as it may impact on their liquidity too. It was submitted that officer is aware about the market condition, in these circumstances, they most respectfully request to the investigating officer not to insist for payment of any amount during the investigation.

a. M/s. DIL submits that at Para 6.2 and its sub-paragraphs upto 6.2.36 (Page 75 to 124 of the SCN) documents in relation to import of goods viz. Purchase invoice, Original BL, Sale Invoice, Contracts, Switched Bills, Charter Party Agreement by M/s. TIL and others under said 3 Vessels namely "FMT GUMULDUR V.202109", "MT HONG HA16 V. 2106" and "MT FMT EFES VOY. 202111" are discussed. The said paragraphs discuss about purchase and imported following goods viz.

Sr. No.	VESSEL NAME	SELLER	COMMODITY loaded at load Port	QTY (MTs)	SUPPLIER	Bill of Entry no.	Description of imported goods declared in bill	QTY (MTs)

							of entry	
1	FMT GUMULDUR V.212109	M/s. TIWA	CPO	3499.71	OLAM	5302477, 5302489, 5302500, 5302513, 5302519 & 5302523 dtd 03.09.2021	CPO	12199.71
			RBD PALM OLEIN	8500	PTINL			
			PFAD	200	PTINL			
			Total	12199.7				
2	MT HONG HAI6 V.2106	M/s. TISPL	RBD PALM OLEIN	6513.520		5916265, 5916285, 5916291 & 5916292 dtd. 20.10.2021	CPO	15462.070
			CPO	8948.550				
			Total	15462.070				
3	MT FMT EFES VOY. 2021 11	M/s. TIWA	RBD PALM OLEIN	5086.015	PTINL	6212683 & 6212824 dtd. 11.11.2021	CPO	12959.31
			CPO	7873.290	THACHANG			
			Total	12959.31				

xxxvii. Based on the above, it is discussed that Original Bill of Ladings were of the said 3 or 2 goods were switched to Bill of Lading analogously to the process of blending/comingling carried out in said 3 vessels.

a. M/s. DIL submits that at para 7.1 to 7.3 so called outcome of the investigations are discussed in as much as M/s. TIL were aware that blending on board vessel has to be undertaken in order to make it marketable in domestic market; that post blending/comingling the said goods become admixture of CPO, RBT, PFAD. M/s. TIL and their allies have themselves concerned in the wrongful act of blending the cargo and camouflaging the documents by switching the original bills of lading with second set of bills of lading of the goods of CPO. The ex-bond bill of entry filer i.e. M/s. DIL had actually imported "admixture of Crude Palm Oil, Palmolein and other Palm based oil" by mis-declaring the same as Crude Palm Oil, by classifying under tariff item 15111000 instead of correct classification under tariff item 15119090 (Other – Palmolein), which is appropriate classification of imported goods.

b. The investigation miserably failed to bring out any authority under the Customs Act or Customs Tariff Act that goods cannot be blended on board vessel and Bill of Lading cannot be switched. All these are upto the importer of the goods and charter party as well as owner of the vessel and it is not the case of the department that there was violation of any

other law of the land in blending on board and switching of bill of lading. In any case investigation miserably failed to establish that after blending/comingling goods are does not remain "Crude Palm Oil" or it became "RBD Palmolein" or it became "Other Goods other than Crude Palm Oil" or "Other- Palmolein". Merely creating third category of goods other than "Crude" or "Refined" by writing "Admixture of CPO, Pamolein and PFA" its classification cannot be changed as discussed in para infra that too without proving whether goods were Crude or Refined duly supported with test result.

c. M/s. DIL submits that at para 8.1 to 8.4.2 of the SCN discussed about Classification of the goods and rate of customs duty etc. on tariff item CPO-15111000 and Admixture of CPO, RBD Pamolein & PFAD-15119000. Despite being aware of the true nature of the impugned goods i.e. **the blended goods having FFA less than 3.5 and refining is cheaper in respect of such goods as percentage of RBD is more and their resultant product RBD only.** The investigation miserably failed to prove that that how blended goods imported does not remain "Crude Palm Oil" or it became "RBD Palmolein" or it became "Other Goods other than Crude Palm Oil". Merely creating third category of goods other than "Crude" or "Refined" by writing "Admixture of CPO, Pamolein and PFA" its classification cannot be changed as discussed in para infra.

i. M/s. DIL submits that the discussion about classification and proposal for rejection of the same are completely vague and without any base. At almost all except following paragraphs it is stated in the impugned SCN stated that goods imported were of "Admixture of Crude Palm Oil, Palmolein and Other Palm-based Oil."

xxxviii. However, the department at para 7.3 of the impugned SCN Page 126 – Outcome of the investigation has stated that in the said Bills of Entry for home consumption, the ex-bond filer viz. M/s. DIL had actually imported "admixture of Crude Palm Oil, Pamolein and other Palm Based Oil" by mis-declaring the same as "Crude Palm Oil", by classifying it under tariff item 1511 1000 instead of **correct classification under tariff item 15119090 (Others-Palmolein)**, which is the appropriate classification of imported goods.

xxxix. At para 8.4.2 of page 129 of the SCN department has stated that true nature of the impugned goods i.e. the blended goods having FFA less than 3.5 and refining is cheaper in respect of such goods as percentage of RBD is more than **their resultant product is RBD only**.

xl. In the same way at paragraph 14.3 of the SCN Sr. No. 6 of Notification No. 69/2021-Cus.(NT) dated 31.08.2021, 81/2021-Cus.(NT) dated 14.10.2021 and 87/2021-Cus. (NT) dated 29.10.2021 for the purpose of arriving value of the imported goods (Tariff Value) read with Para 15.1(i) read with Annexure – C of the SCN is adopted, wherein description of the goods with tariff item is **"Others-Palmolein – 1511 9090".**

xli. It means imported goods are considered as "Others-Palmolein" in the SCN. However, while proposing rejection of classification of goods at para 15(ii) of the SCN the department has nowhere written nomenclature of the goods but only tariff items are written by stating that for the subject goods i.e. 2717MT of imported cargo under the said 3 vessels viz. 15111000 should not be rejected and re-classified under tariff item 15119000.

xlii. M/s. DIL submits that department either does not know the basic about the goods viz. RBD Palm Oil and RBD Palmolein or intentionally twisted the entire issue and discussed totally unnecessary data so as to create a confusion about nature of goods and its classification that too by alleging mis-declaration and mis-classification upon original warehouse importer and thereby upon M/s. DIL. In absence of any test result and real composition of goods, how one can discard the classification of goods viz. Crude Palm Oil from 1511 1000 and propose re-classification of goods as "Others-Palmoline" that too merely on the ground that goods viz. CPO, RBD Palmoline and PFAD in one vessel and CPO and RBD Palmoline in other two vessels were mixed/blended/comingling?

xliii. There is no dispute about import of "Crude Palm Oil" in the said 3 vessels with other said 2 or 1 said goods and plain reading of Tariff heading 1511 it clearly transpires that goods viz. "Crude Oil, Refined bleached deodorized palm oil (RBD Palm Oil), refined bleached deodorized palmoline (RBD Palmoline) and Refined bleached deodorized palm stearin (RBD Stearin)" are Palm Oil only. There cannot be any doubt on nature of goods "Crude" and "Refined" and as

discussed in para infra "Crude" is defined in the explanatory note. In any case, RBD Palm Oil and RBD Palmoline belong to different products of palm oil. Generally, palm oil refinery plant adopts physical refining method, containing three steps refining, bleaching (decolorizaton) and deodorization. So RBD palm oil is the products of palm oil refinery plant and RBD palmolein is obtained after further processing RBD Palm Oil in palm oil fraction plant. The RBD Palm Oil is semi-solid at 20 Centigrade. Therefore, the palm oil fractionation plant is used to separate palm oil's the liquid and the solid part. So the liquid part of palm oil is RBD Palmolien and the solid part is called RBD Palm sterin.

i. M/s. DIL without prejudice and admitting anything further submits that rate of basic custom duty vide various notifications 34/2021-Cus. Dated 29.06.2021 and 48/2021-Cus. Dated 13.10.2021 refers sub-heading 1511 90 which does not give any rate of duty in the First Schedule to the Customs Tariff Act, 1975 (but four tariff item with eight digit under the said tariff sub-heading prescribe rate of customs duty) stated in column No. 2 of the notifications and in the column of description – column No. 3 "All Goods (RBD Palm Oil, RBD Palmolein, RBD Palm Stearin and **any Palm Oil other than Crude Palm Oil**" are stated. It is not the case of the department that goods imported by it were "Other Palm Oil" but as per the department goods imported by it were Admixture of other said 2 goods or one goods as the case may be with Crude Palm Oils so such goods were "Other-Palmolein". It means the said entries do not specify – "Other-Palmolein" and exclude Crude Palm Oil. Therefore, as submitted in detailed that goods imported by it is nothing but "Crude Palm Oil" which were sold for further refining so the proposal to apply the said rates of any tariff item of sub-heading 1511 90 mentioned in the description of the goods is also totally erroneous.

xliv. Therefore, it is submitted that it is not matter of dispute that goods imported by it is not refined but Crude Palm Oil with mixture of either 2 said goods or 1 goods by any stretch of imagination become "Other – Palmolein" without any refining process. Thus, base of the impugned SCN is totally erroneous so SCN is liable to be quashed only on this ground alone.

i. M/s. DIL without admitting anything further submits that as per Para 15.2 and 15.3 of Chapter 15 of the CBEC's Customs Manual description of goods and value cannot be changed while filing ex bond bills of entry for home consumption from warehouse which reads as under:

xlv. "15.2 At the time of actual removal of the goods from the warehouse, the declared description of the goods recorded on warehousing bill of entry, should be tallied with the description declared on the ex-bond bill of entry.

xlvi. 15.3 As per provisions of Section 15 of the Customs Act, 1962, the rate of duty and tariff value for clearance of the goods from a bonded warehouse shall be the rate of duty and tariff value on the date on which a Bill of Entry for home consumption is presented under Section 68 of the Customs Act, 1962. The value of the goods is taken as the same as assessed on the into bond Bills of Entry at the time of warehousing the goods."

(i) M/s. DIL further submits that it is also settled position of law by amongst other following decisions:

xlvii. VBC INDUSTRIES LTD. Versus COMMISSIONER OF CUSTOMS, CHENNAI - 2003 (156) E.L.T. 872 (Tri. - Bang.)

a. *"Classification of goods - Warehoused goods - Change in classification at the time of Ex-Bond clearance - Classification of the goods as determined and classified, when placed in the bond on assessment of the into-bond Bill of Entry required to remain undisturbed except misdeclaration - Provisions of Section 15(1) of Customs Act, 1962 cannot be expanded to encompass re-determination of classification, when there is no change in the nature of the goods or the tariff by amendments thereof - Misdeclaration of goods not suspected - Classification of goods on assessment of the into-bond Bill of Entry cannot be altered subsequently at the time of Ex-Bond clearance.- The presentation of the Into-Bond Warehousing Bill of Entry will only be construed to be a desire of an importer not to pay Import duties immediately. The assessments required to be made, as per law and the instruction in the Appraising Manual postulate the determination of the valuation and tariff classification and*

thereafter execution of a Bond, undertaking to pay the duty as assessed on into warehouse Bill of Entry, warehouse charges etc., before the goods are deposited in the Customs Bonded Warehouse. The proper officer who ordered the clearance of the goods under EPCG Notification No. 160/92-Cus., was only required to apply the notification rate, if notification was applicable to imported goods classified under Heading 98.01 of Customs Tariff Act, 1975. There is not dispute raised before us that the goods are not capital goods. There is no case that the Notification No. 160/92-Cus. is not per se applicable to goods falling under Heading 98.01 ibid. Therefore, the grant of notification rate to the subject goods was eligible, non-performance of the conditions stipulated in the notification the amount of duty foregone under Heading 98.01 ibid could be recovered, which in any case was originally liable to be paid, by the importer, but who did not wish to pay the same and deposited the same in the warehouse. [paras 2(b), 2(c)]

b. *Demand - Customs - Limitation - Date of encashment of bank guarantee by DGFT to be considered as the payment of duty - Any information not suppressed from the department - Longer period not invocable - Demand barred by limitation - Section 28 of Customs Act, 1962. [para 2(e)]*

c. *Confiscation of goods - Interest and penalty - Conditions of exemption Notification No. 160/92-Cus. having been fulfilled on payment of duties - Conditions of exemption notification not violated - Confiscation cannot be upheld - Liability of payment of interest at 24% not sustainable since Notification No. 160/92-Cus. does not contain such condition - Penalty not sustainable - Sections 111(o) and 112 of Customs Act, 1962. - The exemption notification itself gives two alternates to the applicants while conferring exemption, namely export the goods or pay the duty. If either one of the alternates is satisfied, then there is no violation of the condition of the exemption notification. [paras 2(g), 2(h)]*

xlviii. SOUTHERN IRON & STEEL CO. Versus COMMISSIONER OF C. EX., SALEM - 2007 (215) E.L.T. 236 (Tri. - Chennai)

a. *"Warehoused goods - Interest on duty payable on warehoused goods which remained uncleared beyond normal warehousing period and extension of time allowed by competent authority - Value of goods remaining in warehouse was determined from value declared in warehousing Bill of Entry and value declared in ex-bond Bills of Entry - Classification and valuation of warehoused goods not to be altered when goods cleared ex-bond - Re-classification of warehoused goods not permissible unless there was a misdeclaration of classification initially or change in wording of relevant entry - Plea for assessing design documents of declared value of Rs. 5,73,69,053/- under Heading 49.06 of Customs Tariff Act, 1975 at nil rate of duty as per Notification No. 21/02-Cus., not tenable - Appellants paid duty amount correctly on warehoused goods at time of their clearance and also on remaining goods lying in warehouse - Section 61 of Customs Act, 1962. [paras 12, 13]"*

xlix. M/s. DIL submits that there was no mis-declaration of goods by the importer viz. M/s. DIL and such allegations of mis-declaration and mis-classification against M/s. DIL are totally baseless. There is no proposal in the impugned SCN against original importer M/s. TIL who had filed warehouse bills of entry regarding mis-declaration and mis-classification of the goods imported under the said 3 vessels and on that ground why the classification and valuation declared by them should not be changed as declared by them in warehouse bills of entry. Without challenging the assessment of warehouse bills of entry and without changing the classification and valuation of the warehouse bills of entry, classification and valuation of ex-bond bills of entry cannot be changed. Therefore, in view of the above, proposal to change the classification of goods and its value is beyond the provisions of the Customs Act, 1962.

a. M/s. DIL submits that at Para 12 and its sub-paragraphs role of each noticee is discussed and at para 12.12 baseless Role of M/s. DIL is discussed and allegations of suppression of facts etc. are made, which totally erroneous and contrary to admitted facts on record including statement of Shri Ricky M. Pabari, one of the directors of M/s. DIL.

b. M/s. DIL submits that height of the zeal to make figure of differential duty amount on higher side value of Other – Pamolein is adopted though as discussed in para supra and infra goods imported by it was Crude Palm Oil only and in any case as per investigation it was Admixture of

CPO, RBD Pamolein and PFAD in one vessel and two vessel it was Admixture of CPO and RBD Pamoline, same cannot be considered as "Other-Palmoline". Thus, entire allegations and proposal are totally baseless and imagination of investigation.

l. M/s. DIL submits that in view of the above impugned Show Cause Notice merely making baseless allegations without adducing and furnishing relevant and specific documentary and oral evidences is liable to be quashed only this ground alone. Non furnishing of specific relied upon documents amount to gross violation of principle of natural justice.

a. As per settled position of law any order passed without furnishing documents is liable to be quashed on this ground too. In support of the same M/s. DIL refers and relies upon amongst other following decisions:

li. KOTHARI FILAMENTS Versus COMMISSIONER OF CUS. (PORT), KOLKATA - 2009 (233) E.L.T. 289 (S.C.)

i. Natural justice - Violation of - Non-supply of relied upon documents collected during enquiry - Misdeclaration of imports requiring import licence - Overseas enquiry conducted through departmental source, not final and conclusive but liberal use thereof made by Commissioner in his order - Department submitting that initial burden upon assessee to show bona fide mistake and Department has no liability to disclose their materials - It is one thing to say that denial to supply documents has a statutory backing but it is another thing that use thereof to be made without supplying copies - Act does not prohibit application of principles of natural justice - Person charged with misdeclaration entitled to know ground on basis whereof he would be penalized - No doubt that person entitled to proper hearing including supply of documents - Effective reply could be furnished only on knowing contents of documents - Principles of natural justice violated - Matter remanded to Commissioner for consideration afresh who may supply relevant copies if intends to rely on them or to allow to inspect the same - Appeal allowed with costs. - In the event, a finding as regards violation of provisions of Act is arrived at, several steps resulting in civil or evil consequences may be taken. Principles of natural justice required to be complied with. [paras 14, 15, 16, 19]

lii. MOZART GLOBAL FURNITURE Versus STATE TAX OFFICER (INTELLIGENCE), SGST DEPTT., NILAMBUR - 2020 (33) G.S.T.L. 3 (Ker.)

i. Adjudication proceedings under GST - Show cause notice - Relied upon documents, non-supply of - Natural justice - Admittedly copies of documents relied upon in show cause notice have not been supplied - Notwithstanding that petitioners have also sought these copies belatedly, denial of copies of RUDs amounts to violation of natural justice - Since adjudication proceedings have not yet actually began, authorities directed to furnish copies of RUDs within one week of petitioner seeking same - Adjudication proceedings may also be culminated within one month - Section 74 of Central Goods and Services Tax Act, 2017 - Article 226 of Constitution of India. [para 3]

liii. JVS FOOD PVT. LTD. Versus UNION OF INDIA - 2018 (10) G.S.T.L. 291 (Raj.)

a. *Strictures against Department - Adjudication - Demand - Supply of document - Relied on in show cause notice - Request of noticee not accepted in spite of precedent cases and Department directions - Conduct of Revenue Officer deprecated as it increased litigation in High Court - Hence, ex parte order passed directing Revenue Officer to act in accordance with law and not proceed arbitrarily, without giving proper opportunity to noticee - Section 73 of Central Goods and Service Tax Act, 2017. [para 8]*

liv. M.G.M. METALIESERS LTD. Versus UNION OF INDIA - 2018 (10) G.S.T.L. 537 (Guj.)

a. Demand - Adjudication - Show cause notice - Relied upon documents - Several documents referred to in show cause notice and relied on by adjudicating authority not supplied to assessee - Even if documents were concerning assessee and were seized from

its custody, in absence of any proof suggesting that it had copies of such documents within its possession, adjudicating authority could not have passed order without supplying copies thereof to assessee - Assessee had contended it would be handicapped in its defense unless copies of documents collected by authorities were supplied to it - Order set aside and matter remanded to adjudicating authority for fresh consideration after supplying copies of all documents relied upon in show cause notice - Writ petition allowed without relegating party to appellate remedy - Section 11A of Central Excise Act, 1944 corresponding to Section 73 of Finance Act, 1994 - Article 226 of Constitution of India. [paras 4, 5]

lv. PATRON DETECTIVE AND SECURITY SERVICES Versus C.C.E. & S.T., JAIPUR-I - 2018 (8) G.S.T.L. 133 (Raj.)

i. *Adjudication - Natural justice - Documents referred to in show cause notice not given to assessee - Matter remanded to adjudicating authority - Section 11A of Central Excise Act, 1944 corresponding to Section 73 of Finance Act, 1994. - It is well-settled principle of law that the person who is to take an action is required to supply basic documents, which sought to be relied upon. [2000 (122) E.L.T. 26 (Raj.) relied on]. [paras 10, 11, 12]*

lvi. RAJAM INDUSTRIES (P) LTD. Versus ADDL. D.G., D.C.E.I., CHENNAI - 2010 (255) E.L.T. 161 (Mad.)

a. *Natural justice - Document copies, providing of - Concept of natural justice relating to show cause notice includes providing documents relied on in SCN - Party cannot be expected to give effective reply unless copies of relied upon documents furnished. [para 54]*

lvii. PARMARTH IRON PVT. LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE -I, - 2010 (255) E.L.T. 496 (All.)

a. *"Natural justice – Documents, relied on and non-relied upon, supply of – Assessee asking for Photostat copies of relied upon documents – Apex Court in 1997 (92) E.L.T. 467 (S.C) holding that non-return of documents may severely prejudice right of party to offer proper explanation – Obligatory on part of Revenue to return non-relied documents – Relied documents or copies thereof must also be furnished – Revenue directed for same. Petitioners further permitted to inspect original documents and materials sought to be used against them.*

lviii. VIDEOCON INTERNATIONAL LTD. Versus COMMR. OF CUS. (IMPORT), MUMBAI - 2010 (250) E.L.T. 553 (Tri. - Mumbai)

a. *"Natural justice - Relied upon documents - Non-supply of - Inspection of documents not provided and copies of relied upon documents not provided - Request for cross-examination of witnesses recorded but neither confirmed nor rejected nor finding given for refusal to allow cross-examination - Entire case of DRI based on expert report, panchanamas and statements - Request for cross-examination ought to have been considered - Allegations in show cause notice reproduced verbatim in impugned order - Independent application of mind absent - Order passed after delay of 5½ months - Matter remanded for fresh adjudication allowing inspection and supply of copies of documents - Section 122A of Customs Act, 1962. [paras 5, 6, 7]*

b. *7. The impugned order passed by the Commissioner, therefore, merits to be set aside. We do so and remand the matter back to the Commissioner for fresh adjudication after allowing the applicants to inspect the documents and supplying them the copies of all the documents relied upon by the DRI and considering the applicants' request for cross-examination of the signatories to the panel report, panchas and other persons, whose statements have been recorded and relied upon. The Commissioner is directed to pass appropriate orders in accordance with law after hearing the applicants. Since the case is pretty old, the Commissioner is directed to decide the*

case as expeditiously as possible preferably within six months of the receipt of this order.

c. *8. The appeals filed by the applicants are allowed by way of remand in above terms. The stay petitions also stand disposed of."*

lix. MUKESH APPLIANCES PVT. LTD. Versus COMMISSIONER OF C. EX. & S.T., DAMAN - 2016 (343) E.L.T. 246 (Tri. - Ahmd.)

a. *Natural justice - Non-supply of relied upon documents - Documents recovered from premises of third party was made basis for demand - Copies of such relied upon documents not supplied to appellants - Basis of impugned order is a serious lapse, which makes the order nullity - Principles of natural justice violated. [para 10]*

lx. M/s. DIL further submits that as per documentary evidence discussed herein after it had imported Crude Palm Oil only. There is no specific documentary or oral evidence adduced for allegation that there was no import of Crude Palm Oil but goods imported by it by filing ex bond bills of entry from warehouse were "Other – Palmoline" or "Admixture of CPO, RBD Palmoline, PFAD" or "Admixture of CPO, RBD Palmonline" etc. However, if the department wish to rely upon any of the statement referred in the SCN, same cannot be relied upon without examination and cross examination of the author of the statement as provided under Section 138B of the Customs Act, 1962 which reads as under:

a. ***"SECTION 138B. Relevancy of statements under certain circumstances.*** *— (1) A statement made and signed by a person before any gazetted officer of customs during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains, -*

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

b. *(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a court, as they apply in relation to a proceeding before a court.]"*

lxi. Plain reading of the aforesaid section it clearly reveals that if your goodself wish to rely upon so called alleged confession if any from the statements made and signed by the persons before the Customs Officer of a gazetted rank during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any adjudication, the truth of the facts which it contains, only when the person who made the statement is examined as a witness in the case before the adjudicating authority and adjudicating authority is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

lxii. It may also be appreciated that evidential value of statement recorded under Section 108 of the Customs Act, 1962 is subject to Section 138B ibid and if same is not considered on whatsoever ground such statement cannot have any evidential value at all.

lxiii. Therefore, it is requested that if any statement of any of the witnesses of the department's whose statements are recorded & to be relied upon against M/s. DIL they all may be examined and allowed to cross examination. Thereafter, M/s. DIL wishes to make further submission in the matter.

lxiv. Your goodself is also aware that it is settled position of law that without examination such so called confessional statement upto that extent has no evidential value and it has to be considered as if such statement is eschewed from the record and same cannot be relied upon to against such person.

lxv. Amongst other M/s. DIL refers and relies upon following decisions:

lxvi. KALLATRA ABBAS HAJI Versus GOVERNMENT OF INDIA - 1994 (69) E.L.T. 212 (Ker.)

a. ***"26.*** *True, Section 138B states that a statement made and signed by a person before any gazetted officer of customs is relevant to prove the truth of the fact it contains in any proceeding under the Act. But these statements are relevant only if the conditions prescribed under clauses (a) or (b) of Sec. 138B are satisfied. Here, there is no case that clause (a) applies. If at all, clause (b) alone can be attracted. Under this clause, the statement is relevant when (a) the person who made the statement is examined and (b) the statement is admitted in evidence after the authority forms an opinion that in the interest of justice and having regard to the circumstances of the case, it should be so admitted.*"

lxvii. Hon'ble High Court of Delhi in the case of *J.K. Cigarettes Ltd. vs. CCE, 2009 (242) ELT 189 (Del) at* Para 12 of the said decision clearly holds that by virtue of sub-section (2) of Section 9D, the provisions of sub-section (1) thereof would extend to adjudication proceedings as well.

a. *"There can, therefore, be no doubt about the legal position that the procedure prescribed in sub-section (1) of Section 9D is required to be scrupulously followed, as much in adjudication proceedings as in criminal proceedings relating to prosecution."*

lxviii. **M/s JINDAL DRUGS PVT LTD AND ANOTHER Vs UNION OF INDIA AND ANOTHER as reported at 2016 (340) E.L.T. 67 (P & H) involving identical issue of cross examination wherein appellants had filed petition before Hon'ble High Court of Punjab and Haryana against the Order-in-Original passed by the adjudicating authority confirming demand of duty and imposing penalty without granting permission for cross examination of makers of the statements which were relied upon in adjudication.** The petitioners had, therefore, filed the Writ Petition for issuance of a Writ of Mandamus directing respondent to follow the mandate of Section 9D(1) of the CEA, 1944 while adjudicating the said Show Cause Notice. In the said case, after extracting provisions of Section 9D of the Central Excise Act, 1944, it was inter alia held by Hon'ble High Court that:

a. *"15. Once discretion, to be judicially exercised is, thus conferred, by Section 9D, on the adjudicating authority, it is self-evident inference that the decision flowing from the exercise of such discretion, i.e. the order which would be passed, by the adjudicating authority under Section 9D, if he chooses to invoke clause (a) of sub-section (1) thereof, would be pregnable to challenge. While the judgment of the Delhi High Court in J&K Cigarettes Ltd. (supra) holds that the said challenge could be ventilated in appeal, the petitioners have also invited attention to an unreported short order of the Supreme Court in UOI and another vs. GTC India and others in SLP (C) No. 2183/1994 dated 03/01/1995 wherein it was held that the order passed by the adjudicating authority under Section 9D of the Act could be challenged in writ proceedings as well. Therefore, it is clear that the adjudicating authority cannot invoke Section 9D(1)(a) of the Act without passing a reasoned and speaking order in that regard, which is amenable to challenge by the assessee, if aggrieved thereby.*

lxix. If none of the circumstances contemplated by clause (a) of Section 9D (1) exists, clause (b) of Section 9D (1) comes into operation. The said clause prescribes a specific procedure to be followed before the statement can be admitted in evidence. Under this procedure, two steps are required to be followed by the adjudicating authority, under clause (b) of Section 9D (1), viz.

i) the person who made the statement has to first be examined as a witness in the case before the adjudicating authority, and

ii) the adjudicating authority has, thereafter, to form the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

lxx. There is no justification for jettisoning this procedure, statutorily prescribed by plenary parliamentary legislation for admitting, into evidence, a statement recorded before the gazetted Central Excise officer, which does

not suffer from the handicaps contemplated by clause (a) of Section 9D(1) of the Act. The use of the word "shall" in Section 9D (1), makes it clear that, the provisions contemplated in the sub-Section are mandatory. Indeed, as they pertain to conferment of admissibility to oral evidence they would, even otherwise, have to be recorded as mandatory.

lxxi. *The rationale behind the above precaution contained in clause (b) of Section 9D(1) is obvious. The statement, recorded during inquiry/investigation, by the gazetted Central Excise officer, has every chance of having been recorded under coercion or compulsion. It is a matter of common knowledge that, on many occasions, the DRI/DGCEI resorts to compulsion in order to extract confessional statements. It is obviously in order to neutralize this possibility that, before admitting such a statement in evidence, clause (b) of Section 9D(1) mandates that the evidence of the witness has to be recorded before the adjudicating authority, as, in such an atmosphere, there would be no occasion for any trepidation on the part of the witness concerned.*

lxxii. *Clearly, therefore, the stage of relevance, in adjudication proceedings, of the statement, recorded before a gazetted Central Excise officer during inquiry or investigation, would arise only after the statement is admitted in evidence in accordance with the procedure prescribed in clause (b) of Section 9D(1). The rigour of this procedure is exempted only in a case in which one or more of the handicaps referred to in clause (a) of Section 9D(1) of the Act would apply. In view of this express stipulation in the Act, it is not open to any adjudicating authority to straightaway rely on the statement recorded during investigation/inquiry before the gazetted Central Excise officer, unless and until he can legitimately invoke clause (a) of Section 9D(1). In all other cases, if he wants to rely on the said statement as relevant, for proving the truth of the contents thereof, he has to first admit the statement in evidence in accordance with clause (b) of Section 9D(1). For this, he has to summon the person who had made the statement, examine him as witness before him in the adjudicating proceeding, and arrive at an opinion that, having regard to the circumstances of the case, the statement should be admitted in the interests of justice."* (Underline provided)

lxxiii. It was further held at para 22 of the said order by Hon'ble High Court that:

a. *"22. Clearly, if this procedure, which is statutorily prescribed by plenary Parliamentary legislation, is not followed, it has to be regarded, that the Revenue has given up the said witnesses, so that the reliance by the CCE, on the said statements, has to be regarded as misguided, and the said statements have to be eschewed from consideration, as they would not be relevant for proving the truth of the contents thereof."*

lxxiv. Similar view was taken by Hon'ble High Court in **CWP No.12615 of 2016 in the case of M/s AMBIKA INTERNATIONAL & OTHERSVs UNION OF INDIA AND ANOTHER as reported at 2018 (361) E.L.T. 90 (P & H)/2016-TIOL-1238-HC-P&H-CX.**

lxxv. Hon'ble High Court of Punjab & Hariyana in the case of **M/s. G-Tech Industries Vs. Union of India – 2016 (339) E.L.T. 209 (P & H)/2016-TIOL-2749HC-P&H-CX** again held that in terms of Section 9D(1) of the Central Excise Act, 1944 request of cross examination have to be allowed if the revenue wish to rely upon statements of such witnesses.

lxxvi. FLEVEL INTERNATIONAL Vs COMMISSIONER OF CENTRAL EXCISE - 2016 (332) E.L.T. 416 (Del.)

i. Cross-examination of witness whose statement relied upon in adjudication order - Denial of - No serious attempts made to secure presence of witness in adjudication proceedings - Department failed to show existence of any of extraordinary circumstances under Section 9D of Central Excise Act, 1944 to justify denial of right to cross-examine the witness - Such activity on part of Department was a serious infraction which initiated the adjudication order - Simply stating that cross-examination of large number of persons would have taken the case to a non-ending process, cannot be a justified reason within Section 9D ibid to deny that opportunity to appellant - Authority wrongly proceeded on the basis that there was no right of cross-examination overlooking the circumstances mentioned in Section 9D of

Central Excise Act, 1944. [paras 42, 43, 44, 45, 46]

lxxvii. **Its contention is also supported by many other such decisions of higher appellate forum which also include following judgments:**

lxxviii. M/s PMS INTERNATIONAL PVT LTD & OTHERS Vs COMMISSIONER OF CENTRAL EXCISE, LUDHIANA-2014-TIOL-1669-CESTAT-DEL.

lxxix. BASUDEV GARG Versus COMMISSIONER OF CUSTOMS: 2013 (294) E.L.T. 353 (Del.)

lxxx. M/s ANDAMAN TIMBER INDUSTRIES Vs COMMISSIONER OF CENTRAL EXCISE, KOLKATA-II - 2015-TIOL-255-SC-CX

a. ***"Central Excise - Adjudication - Cross Examination - 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 . The order of the Commissioner was based upon the statements given by the 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, 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.***

b. *It was not for the Adjudicating Authority to presuppose as to what could be the subject matter of the cross-examination.*

c. *If the testimony of these two witnesses is discredited, there was no material with the Department on the basis of which it could justify its action, as the statement of the two witnesses was the only basis of issuing the Show Cause Notice."*

lxxxi. M/s. DIL submits that provisions of Section 9D of the Central Excise Act, 1944 and Section 138B of the Customs Act, 1962 are pari materia therefore ratio of the said decisions on Section 9D squarely applicable in the present cases too.

lxxxii. 15. M/s. DIL submits that while awaiting for the said documents and cross examination it is filing this interim reply to the impugned SCN reserving its right to make further submission after receipt of above referred documents and cross examination of department's witnesses.

lxxxiii. 15.1 M/s. DIL further submits that it is admitted facts on records that it had purchased in bond warehouse goods only from the said supplier and filed ex-bond bills of entry for clearance of the goods in home consumption viz. "Crude Palm Oil" based on the documents supplied by the supplier of goods which specifically states the nature of goods "Crude Palm Oil" only. There was no test result furnished or adduced by the department while making allegations that goods cleared by it from warehouse to home consumption were not "Crude Palm Oils". Details of goods imported by it by filing ex-bond bills of entry for said 3 Vessels wise and further supplied are as under:

Seller Name	VESSEL Name	B/L NO.	Ex-Bond B/E No.	Ex-Bond B/E Date	Assessable Value (Rs.)	Purchased Qty (MTs)	Sold QTY (MTs)	Buyer to whom DIL sold Crude Palm Oil
U. G. ENTERPRISE	FMT GUMULDU	KTGDEE	5374382	09.09.21	18643164.75	245.00	245.00	LOUIS DREFYUS COMPANY INDIA
U. G. ENTERPRISES	FMT GUMULDUR	KTGDEE 33	5374920	09.09.21	18643164.75	245.00	245.00	LOUIS DREFYUS COMPANY INDIA PVT LTD
U. G. ENTERPRISE	FMT GUMULDU	KTGDEE	5374386	09.09.21	18643164.75	245.00	245.00	G ONE AGRO PRODUCTS PVT
U. G. ENTERPRISE	FMT GUMULDU	KTGDEE	5374274	09.09.21	18643164.75	245.00	245.00	LOUIS DREFYUS COMPANY INDIA
K R FOODS PURCHSAE	FMT GUMULDU	KTGDEE	5424672	13.09.21	18643165	245.00	245.00	G ONE AGRO PRODUCTS PVT
TATA INTERNATIONAL LTD	HONG HAI 6 V.2106	KTGDEE 36	5997774	26.10.21	22584641	248.00	213.97	AJANTA SOYA LTD-HS (S)
							34.030	Louis Dreyfus Company India Pvt. Ltd. (Hs)
TATA INTERNATIONAL LTD	HONG HAI 6	KTGDEE 37	5997793	26.10.21	22584641	248.00	248.00	LOUIS DREFYUS COMPANY INDIA PVT LTD,
TATA INTERNATIONAL LTD	HONG HAI 6 V.2106	KTGDEE 38	5997801	26.10.21	22584641	248.00	213.97	LOUIS DREFYUS COMPANY INDIA
							34.030	AJANTA SOYA LTD-HS (S)
TATA INTERNATIONAL LTD	HONG HAI 6 V.2106	KTGDEE 39	5997802	26.10.21	22584641	248.00	248.00	AJANTA SOYA LTD
TATA INTERNATIONAL LIMITED	FMT EFES V.202111	KTGDEE 11	6243852	13.11.21	23401613	250	250.00	JAI AMBICA OIL CARRIER
DIPAK OILS	FMT EFES V.202111	KTGDEE 48	6262348	15.11.21	23401613	250	250.00	G ONE AGRO PRODUCTS LTD
				Total		**2717**	**2717**	

lxxxiv. Hereto annexed and collectively marked as Exhibit – 'I' are copies of BE with invoices, BL and further supply invoices.

lxxxv. 15.2 M/s. DIL without admitting anything and without prejudice to submissions made in para supra further submits that based on the investigation allegations are made against M/s. TIL in association with M/s. GIPL and vessel owner that they had procured CPO, RBD Palmolein, PFAD from different sellers at Thailand and Indonesia and imported the goods viz. CPO, RBD Palmolein, PFAD by blending them on board vessels "FMT GUMULDUR V. 202109", "MT HONG HA16 V.216" and "MT FMT EFES V.202111"; that the said goods become admixture of CPO, RBD Palmolein, PFAD; that M/s. TIL has classified the goods so mis-declared under CTH 1511 1000. M/s. TIL has mis-declared the entire cargo as "CPO" in the documents presented before customs authorities at Kandla. Based on these it is alleged that M/s. DIL while filing bill of entry for home consumption, being the ex-bond filer had actually imported

"admixture of Crude Palm Oil, Pamoline and other Palm based Oil" by mis-declaring the same as "Crude Palm Oil" by classifying it under CTH 1511 1000 instead of correct classification under CTH 15119090 (Others-Palmolein), which is the appropriate classification of imported goods.

lxxxvi. All these are totally baseless allegations about mis-declaration of classification of goods as the investigation miserably failed to establish that how after mixing/ of "Crude Palm Oil", RBD Palmolein" and "PFAD" in case of Vessel – FMT GUMULDUR V.2021-0" and in case of other two vessels namely "MT HONG HA16 V.216" and "MT FMT EFES V.202111" blending of goods viz. CPO and RBD Palmolein goods does not remain "Crude Palm Oil". If any mixing/blending/comingling done on board vessel of the said 3 goods or 2 goods as the case may be by the original importer of the goods with the help of others can change the goods viz. "Crude Palm Oil" into "Admixture of CPO, RBD Palmolein and PFA or Admixture of CPO, RBD Palmolein" that too without giving any details how and under which authority under any of the Customs Tariff Act, 1975 or any other Act not to speak of FASSAI irrespective of the fact that provisions if any of other Acts may classify the goods are not "Crude Palm Oil" but known as Admixture of said goods or "Other- Palmolein". Even there is no test result relied upon for the goods imported by M/s. DIL which gives the composition of goods which may not be confirming to such if any specification for the goods under any of the Act etc. Therefore, goods imported by it by filing ex-bond bills of entry by any stretch of imagination cannot be classified under "Other – Other under tariff item 1511 9090 of the First Schedule to the Customs Tariff Act, 1975.

lxxxvii. 15.3 M/s. DIL without admitting anything further submits that in any case the test result of samples drawn from the goods of other vessel namely "MT-Distya Pushti" which M/s. DIL has not purchased cannot be applied in the present case at all. However, for the sake of argument it is presumed that test result of goods imported under other 3 said vessels may also be having similar result then also norms under the regulation 2.2.1(16) of Food Safety and Standard (Food Products and Food Additive) Regulation, 2011 and provision of Food Safety and Standards Act, 2006 and rules made thereunder & IS 8323-2018 are neither relied upon nor furnished with the impugned SCN. In the same way in the opinion of chemical examiner's Carotenoids content in the sample under reference is below limit. Crude Palm Oil normally contains 500-700 ppm corotenoids as per Bailey's Industrial Oil and Fat Products Vol.-2 Page 340 is also neither relied upon nor furnished with the SCN. It is also requested to furnish the same with under which authority said standards are to be applied to determine classification of goods of Crude Palm Oil for the imported goods under the Customs Tariff Act, 1975 or Rules and Regulations made thereunder before passing any adverse decision in the matter. It may also be clarified duly supported by any authority after obtaining from the Chemical Examiner of Central Excise & Customs, Laboratory, Vadodara that how he came to the conclusion that sample under reference is an admixture of Crude Palm Oil, Pamolein and other palm based oil and not Crude Palm Oil, especially when test memo does not specify such details that samples are admixture of such goods and opine as above. It clearly appears that the investigation has influenced the Chemical Examiner to write such opinion and conclusion.

lxxxviii. M/s. DIL without admitting anything further submits that goods imported by it "Crude Palm Oil" may be an "Admixture of said three or two goods" then also goods evenafter mixing/blending/comingling remains "Crude Palm Oil" only as other goods "Refined Bleached Deodorised Palmolein" and "Palm Fatty Acid Distillate" (PFAD)(only in case of one vessel only) are product and byproduct derived on refining Crude Palm Oil. So if one may add said two goods viz. RBD Palmoline and PFAD again into "Crude Palm Oil" it remains "Crude Palm Oil" only. Customs Tariff does not recognize or specify any goods as "Admixture of Crude Palm Oil, RBD Palmoline and/or PFAD". Goods under tariff heading 1511 either can be Palm Oil and its fractions in "Crude Oil" of tariff item 1511 10 00 or "Refine" form as referred under various tariff items 151190 10, 151190 20 and 1511 90 30 of tariff sub-heading 1511 90 as "Other". So if any refine product other than said three tariff items 151190 10, 151190 20 and 151190 30 may classify under tariff item 1511 90 90 – Other and not crude palm oil or even admixture of Crude with any other items including said 3 tariff items. It is highly erroneous not consider such goods viz. Admixture as "Crude" as heading cover only two types of Palm Oil and its fractions either in crude from or in refined form and Other is prefixed with single dash "-" and rest of the four tariff

items are with three dash "---" so forth item of "Other 1511 90" with two dash viz. "Other – 1511 9090" with three dash can be refined item only and cannot be any other item as per General Rules for the Interpretation of the First Schedule to the Customs Tariff Act, 1975.

lxxxix. 15.5 M/s. DIL without admitting anything further submits that goods imported under Vessel viz. "MT HONG HA16 V.216" and "MT FMT EFES V.202111" were only Crude Palm Oil and RBD Palmloline and quantity of Crude Palm Oil were more than RBD Palmoline, so by adding lesser quantity of refine oil composition of crude oil may change but by any standard same cannot become refined oil or Other Oil other than "Crude Oil". It is not matter of dispute that goods imported by it were supplied to various refineries and same were refined and further sold by them as refined edible oil only.

xc. 15.6 M/s. DIL without admitting anything further submits that not a single ground is relied upon with any authority that admixture if any were not Crude Oil in the impugned SCN. In the same way in impugned SCN it is nowhere stated that how and on what basis such goods were Admixture and same can be classified under "Other – Other – 1511 9090". In fact "Crude" is defined in Explanatory Notes to HSN for sub-heading 1511 10 read with 1507 10 which read as under:

xci. "Fixed vegetable oils, fluid or solid, obtained by pressure, shall be considered as "Crude" if they have undergone no processing other than decantation, centrifugation or filtration, provided that, in order to separate the oils from solid particles only mechanical force, such as gravity, pressure or centrifugal force, has been employed, excluding any adsorption filtering process, fractionation or any other physical or chemical process. If obtained by extraction an oil shall continue to be considered as "Crude", provided it has undergone no change in colour, odour or taste when compared with the corresponding oil obtained by pressure."

xcii. It is not the case of the department that so called admixture is not crude oil within the said meaning. Merely by mixing/blending/comingling RBD Palmoline with Crude Oil such goods cease to be a Crude Oil. It is not the case of the department that refined Oil was imported. Therefore, in view of the above all the allegations fall flat and thereby demand of differential duty applying rate of Other – Other 1511 90 90 and its tariff value with interest and penalty is also devoid of merits. Since, goods were never mis-declared it can also not be held liable to confiscation at all.

xciii. 15.6.1 M/s. DIL submits that its above submissions got support from amongst other various following decisions of Hon'ble Tribunal wherein though the during the period under dispute in those cases for the purpose of exemption notification definition of "Crude Oil" was given but it was held that for the purpose of classification of goods only tariff heading and their description are relevant and in case of doubt HSN can be referred. Scope of tariff heading can be modified only by adding a chapter note or by changing in tariff heading; it cannot be narrow down or widened either by definition of notification or CBEC Circular. Whereas in the instant case, "Crude Oil" is nowhere defined in the tariff but HSN gives the definition of "Crude Oil" and it is not matter of dispute that goods imported by M/s. DIL is not "Crude Oil" within the said meaning. There is no test result or any of the parameter of the goods are available to classify the same other than "Crude Palm Oil" and merely blending of RBD Palmolein with Crude such "Crude Oil" cannot become refine or "Other-Palmolein". Neither market nor customs tariff recognize admixture of 3 goods viz. two goods emerge out of the 3rd goods viz. Crude again into Crude Oil as separate product other than "Crude Oil". Therefore, ratio of the said decisions is squarely applicable in the facts and circumstances of the present case that goods imported by it were "Crude Palm Oil" of tariff item 1511 1000 only.

xciv. GUJARAT AMBUJA EXPORTS Versus COMMISSIONER OF CUSTOMS, KANDLA - 2011 (269) E.L.T. 239 (Tri. - Ahmd.)

a. *Palm oil, in reddish orange semi-liquid form - Chemical examination conducted as per ISI standard finding it to be having FFA (as palmitic acid) 4.1%, acid value 8.99%, total carotenoids (as beta carotene) 395 mg/kg - Decantation, centrifugation or filtration, not undertaken, since it is not mentioned in ISI - Chemical examiner further stating that (i) in ISI, palm oil was referred to as refined or raw and not as Crude Palm Oil, (ii) impugned samples were raw palm oil, and (iii) he was not in a position to say whether any of processes which, according to HSN, would take the palm oil out of*

the description of the crude palm oil, have been carried out or not - HELD : Impugned oil was classifiable as Crude Oil under Tariff Item 1511 10 00 of Customs Tariff Act, 1975, and not under Tariff Item 1511 90 90 ibid - Definition of Crude Oil in Notification No. 120/2003-Cus. fixing tariff values, and clarified by CBEC Circular No. 85/2003-Cus., dated 24-9-2003 found to be irrelevant - If Government intended that definition of Crude Palm Oil for assessment should be taken as given in Notification ibid, proper procedure was to amend the tariff by adding Chapter Note defining Crude Palm oil. [paras 7, 8, 10]

b. *Palm oil - Produced by mechanical extraction - It can be considered to be 'Crude' provided it has undergone no change in colour, odour or taste when compared with corresponding oil obtained by pressure. [para 7]*

c. *Exemption - Crude Palm Oil - Notification No. 120/03-Cus fixing tariff value, specifying Heading 1511 of Customs Tariff Act, 1975 - HELD : Once product was found to be Crude Palm Oil, importer was eligible for assessment on basis of tariff value, irrespective of sub-heading. [para 10]*

d. *Classification - Scope of - Only tariff heading and their descriptions are relevant, and in case of doubt, HSN can be referred to - Scope of tariff heading can be modified only by adding a chapter note or by changing in tariff heading; it cannot be narrowed down or widened either by definition in notification or CBEC circular - Notifications are valid only to the extent that they can restrict exemption to a particular class of goods. [para 10]*

xcv. PANDI DEVI OIL INDUSTRY Versus COMMISSIONER OF CUSTOMS, TRICHY - 2016 (334) E.L.T. 566 (Tri. - Chennai)

a. *Palmolein - Classification - Imported Crude Palmolein - Whether classifiable under Tariff Item 1511 10 00 or under residuary category of 'other-other' under Tariff Item 1511 90 90 of Customs Tariff Act, 1975 - HELD: Revenue's contention that impugned goods classifiable under Tariff Item 1511 90 90 ibid on the basis of acid value and carotenoid content as per description given under Serial No. 34 of Notification No. 21/2002-Cus. and as per C.B.E. & C. Circular No. 85/2003-Cus., dated 24-9-2003, not acceptable - Description given in Serial No. 34 of Notification No. 21/2002-Cus. only with regard to exemption to specified goods under said serial no. and cannot be taken as criteria for classifying goods under Customs Tariff - Settled law that for classification of any imported goods, principle and guidelines laid out in General Interpretative Rules should be followed and description given in Chapter sub-heading and Chapter Notes, read with HSN Explanatory Notes should be the criteria - As per said criteria, Crude Palme oil covered under Tariff Item 1511 10 00 ibid and Tariff Item 1511 90 90 covers 'others'- Impugned Crude Palm oil rightly classified under Tariff Item 1511 10 00 ibid and assessee eligible for exemption under Serial No. 29 of Notification 21/2002-Cus. [paras 11, 12]*

xcvi. GODREJ INDUSTRIES LTD. Versus COMMISSIONER OF CUSTOMS, MUMBAI -2017 (357) E.L.T. 899 (Tri. - Mumbai)

a. *Palm oil - Crude Palm Oil (CPO) - Raw grade palm oil would mean it is crude oil, hence, merit classification under Tariff Item 1511 10 00 of Customs Tariff Act, 1975 and not under Tariff Item 1511 90 90 ibid as crude palm oil. [para 8]*

b. *Crude Palm Oil (CPO) - Carotenoid value decreases when samples transported for analysis purpose, and there is a delay in testing of samples - There was a delay of 14, 18 and 38 days in testing of samples, which affected carotenoid value in samples - Benefit of Notification No. 21/2002-Cus. not deniable. [paras 9, 10]*

xcvii. KANCHAN OIL INDUSTRIES LTD. Versus COMMR. OF CUS. (PORT), KOLKATA - 2019 (368) E.L.T. 96 (Tri. - Kolkata)

a. *Oil - Crude palm oil - Exemption under Notification No. 21/2002-Cus. as amended by Notification No. 120/2003-Cus. when betacarotene found below the range 500-2500 mg/kg stipulated under the said notification - Testing of samples after 7 years of import of goods to ascertain its acid value and betacarotene - Chemical Examiner reporting that acid value more than 2% but*

total carotenoid (as betacarotene) value below the prescribed range of 500-2500 mg/kg as stipulated under aforesaid notification - Reliance placed by Revenue on chemical examiner's report which emanated after a long-period from date of import not justified in absence of any other evidence that imported goods were refined palm oil - Betacarotene content does not remain for long-time in crude palm oil as already held by Tribunal in Ruchi Soya Industries Ltd. v. Commissioner [2006 (193) E.L.T. 499 (Tri.-Bang.) - Once importer laid claim for concessional duty, it was for Revenue to draw samples promptly and send it for testing - Having not done so. Department cannot demand duty on basis of invalid test report - Section 28 of Customs Act, 1962. [paras 2, 3]

i. *Oil - Crude palm oil (Edible Grade) - Classification of - Description given in Serial No. 34 of Notification No. 21/2002-Cus. specifying acid value and betacarotene and classification given in C.B.E. & C. Circular No. 85/2003-Cus., dated 24-9-2003 not to be the basis for its classification - Imported goods to be classified applying General Interpretative Rules for classification and description given in Chapter sub-heading, Chapter Notes, Section Notes read with HSN Explanatory Notes which does not provide any criteria of acid value or carotenoid content for the purpose of classification – Further, while refining crude palm oil betacarotene eliminated therefrom – Presence of betacarotene in imported goods shows that the same was crude palm oil and not refined crude palm oil - Imported goods classifiable under Tariff Item 1511 10 00 of Customs Tariff Act, 1975 and not under Tariff Item 1511 90 90 of Customs Tariff Act, 1975. [paras 6, 7, 8]*

xcviii. Commissioner of Customs (Port), Kolkata Vs. KANCHAN OIL INDUSTRIES LTD. 2023 (386) E.L.T. 4 (S.C.)

a. *Oil - Crude Palm Oil (Edible Grade) - Exemption - In impugned order CESTAT had held that since testing of samples of import consignment of aforesaid goods was done after seven years of import, betacarotene content would have not remained same for long time and would have deteriorated with efflux of time, exemption under Notification No. 21/2002-Cus. could not be denied on ground low betacarotene content - It was also held that in view of presence of betacarotene, said goods were appropriately classifiable as crude palm oil under Tariff Item 1511 10 00 of Customs Tariff Act, 1975 and not under Tariff Item 1511 90 90 ibid as refined palm oil - On appeal by Revenue - HELD: Apex Court was not inclined to interfere with impugned order and hence Revenue's appeal was dismissed - Sections 12 and 25 of Customs Act, 1962. [paras 2, 3]*

xcix. 16. M/s. DIL in view of the above submits that allegation of mis-declaration and mis-classification of goods are totally baseless. Therefore, goods were rightly classified under tariff item 1511 1000 – Crude Oil therefore, goods are not liable to confiscation nor further duty (Differential) is payable on such goods. Thus question of interest and penalty does not arise at all upon company as well as its director Shri Ricky M. Pabari.

c. 16.1 M/s. DIL without admitting anything further submits that from the exculpatory statement of Shri Ricky M. Pabari it was not in their knowledge about blending of goods on board and they have declared the goods based on the documents furnished by the supplier of the goods. Therefore, charges of mis-declaration and mis-classification do not survive. Therefore, goods are not liable to confiscation nor any penalty is imposable upon M/s. DIL and its director.

ci. 16.2 M/s. DIL further submits that as stated in para supra no penalty is imposable upon them and if requires ready to file separate reply for director. The investigation is not clear penalty if any can be imposed it can be imposed under which section, as almost all the Section which provides for imposition of penalty are invoked without justifying the ground to invoke the same. This clearly shows that the investigation itself is not clear about if any action on the part of director which may attract which sort of penal action.

cii. 17. M/s. DIL without admitting anything further submits that as discussed in para supra there was no mis-declaration nor mis-classification of goods nor willful mis-statement nor suppression of facts etc., therefore, department was required to issue demand of customs duty if any short paid within two years from the relevant date in terms of Section 28(1)(a) of the Act. 'Relevant date' in this case, in accordance with Explanation 1(a) appended under Section 28, would be the date on which proper officer has made an order for clearance of

goods, which must be around 09.09.2021 to 15.11.2021 which were date of filing of above referred Bills of Entry. Therefore, even if the department wished to demand differential duty, notice for such recovery was required to be served to M/s. DIL on or before completion of two years from the relevant date in terms provisions of Section 28(1) of the Customs Act, 1962, whereas the impugned notice has been issued on 25.01.2024 and served on 26.01.2024 without support of any tangible evidence to prove the allegation of suppression of facts etc with intention to evade duty. Under such circumstances, impugned notice is not sustainable on account of time bar.

ciii. In this regard your kind attention is invited towards the benchmark judgment Hon'ble Supreme Court, in Civil Appeal No. 6060 of 2003 in the case of ***M/s. UNIWORTH TEXTILES LTD Vs COMMISSIONER OF CENTRAL EXCISE, RAIPUR*** (supra). In the said case, Apex court has minutely examined and explained provisions of the of Central Excise Act, 1944 as well as of the Customs Act, 1962 in relation to invoking extended period for demanding duty under the allegation of suppression of facts etc. with intent to evade payment of duty. It was inter alia held by Hon'ble Supreme Court in the above case that mere non-payment of duties is NOT equivalent to collusion or willful mis-statement or suppression of facts; that if that were to be true, the court failed to understand which form of non-payment would amount to ordinary default; that it is a cardinal postulate of law that the burden of proving any form of mala fide lies on the shoulders of the one alleging it; that the allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demand proof of a high order of credibility.

civ. Before ruling in favour the appellant, Hon'ble Apex court in the above case has also discussed many other relevant judgments involving identical dispute about applicability of extended period. It was finally ruled by the Apex court at para 26 that:

a. *"26. Hence, on account of the fact that the burden of proof of proving mala fide conduct under the proviso to Section 28 of the Act lies with the Revenue; that in furtherance of the same, no specific averments find a mention in the show cause notice which is a mandatory requirement for commencement of action under the said proviso; and that nothing on record displays a willful default on the part of the appellant, we hold that the extended period of limitation under the said provision could not be invoked against the appellant."*

cv. M/s. DIL submits that principles set out by Hon'ble Supreme Court equally applies in the present case, therefore, the department has grossly erred in invoking extended period on flimsy grounds.

cvi. It further invites kind attention to one of such other decision rendered by Hon'ble Supreme Court in the case of **GOPAL ZARDA UDYOG Versus COMMISSIONER OF CENTRAL EXCISE, NEW DELHI: 2005 (188) E.L.T. 251 (S.C.)** wherein it was inter alia concluded that when default if any, is on account of bonafide belief of the assessee, department cannot allege suppression of facts etc. with intent to evade duty for invoking extended period.

a. ***"11.*** *The main point which arises for determination in these civil appeals is whether the department was right in the facts and circumstances of this case in invoking the extended period of limitation.*

b. ***12.*** *In the case of Padmini Products v. Collector of Central Excise reported in 1989 (43) E.L.T. 195, this Court held that in a given case where there is a scope for believing that the goods were not excisable and consequently no licence was required to be taken then the extended period of limitation was inapplicable. Mere failure or negligence on the part of the manufacturer either not to take out the licence or not to pay duty in cases where there is a scope for doubt, does not attract the extended period of limitation. Unless there is evidence that the manufacturer knew that the goods were liable to duty or he was required to take out a licence, there is no scope to invoke the proviso to Section 11A(1). For invoking the extended period of limitation, duty should not have been paid or short-levied or short-paid or erroneously refunded on account of fraud, collusion or wilful suppression or misstatement of facts or wilful contravention of the Act or the Rules with the intention to evade payment of duty. These ingredients postulate a positive act, therefore, failure to pay duty or to take out a licence is not necessary due to fraud, collusion etc. Likewise, suppression of facts is not a failure to disclose the*

legal consequences of a certain provision.”

cvii. Although the above decision is in relation to offence under the Central Excise Act, 1944, however, it is submitted that ratio set out there in clearly applies in the present case also as provisions of Section 11A of the Central Excise Act, 1944 and provisions of Section 28 of the Customs Act, 1962 are *pari materia.*

cviii. 17.1 M/s. DIL without admitting anything further submits that allegation of willful mis-statement and suppression of facts etc with intention to evade payment of duty is always required to be proved with cogent evidence. However, the impugned notice nowhere defines as to how M/s. DIL was aware that goods under dispute were not Crude Palm Oil. Similarly, the notice also does not disclose or explain as to how investigation has inferred that M/s. DIL intended to evade payment of duty. Statement of its one of the directors was recorded under Section 108 of the Customs Act, 1962 clearly reveals that the there was no malafide intention on the part of M/s. DIL or there was no mis-declaration etc. It has been consistently held by higher appellate authorities that burden of proving allegation is lying on the shoulders of the person who makes the allegation. Attention is invited to one of such decision of Hon’ble Supreme Court in the case of **M/s UNIWORTH TEXTILES LTD Vs COMMISSIONER OF CENTRAL EXCISE, RAIPUR** reported at **2013-TIOL-13-SC-CUS**. The said decision elaborately explains the meaning of ‘suppression of facts with intention to evade payment of duty’ vis-à-vis invocation of extended period on such allegations under provisions of the Customs Act, 1962. Finding with regard to invocation of extended period are discussed in para infra. However, in relation to allegation of suppression etc, it was inter alia held by Apex court that:

a. *“24. Further, we are not convinced with the finding of the Tribunal which placed the onus of providing evidence in support of bona fide conduct, by observing that “the appellants had not brought anything on record” to prove their claim of bona fide conduct, on the appellant. It is a cardinal postulate of law that the burden of proving any form of mala fide lies on the shoulders of the one alleging it. This Court observed in Union of India Vs. Ashok Kumar & Ors.((2005) 8 SCC 760) that “it cannot be overlooked that burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demand proof of a high order of credibility.”*

b. *25. Moreover, this Court, through a catena of decisions, has held that the proviso to Section 28 of the Act finds application only when specific and explicit averments challenging the fides of the conduct of the assessee are made in the show cause notice, a requirement that the show cause notice in the present case fails to meet….”*

c. The facts and circumstances of the case read with depositions of its director discussed in para supra also confirm that there was no malafide intention of M/s. DIL, nor anything was suppressed from the department. It cannot be denied that the disputed goods were imported by M/s. DIL consequent to filing of ex bond bills of entry based on the documents furnished by the importer i.e. M/s. TIL. Therefore, M/s. DIL had a reason to believe that goods imported by it was Crude Palm Oil only.

cix. M/s. DIL without admitting anything further submits that as per 5th proviso to Section 114A, where any penalty has been levied under the said section, no penalty shall be levied under Section 112. Therefore, proposal to impose penalty under Section 112 and 114A of the Customs Act, 1962 is totally erroneous.

cx. M/s. DIL without admitting anything further submits that proposal to impose penalty under Section 114AA of the Customs Act, 1962 upon it is also without understanding the provisions as well was legislature intention to insert the said section. In view of the above submission no penalty is imposable upon it. Even otherwise said proposal is also devoid of merits. Plain reading of Section 114AA very much clears that it can be imposed only when somebody intentional use of false and incorrect material, which reads as under:

a. **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.

cxi. The first and foremost requirement to bring any person under domain of Section 114AA is that he must be ***knowingly or intentionally*** using the declaration, statement or document and such declaration, statement or document should be for transaction under provisions of Customs Act, 1962. M/s. DIL most respectfully submits that none of the above element applies to it. As already discussed in para supra there was no declaration etc. of false or incorrect particular in any material. Hence question of imposing penalty under Section 114AA does not arise.

cxii. M/s. DIL without admitting anything, as regards to imposition of penalty under Section 114AA of the Customs Act, 1962 would further like to draw your kind attention towards the fact that same can be imposed only in the situation of export on paper without physical export or involving fraudulent export and cannot be invoked for any alleged violation in import of goods.

a. For the above submission attention is further invited towards paragraph 62 to 66 of Standing Committee on Finance 27th Report - (2005-2006) – The Taxation Laws (Amendment) Bill, 2005.

b. Based on the same it is submitted that intention of legislature was to impose penalty under said Section 114AA only on exporters who were claiming export on paper and claiming illicit benefit of export incentives as is evident from following:

c. *"Section 114 provides for penalty for improper exportation of goods. However, there have been instance where export was on paper only and no goods had ever crossed the border. Such serious manipulators could escape penal action when no goods were actually exported. The lacuna has an added dimension because of various export incentive schemes. To provide for penalty in such cases of false and incorrect declaration of material particulars and for giving false statements, declarations, etc for the purpose of transaction of business under the Customs Act, it is proposed to provide expressly the power to levy penalty up to 5 times the value of goods. A new section 114AA is proposed to be inserted after Section 114AA."*

d. Based on above, it is submitted that instant case is of import and not of export so in any case no penalty can be imposed under Section 114AA of the Customs Act, 1962.

PRAYER

i. M/s. DIL in view of the above requests to drop the proceedings initiated under the impugned notice against it and its director Shri Ricky M. Pabari.

ii. M/s. DIL in view of the above most respectfully requests your good office that they may be heard in person before any adverse decision in the matters. Meanwhile kindly arrange to furnish legible certified copy of following documents as sought vide various letters/emails and as stated in para supra:

iii. Legible certified copies of test memos and test results for the goods imported under 3 Vessels namely FMT GUMULDUR VOY.202109, MT HONG HA16 V.2106 AND MT EFES VOY.202111.

iv. Legible Certified copy of specific documents in relation to allegations made against M/s. DIL that goods imported by it by filing ex bond bills of entry from warehouse were not "Crude Palm Oil", mis-declared and mis-classified by M/s. DIL.

v. Legible certified copy of the SCN(s) if any issued to M/s. TIL for the goods imported under vessel "MT –Distya Pushti", replies filed by them and order if any passed in the said SCN(s) may please be made available to M/s. DIL.

vi. Legible Certified copy of the test memo of the samples sent by the Customs and the literature referred by the learned Chemical Examiner viz. 2.2.1(16) of Food Safety and Standards (Food Products and Food Additive) Regulations, 2011 and provision of Food Safety Standards Act, 2006 and rule made thereunder & IS-8323-2018, Bailey's Industrial Oil and Fat Products, Vol2 page 340 in the above referred test result for the goods

imported under Vessel "MT-Distya Pushti".

vii. It may also be arranged to furnish under which authority said standards are to be applied to determine classification of goods Crude Palm Oil for the imported goods under the Customs Tariff Act, 1975 or Rules and Regulations made thereunder. It may also be clarified duly supported by any authority after obtaining from the Chemical Examiner of Central Excise & Customs, Laboratory, Vadodara that how he came to the conclusion that sample under reference is an admixture of Crude Palm Oil, Pamolein and other palm based oil and not Crude Palm Oil, especially when test memo does not specify such details that samples are admixture of such goods and opine as above.

viii. Cross Examination of department's witness including the learned Chemical Examiner who has signed Test Report of goods imported under Vessel "MT-Distya Pushti", other persons if any for the part of the their statements which are to be relied upon for fasting duty liability upon M/s. DIL with specific request that before relying upon such part/questions answers may also be clarified before granting their cross examination.

ix. M/s. DIL wishes to be heard in person before any adverse decision in the matter.

20. M/s. Tata International Limited in their submission have stated *interalia* that:

SUBMISSIONS

A. THE DEMAND RAISED ON MERITS IS NOT MAINTAINABLE, HENCE NO PENALTY CAN BE IMPOSED ON THE NOTICEE AND IN THIS REGARD, REFERECE MADE TO THE SUBMISSIONS ON MERTIS MADE VIDE DETAILED REPLY DATED 26.06.2024

A.1 It is submitted that the Noticee has filed a detailed reply dated 26.06.2024 on merits. The Noticee refers, relies on and reiterates all the submissions made by the Noticee in its reply and prays that the same may be considered as the submissions of the Noticee in respect of the impugned SCN as well.

A.2 The Noticee reiterates the gist of the submissions on merits in the Noticee's reply dated 26.06.2024 as under:

- **Ground A** - The CPO has been correctly classified under the tariff item 15111000. The essential characteristic of the imported product as CPO has been confirmed by the test reports. Reliance is inter alia placed on common parlance test and end use test also since the imported product in common parlance is identified as CPO and the same is also regarded by end users as CPO for further refining and manufacture of products.

- Further, under General rule for interpretation 3(b), the classification of mixtures is determined by the material imparting the essential character. The quantum or percentage presence of the items is irrelevant; what is relevant is the essential character of the mixture which, as per the description in the transactional documents, is clearly the CPO.

- Moreover, Circular No. 85/2003 dated 24.09.2003 clarifies that CPO when it is not defined should be assessed based on test results indicating its need for further processing. The imported goods meet this criterion and are rightly classifiable under 15111000.

- **Ground B** – It is a settled position of law that the imported goods are to be levied to customs duty in the form in which they are at the point of time of importation. In this regard, the Noticee submits that the imported products are homogenously blended product as described in the switch BoL i.e., 'Crude Palm Oil (Edible Grade) in Bulk', and any activities undertaken prior to importation are irrelevant for the purposes of determination of the classification of the imported products.

- **Ground C** - Classification of the imported products cannot be made under the residuary entry as proposed vide the impugned SCN.

- **Ground D** – The blending process undertaken in the present case, has resulted in a change in the description of the consignment i.e., RBD, CPO & PFAD to CPO, along with the change in the consignor and consignee, and the same is a recognized commercial practice. Hence,

the allegation in the impugned SCN that issuance of switch BoL and non-submission of original load port documents amounts to manipulation of documents is without any basis.

A.3 In addition to the above, in the present case, it is submitted that the test reports issued by independent testing agency post blending confirm that the imported goods qualify as CPO. However, the impugned SCN has relied solely on test reports issued by CRCL in the case of vessel MT DISTYA PUSHTI to allege that the imported goods do not qualify as CPO. Further, the test reports regarding the consignment in question issued by the independent testing agency were ignored while issuing the impugned SCN.

A.4 In this regard, it is submitted that test reports and expert opinion are relevant in determining the character of the imported product and the impugned SCN which has relied on irrelevant reports extraneous to the present transaction is liable to be dropped on this ground alone. [Refer ***Parle Agro (P) Ltd., 2017 (5) TMI 592-SC; Kanchan Oil Industries Ltd., 2018 (7) TMI 279 - CESTAT KOLKATA & Pandi Devi Oil Industry, 2015 (9) TMI 817 - CESTAT CHENNAI***]

A.5 It is therefore submitted that since the demand on merits is not sustainable, the penalties sought to be imposed vide the impugned SCN deserves to be dropped.

B. PENALTY IS NOT IMPOSABLE UNDER SECTION 112 OF THE CUSTOMS ACT

B.1 The impugned SCN has erroneously alleged that the Noticee has played an active role in the mis-declaration of the ad-mixture of CPO, RBD, PFAD as CPO alone by classifying under CTH 15111000 instead of appropriate CTH 15119090 with an intent to evade the customs duty.

B.2 In this regard, the impugned SCN has alleged that the Noticee's act of alleged misclassification and misdeclaration of the imported goods with an intent to evade payment of duty has rendered them liable for penalty under Section 112 (a) and (b) of the Customs Act. Relevant portion of Section 112 of the Customs Act is extracted hereunder:

*"**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,

shall be liable,-

i. […]

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. […]"

B.3 A bare perusal of the aforesaid Section would clearly indicate that penalty may be imposed under Section 112 of the Act when the goods are rendered liable for confiscation under any of the sub-sections under Section 111 of the Customs Act. Therefore, applicability of Section 111 of the Customs Act is examined hereunder.

The imported products in the present case cannot be rendered liable to confiscation under Section 111 of the Customs Act

B.4 The impugned SCN states that the imported goods in the present case are liable for confiscation in terms of Section 111 (d) (f) (l) (m) of the Customs Act. In this regard, relevant portion of Section 111 of the Customs Act is extracted hereunder:

"SECTION 111. Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation : -

[…]

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs 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 arrival manifest or import manifest or import report which are not so mentioned;

[...]

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

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

B.5 The imported products in the present case cannot be rendered liable to confiscation under Section 111 of the Customs Act for the following reasons:

- there is no prohibition in force in respect of the imported goods and hence, 111(d) of the Customs Act is not applicable;
- there is no question of non-mention of the imported goods in the import manifest in the present case as the goods, viz. CPO were duly mentioned in the import manifest, and hence, Section 111(f) of the Customs Act is not applicable;
- there is no question of non-mention of the imported goods in the BoE in the present case as the goods, viz. CPO were duly mentioned in the BoE, and hence, Section 111(l) is not applicable; and

B.6 Clause (m) of Section 111 of the Customs Act is applicable when any goods which do not correspond any particular with the entry made under this Act. In this regard, the impugned SCN alleges that the Noticee's act of alleged misclassification and misdeclaration of the imported goods has rendered them liable for confiscation. In this regard, it is submitted that the Noticee has been in *bona fide* belief that the imported goods are to be classified as CPO under tariff item 15111000. Without prejudice to the same, the following submissions are also made in the present case.

Confiscation provision cannot be invoked in the case of allegation of misclassification of goods under the Customs Tariff

B.7 It is submitted that the Noticee classified the impugned goods under tariff item 15111000 under *bona fide* belief. It is now settled law that confiscation under Section 111 (m) cannot be imposed merely because there is a dispute regarding classification of goods. In this regard, reliance is placed on the decision of the Hon'ble CESTAT in ***Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155 - CESTAT NEW DELHI*** where it was held as follows:

"34. If Section 111(m) is read to mean that goods can be confiscated if the classification of the goods and the exemption notifications claimed by the importer self-assessing the duty under Section 17 and indicated in the Bill of Entry do not match the classification of the goods or the exemption notifications which the proper officer may apply during re-assessment or later, it would result in absurd results. The importer cannot predict the mind of the proper officer and self-assess duty so as to conform to it. Insofar as the valuation is concerned, the importer is required to truthfully declare the transaction value, any additional consideration and relationship with the overseas seller. He is not required to predict if the proper officer will reject the transaction value under Rule 12 and if so, what value he will determine. Lex non cogitimpossibilia–the law does not compel one to impossible things. If the classification and exemption notifications in the Bill of Entry do not match the views which the proper officer may during re-assessment or by audit party, etc. later, may take or in any other proceedings, goods cannot be confiscated under Section 111(m). ***The case of the Revenue in this appeal is that the classification of the goods by the importer was not correct. Even if the classification is not correct, it does not render them liable to confiscation under Section 111(m).*** *Similarly, there could be cases where, according to the Revenue, the exemption notification claimed during self assessment will not be available to the imported goods.* ***The importer self-assessing the goods must apply his mind when classifying the goods. Classification of the goods by the importer, even if it is not in conformity with the re-assessment by the proper officer or even if it is held to be not correct in any appellate proceedings does not render the goods liable to confiscation under Section 111(m)."***

B.8 Reliance is also placed on the decision in ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI*** where it was held that the allegation of misclassification of goods, even if it is true, will not attract 111(m) of the Customs Act.

B.9 Accordingly, the Noticee submits that it is a settled principle of law that a question of classification is an interpretational issue and when the importer has acted in a *bona fide* manner and not withheld any material particulars regarding the imported goods, confiscation under 111(m) is not permissible. In the present case, the Noticee have duly submitted all details and information with respect to the imported goods and has classified the same basis *bona fide* belief that the same are classifiable under tariff item 15111000 as 'CPO'. In light of the same, the imported goods are not liable for confiscation under Section 111(m) of the Customs Act.

Penalty under Section 112 is not applicable as goods are not liable for confiscation

B.10 It is a settled position of law that when the imported products are not liable for confiscation under Section 111 of the Customs Act, no penalty under Section 112 of the Customs Act may be imposed.

B.11 In this regard, in light of the detailed submissions hereinabove, it is evident that the imported goods are not liable for confiscation under Section 111 of the Customs Act. When the imported products are not liable to confiscation under any sub-sections of Section 111 of the Customs Act, it is submitted that the proposal to impose penalty under Section 112 of the Act is legally untenable. Hence, penalty cannot be imposed on the Noticee under Section 112 of the Customs Act on this ground alone.

B.12 Reliance in this regard is placed *inter alia* on the following decisions where it was held that, where goods are not liable for confiscation under Section 111 of the Customs Act, penalty under Section 112 cannot be sustained.

- ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI***
- ***Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155 - CESTAT NEW DELHI***
- ***Jindal Waterways Ltd. vs. Comm of Cus [2019 (370) ELT 1451 (Tri. – Mumbai)]***
- ***Ring Gears India Ltd. v. Commissioner of Customs [2017 (356) E.L.T. 158 (Tri. – Mumbai)]***
- ***Morteo Transfreight Reefer Container Ltd. v. Commissioner of Customs [2016 (341) E.L.T. 136 (Tri. – Mumbai)]***
- ***Kuresh Laila V/s Commissioner of Customs, Chennai reported in [2005 (189) E.L.T. 45 (Tri. – Chennai)]***
- ***Polynova Chemical Industries V/s Commissioner of Customs, Mumbai reported in [2005 (179) E.L.T. 173 (Tri. - Mumbai)]***
- ***Jupiter Exports V/s Commissioner of Customs, Chennai reported in [2002 (145) E.L.T. 608 (Tri. - Chennai)]***
- ***Pawan Goel V/s Commissioner of Customs, New Delhi reported in [2001 (135) E.L.T. 1425 (Tri. – Del.)]***

B.13 Hence, in light of the aforesaid, it is submitted that in the present case, since the goods are not liable for confiscation in terms of Section 111 of the Customs Act, the proposed imposition of penalty in terms of Section 112(a) and (b) of the Customs Act on the Noticee is unsustainable.

C. NO PENALTY CAN BE IMPOSED UNDER SECTION 114AA OF THE ACT ON THE NOTICEE

C.1 The impugned SCN imposes penalty under Section 114AA of the Customs Act on the ground that the Noticee has intentionally and knowingly caused mis-declaration of the imported CPO. It is submitted that such levy of penalty is unsustainable in law.

C.2 As per Section 114AA a penalty can be levied on a person who knowingly or intentionally makes any signs or uses any declaration, statement or documents which is false or incorrect. The extract of Section 114AA of the Act is reproduced below for ease of reference:

"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."

C.3 A bare perusal of the above provisions shows that Section 114AA of the Act can be invoked only in cases where the individual intentionally makes any false particular which he/she knows to be incorrect. Hence, an element of mala-fide intention is necessary for imposition of penalty under Section 114AA. However, in a case where there is no evidence to establish the same, penalty under Section 114AA cannot be imposed.

C.4 It is submitted that there was no false declaration made by the Noticee. It is submitted that the Noticee classified the impugned goods under tariff item 15111000 under bona fide belief. Detailed submissions in this regard have been already made in **Grounds A to D** of the Noticee's reply dated 26.06.2024. Accordingly, there was no false or incorrect statement made by the Noticee.

C.5 Reliance is placed on decision of ***Parag Domestic Appliances vs. Commissioner of Customs, Cochin reported in 2018 (360) E.L.T. 547 (Tri. - Bang.)*** wherein it is held that-

"We note that the provisions of Section 114AA will apply in cases where 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. As discussed elaborately above, we find that there is no situation of any false document submitted by the importer or by the Director of the importer. As such, we find that the application of provisions of Section 114AA is not fully justified by the impugned order and accordingly, we set aside the penalties imposed under Section 114AA."

C.6 It is further submitted that the Noticee has not signed or used, any declaration, statement or document which is false or incorrect in any material particular under the Customs Act. Detailed submissions have been made in the Noticee's reply dated 26.06.2024 to the effect that the imported products have been rightly classified, and the test reports also substantiate that the product qualifies as CPO. There is no material evidence brought on record to prove that the Noticee has signed or made any false declaration under the Customs Act and accordingly penalty under Section 114AA cannot be invoked.

C.7 The Noticee further clearly stated that the switch BoLs were not manipulated and particulars in the switched BoLs were rightly specified to indicate the changes in the imported products after the blending process. Further, the Noticee has also clearly stated that all the relevant documents were submitted to the customs authorities. The impugned SCN grossly erred in holding that the Noticee had the knowledge that the imported products were not CPO post the blending process. Further, the impugned SCN has, without any justification, alleged that the Noticee has played an active role in the mis-declaration of the product as CPO merely because Noticee was aware of the blending on board and submitted the switched BoLs to the Customs authorities.

C.8 It is submitted that, there is no evidence available on record to suggest intentional making, signing, using or causing to make, sign or use of any declaration, statement or document against the Noticee to suggest that the documents pertaining to the imported product were manipulated to make it seem like the same was CPO. Hence, penalty under Section 114AA of the Act, is not imposable.

Penalty under Section 114AA is not applicable in the case of a classification dispute

C.9 It is settled law that penalty under Section 114AA cannot be imposed merely because there is a dispute regarding classification of goods. In this regard, reliance is placed on the decision in ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI*** where it was held as follows:

"e) Penalty under section 114AA is imposable 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 under the Act. There is no allegation or evidence that the goods were wrongly declared and the allegation of mis-classification or incorrect assessment of duty, even if it is true, will not attract penalty under section 114AA. Therefore, penalty under section 114AA imposed on the appellant is not sustainable and needs to be set aside."

C.10 Therefore, it is submitted that, penalty under Section 114AA is also not applicable in the present case and hence, the impugned SCN is liable to be dropped on this ground also.

D. WITHOUT PREJUDICE, PENALTIES CANNOT BE IMPOSED IN THE PRESENT CASE AS NOTICEE HAS MADE COMPLETE DISCLOURES REQUIRED UNDER THE SELF ASSESSMENT REGIME

D.1 As submitted in detail supra, for a penalty under Section 112 of the Customs Act to be imposed, the goods must first be liable for confiscation under Section 111. Section 111 is invokable in the case of misdeclaration of imported goods. Further, penalty under Section 114AA is applicable only in the case of mala fide intent. In this regard, it is submitted that there is no misdeclaration or mala fide in the present case as the fact regarding blending was specifically recorded in the relevant contractual documents including the charter party.

D.2 The impugned SCN alleges mala fide on the ground that bill of lading and other contractual documents evidencing blending were suppressed by the Noticee. In this regard, it is submitted that the Noticee has submitted all documents relevant in the present case for the import transaction as between the Noticee and its suppliers, including invoice, bill of lading etc. The Noticee cannot be expected to submit contractual documents as between suppliers of Noticee and third-party vendors as it is completely extraneous to the import transaction in question. As part of the self-assessment procedure, there is no requirement to submit such documents and hence, it is submitted that mala fide cannot be alleged in the present case. In this regard, reference is made *inter alia* to the recent Supreme Court decision in ***Reliance Industries Limited, 2023 (7) TMI 196*** where it was held as follows:

"We also take note of the fact that in the show cause notice itself it has been accepted by the revenue that ***the self-assesment procedure did not require an assessee to submit copies of all contracts, agreements and invoices.*** *This being the admitted position in the notice we do not find any basis for agreeing with the findings of the Commissioner that certain relevant documents had not been filed and thereby suppressed from the scrutiny of the revenue officers****. An assessee can be accused for suppressing only such facts which it was otherwise required to be disclosed under the law****. The counsel for the Revenue has, while pleading that facts was suppressed been unable to show us the provision or rule which required the assessee in this case to make additional disclosures of documents or facts. The assertion that there was suppression of facts is therefore clearly not tenable."*

D.3 Therefore, it is submitted that mala fide cannot be alleged in the present case and hence, the penalties proposed vide the impugned SCN are liable to be dropped forthwith on this ground alone.

E. PENALTY UNDER SECTION 117 OF THE CUSTOMS ACT IS NOT APPLICABLE IN THE PRESENT CASE

E.1 Section 117 of the Customs Act reads as under:

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

E.2 Section 117 being residuary penal provision requires 'existence of provision', contravention of the same as well as no specific penalty being provided for the same. The impugned SCN alleges that the Noticee's act of alleged misclassification and misdeclaration of the imported goods with intent to evade payment of duty has rendered them liable for penalty under Section 117 of the Customs Act also. However, as submitted in detail supra, the imported products have been rightly classified under tariff item 15111000 and the switched BoLs have not been manipulated. Therefore, in the absence of any contravention of any provision under the Customs Act, the question of imposition of penalty under Section 117 of the Customs Act also does not arise.

20.1. Shri Shrikant Subbarayan, Head Agri Businees Division, M/s. Tata International Limited, in his submission have stated *interalia* that:

SUBMISSIONS

F. CO-NOTICEE PLACES RELIANCE ON THE SUBMISSIONS MADE BY THE NOTICEE IN THE REPLY FILED BY THE NOTICEE TO THE IMPUGNED SCN

A.6 Co-noticee submits that the Noticee has filed a detailed reply against the impugned SCN. The Co-noticee refers relies on and reiterates all the submissions made by the Noticee in its reply and prays that the same may be considered as the submissions of the Co-noticee in so far those relate to the Co-noticee.

A.7 The Co-noticee reiterates the gist of the submissions on merits in the Noticee's reply as under:

- The CPO has been correctly classified under the tariff item 15111000. The essential characteristic of the imported product as CPO has been confirmed by the test reports. Reliance is inter alia placed on common parlance test and end use test also since the imported product in common parlance is identified as CPO and the same is also regarded by end users as CPO for further refining and manufacture of products.

- Further, under General rule for interpretation 3(b), the classification of mixtures is determined by the material imparting the essential character. The quantum or percentage

presence of the items is irrelevant; what is relevant is the essential character of the mixture which, as per the description in the transactional documents, is clearly the CPO.

- Moreover, Circular No. 85/2003 dated 24.09.2003 clarifies that CPO when it is not defined should be assessed based on test results indicating its need for further processing. The imported goods meet this criterion and are rightly classifiable under 15111000.

- It is a settled position of law that the imported goods are to be levied to customs duty in the form in which they are at the point of time of importation. In this regard, the Noticee submits that the imported products are homogenously blended product as described in the switch BoL i.e., 'Crude Palm Oil (Edible Grade) in Bulk', and any activities undertaken prior to importation are irrelevant for the purposes of determination of the classification of the imported products.

- Classification of the imported products cannot be made under the residuary entry as proposed vide the impugned SCN.

- The blending process undertaken in the present case, has resulted in a change in the description of the consignment i.e., RBD, CPO & PFAD to CPO, along with the change in the consignor and consignee, and the same is a recognized commercial practice. Hence, the allegation in the impugned SCN that issuance of switch BoL and non-submission of original load port documents amounts to manipulation of documents is without any basis.

- It is also submitted that the test reports issued by independent testing agency post blending confirm that the imported goods qualify as CPO. However, the impugned SCN has relied solely on test reports issued by Central Excise and Customs Laboratory, Vadodara in the case of vessel MT DISTYA PUSHTI to allege that the imported goods do not qualify as CPO. Further, the test reports regarding the consignment in question issued by the independent testing agency were ignored while issuing the impugned SCN. In this regard, it is submitted that test reports and expert opinion are relevant in determining the character of the imported product and the impugned SCN which has relied on irrelevant reports extraneous to the present transaction is liable to be dropped on this ground alone.

G. THE DEMAND RAISED ON NOTICEE IS NOT MAINTAINABLE, HENCE NO PENALTY CAN BE RAISED ON THE CO-NOTICEE.

G.1 The Co-noticee submits that, basis the merits of the case and submission made by the Noticee, it is abundantly clear that the goods have been correctly classified under HSN 15111000 as 'CPO'. The impugned SCN has failed to consider the fact that owing to the changes in the imported product after the blending and the changes in the particulars of the BoL pertaining to the consignor and the consignee, the switch BoL was rightly issued, and was not manipulated.

G.2 It is therefore submitted that since the demand itself is not sustainable, the penalty sought to be imposed upon the Co-noticee vide the impugned SCN deserves to be dropped.

H. WITHOUT PREJUDICE, PERSONAL PENALTY IS NOT IMPOSABLE IN THE CASE WHERE ASSESSEE IS OF THE BONAFIDE BELIEF REGARDING CLASSIFICATION EVEN IF ULTIMATELY QUESTION OF CLASSIFICATION IS HELD AGAINST THE ASSESSEE

G.1. The Co-noticee submits that the Department has failed to appreciate that no penalty is leviable where the actions of the assessee have been bona fide. It submitted that the Co-noticee has a bonafide belief that the imported products are correctly classifiable under the tariff item 15111000 (crude palm oil) and not under the tariff item 15119090 (others-palmolein). Further, the Co-noticee possessed a genuine belief that the switch BoLs were not manipulated.

G.2. Therefore, the Co-noticee also entertained a bonafide belief that the imported product was appropriately classifiable under the tariff item 15111000 (crude palm oil), and impugned SCN fails to put forth any evidence in support of the allegation that the Co-noticee knowingly mis-declared the classification of the imported products and furthered the manipulation of the switched BoLs.

G.3. It is further submitted that the Co-noticee has not made any will-full misstatement or commission as regards the classification of the imported products in question. Except making a bald allegation in the impugned SCN that, the Co-noticee has knowingly and intentionally mis-declared the classification of imported products, revenue has not brought any evidence on record in support of such contention.

G.4. It is a settled position of law that the **personal penalty cannot be imposed even if the question of classification of goods is decided against the classification declared by the assessee for such goods, if the assessee was of the bona fide belief regarding the applicable classification**. Reliance in this regard is placed on the following decisions:

- ***Ratnagiri Impex Pvt. Ltd. and S. A. Gopalakrishna Director v. The Commissioner of Customs, Bangalore 2024 (3) TMI 194 - CESTAT BANGLORE;***

- ***Atherton Engg. Co. (Pvt.) Ltd. Versus Cc. (Airport & Admn.), Kolkata 2006 (3) TMI 669 - CESTAT, KOLKATA***

G.5. Applying the above precedents, the Co-noticee submits that, classification in the present case was adopted by the Noticee basis bona fide belief and hence, there is no question of imposition of personal penalty on the Co-noticee

G.6. Without prejudice, reliance is also placed on the following decisions where it was held that no penalty should be levied where the bona fide belief of the assessee is established.

- ***Hindustan Steel Ltd. v. State of Orissa [1978 ELT J 159]***, ***Akbar Badruddin Jiwani vs. CCE [1990 (47) ELT 161 (SC)]***
- ***Super Electronics vs. CC [2003 (153) ELT 254 (SC)]***

G.7. Further reliance in this regard is placed on the Tribunal decision in the case of ***Smitha Shetty vs. CCE [2004 (156) E.L.T. 84]***, approved by the High Court in the case of ***CCE vs. Sunitha Shetty [2004 (174) E.L.T. 313]***, wherein it was held that no penalty should be levied where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.

G.8. Applying the above precedents, the Co-noticee submits that, classification in the present case was adopted by the Noticee basis bona fide belief and hence, there is no question of imposition of personal penalty on the Co-noticee. Therefore, the impugned SCN is liable to be dropped on this ground alone.

I. PENALTY IS NOT IMPOSABLE UNDER SECTION 112 OF THE CUSTOMS ACT

C.1. The impugned SCN has erroneously alleged that the Co-noticee has played an active role in the mis-declaration of the ad-mixture of CPO, RBD, PFAD as CPO alone by classifying under CTH 15111000 instead of appropriate CTH 15119090 with an intent to evade the Customs duty.

C.2. In this regard, the impugned SCN has alleged that the Co-Noticee's act of alleged misclassification and misdeclaration of the imported goods with an intent to evade payment of duty has rendered them liable for penalty under Section 112 (a) and (b) of the Customs Act. Relevant portion of Section 112 of the Customs Act is extracted hereunder:

> *"**SECTION 112. Penalty for improper importation of goods, etc.** — Any person, -*
> *c. 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*
>
> *d. 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. […]*
>
> *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. […]"*

C.3. A bare perusal of the aforesaid Section would clearly indicate that penalty may be imposed under Section 112 of the Act when the goods are rendered liable for confiscation under any of the sub-sections under Section 111 of the Customs Act. Therefore, applicability of Section 111 of the Customs Act is examined hereunder.

The imported products in the present case cannot be rendered liable to confiscation under Section 111 of the Customs Act

C.4. The impugned SCN states that the imported goods in the present case are liable for confiscation in terms of Section 111 (d) (f) (l) (m) of the Customs Act. In this regard, relevant portion of Section 111 of the Customs Act is extracted hereunder:

"SECTION 111. Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation : -

[...]

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs 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 arrival manifest or import manifest or import report which are not so mentioned;

[...]

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

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

C.5. The imported products in the present case cannot be rendered liable to confiscation under Section 111 of the Customs Act for the following reasons:

- there is no prohibition in force in respect of the imported goods and hence, 111(d) of the Customs Act is not applicable;
- there is no question of non-mention of the imported goods in the import manifest in the present case as the goods, viz. CPO were duly mentioned in the import manifest, and hence, Section 111(f) of the Customs Act is not applicable;
- there is no question of non-mention of the imported goods in the bill of entry in the present case as the goods, viz. CPO were duly mentioned in the bills of entry, and hence, Section 111(l) is not applicable; and

C.6. Clause (m) of Section 111 of the Customs Act is applicable when any goods which do not correspond any particular with the entry made under this Act. In this regard, the impugned SCN alleges that the Noticee's act of alleged misclassification and misdeclaration of the imported goods has rendered them liable for confiscation. In this regard, it is submitted that the Noticee has been in *bona fide* belief that the imported goods are to be classified as CPO under tariff item 15111000. Without prejudice to the same, the following submissions are also made in the present case.

Confiscation provision cannot be invoked in the case of allegation of misclassification of goods under the Customs Tariff

C.7. It is submitted that the Noticee classified the impugned goods under tariff item 15111000 under *bona fide* belief. It is now settled law that confiscation under Section 111 (m) cannot be imposed merely because there is a dispute regarding classification of goods. In this regard, reliance is placed on the decision of the Hon'ble CESTAT in ***Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155 - CESTAT NEW DELHI*** where it was held as follows:

"34. If Section 111(m) is read to mean that goods can be confiscated if the classification of the goods and the exemption notifications claimed by the importer self-assessing the duty under Section 17 and indicated in the Bill of Entry do not match the classification of the goods or the exemption notifications which the proper officer may apply during re-assessment or later, it would result in absurd results. The importer cannot predict the mind of the proper officer and self-assess duty so as to conform to it. Insofar as the valuation is concerned, the importer is required to truthfully declare the transaction value, any additional consideration and relationship with the overseas seller. He is not required to predict if the proper officer will reject the transaction value under Rule 12 and if so, what value he will determine. Lex non cogitimpossibilia–the law does not compel one to impossible things. If the classification and exemption notifications in the Bill of Entry do not match the views which the proper officer may during re-assessment or by audit party, etc. later, may take or in any other proceedings, goods cannot be confiscated under Section 111(m). ***The case of the Revenue in this appeal is that the classification of the goods by the***

importer was not correct. Even if the classification is not correct, it does not render them liable to confiscation under Section 111(m). *Similarly, there could be cases where, according to the Revenue, the exemption notification claimed during self assessment will not be available to the imported goods.* ***The importer self-assessing the goods must apply his mind when classifying the goods. Classification of the goods by the importer, even if it is not in conformity with the re-assessment by the proper officer or even if it is held to be not correct in any appellate proceedings does not render the goods liable to confiscation under Section 111(m).”***

C.8. Reliance is also placed on the decision in ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI*** where it was held that the allegation of misclassification of goods, even if it is true, will not attract 111(m) of the Customs Act.

C.9. Accordingly, the Co-Noticee submits that it is a settled principle of law that a question of classification is an interpretational issue and when the importer has acted in a *bona fide* manner and not withheld any material particulars regarding the imported goods, confiscation under 111(m) is not permissible. In the present case, the Noticee and Co-Noticee have duly submitted all details and information with respect to the imported goods and has classified the same basis *bona fide* belief that the same are classifiable under tariff item 15111000 as ‘CPO’. In light of the same, the imported goods are not liable for confiscation under Section 111(m) of the Customs Act.

Penalty under Section 112 is not applicable as goods are not liable for confiscation

C.10. It is a settled position of law that when the imported products are not liable for confiscation under Section 111 of the Customs Act, no penalty under Section 112 of the Customs Act may be imposed.

C.11. In this regard, in light of the detailed submissions hereinabove, it is evident that the imported goods are not liable for confiscation under Section 111 of the Customs Act. When the imported products are not liable to confiscation under any sub-sections of Section 111 of the Customs Act, it is submitted that the proposal to impose penalty under Section 112 of the Act is legally untenable. Hence, penalty cannot be imposed on the Co-noticee under Section 112 of the Customs Act on this ground alone.

C.12. Reliance in this regard is placed *inter alia* on the following decisions where it was held that, where goods are not liable for confiscation under Section 111 of the Customs Act, penalty under Section 112 cannot be sustained.

- ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI***
- ***Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155 - CESTAT NEW DELHI***
- ***Jindal Waterways Ltd. vs. Comm of Cus [2019 (370) ELT 1451 (Tri. – Mumbai)]***
- ***Ring Gears India Ltd. v. Commissioner of Customs [2017 (356) E.L.T. 158 (Tri. – Mumbai)]***
- ***Morteo Transfreight Reefer Container Ltd. v. Commissioner of Customs [2016 (341) E.L.T. 136 (Tri. – Mumbai)]***
- ***Kuresh Laila V/s Commissioner of Customs, Chennai reported in [2005 (189) E.L.T. 45 (Tri. – Chennai)]***
- ***Polynova Chemical Industries V/s Commissioner of Customs, Mumbai reported in [2005 (179) E.LT. 173 (Tri. - Mumbai)]***
- ***Jupiter Exports V/s Commissioner of Customs, Chennai reported in [2002 (145) E.L.T. 608 (Tri. - Chennai)]***
- ***Pawan Goel V/s Commissioner of Customs, New Delhi reported in [2001 (135) E.L.T. 1425 (Tri. – Del.)]***

C.13. Hence, in light of the aforesaid, it is submitted that in the present case, since the goods are not liable for confiscation in terms of Section 111 of the Customs Act, the proposed imposition of penalty in terms of Section 112(a) and (b) of the Customs Act on the Co-noticee is unsustainable.

J. NO PENALTY CAN BE IMPOSED UNDER SECTION 114AA OF THE ACT ON THE NOTICEE.

F.1. The impugned SCN imposes penalty under Section 114AA of the Customs Act on the ground that the Co-noticee has intentionally and knowingly caused mis-declaration of the imported CPO. It is submitted that such levy of penalty is unsustainable in law.

F.2. As per Section 114AA a penalty can be levied on a person who knowingly or intentionally makes any signs or uses any declaration, statement or documents which is false or incorrect. The extract of Section 114AA of the Act is reproduced below for ease of reference:

"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."

F.3. A bare perusal of the above provisions shows that Section 114AA of the Act can be invoked only in cases where the individual intentionally makes any false particular which he/she knows to be incorrect. Hence, an element of mala-fide intention is necessary for imposition of penalty under Section 114AA. However, in a case where there is no evidence to establish the same, penalty under Section 114AA cannot be imposed.

F.4. It is submitted that there was no false declaration made by the Co-noticee. It is submitted that the Noticee classified the impugned goods under tariff item 15111000 under bona fide belief. Accordingly, there was no false or incorrect statement made by the Co-noticee.

F.5. Reliance is placed on decision of ***Parag Domestic Appliances vs. Commissioner of Customs, Cochin reported in 2018 (360) E.L.T. 547 (Tri. - Bang.)*** wherein it is held that-

"We note that the provisions of Section 114AA will apply in cases where 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. As discussed elaborately above, we find that there is no situation of any false document submitted by the importer or by the Director of the importer. As such, we find that the application of provisions of Section 114AA is not fully justified by the impugned order and accordingly, we set aside the penalties imposed under Section 114AA."

F.6. It is further submitted that the Co-noticee has not signed or used, any declaration, statement or document which is false or incorrect in any material particular under the Customs Act. Detailed submissions have been made in the Noticee's reply to the impugned SCN to the effect that the imported products have been rightly classified, and the test reports also substantiate that the product qualifies as CPO. There is no material evidence brought on record to prove that the Co-noticee has signed or made any false declaration under the Customs Act and accordingly penalty under Section 114AA cannot be invoked.

F.7. The Co-noticee further clearly stated that the switch BoLs were not manipulated and particulars in the switched BoLs were rightly specified to indicate the changes in the imported products after the blending process. Further, the Co-noticee has also clearly stated that all the relevant documents were submitted to the customs authorities. The impugned SCN grossly erred in holding that the Co-noticee had the knowledge that the imported products were not CPO post the blending process, but failed to provide any evidence to show that Co-Noticcee was believed the same. Further, the impugned SCN has, without any justification, alleged that the Co-noticee has played an active role in the mis-declaration of the product as CPO merely because he was aware of the blending on board and submitted the switched BoLs to the Customs authorities.

F.8. Further, there is no evidence available on record to suggest intentional making, signing, using or causing to make, sign or use of any declaration, statement or document against the Co-noticee to suggest that the documents pertaining to the imported product were manipulated to make it seem like the same was CPO. Hence, penalty under Section 114AA of the Act, is not imposable.

Penalty under Section 114AA is not applicable in the case of a classification dispute

F.9. It is settled law that penalty under Section 114AA cannot be imposed merely because there is a dispute regarding classification of goods. In this regard, reliance is placed on the decision in ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI*** where it was held as follows:

"e) Penalty under section 114AA is imposable 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 under the Act. There is no allegation or evidence that the goods were wrongly declared and the allegation of mis-classification or incorrect assessment of duty, even if it is true, will not attract penalty under section 114AA. Therefore, penalty under section 114AA imposed on the appellant is not sustainable and needs to be set aside."

F.10. Therefore, it is submitted that, penalty under Section 114AA is also not applicable in the present case and hence, the impugned SCN is liable to be dropped on this ground also.

K. WITHOUT PREJUDICE, PENALTIES CANNOT BE IMPOSED IN THE PRESENT CASE AS NOTICEE HAS MADE COMPLETE DISCLOURES REQUIRED UNDER THE SELF ASSESSMENT REGIME

K.1 As submitted in detail supra, for a penalty under Section 112 of the Customs Act to be imposed, the goods must first be liable for confiscation under Section 111. Section 111 is invokable in the case of misdeclaration of imported goods. Further, penalty under Section 114AA is applicable only in the case of mala fide intent. In this regard, it is submitted that there is no misdeclaration or mala fide in the present case as the fact regarding blending was specifically recorded in the relevant contractual documents including the charter party.

K.2 The impugned SCN alleges mala fide on the ground that bill of lading and other contractual documents evidencing blending were suppressed by the Noticee. In this regard, it is submitted that the Noticee has submitted all documents relevant in the present case for the import transaction as between the Noticee and its suppliers, including invoice, bill of lading etc. The Noticee cannot be expected to submit contractual documents as between suppliers of Noticee and third-party vendors as it is completely extraneous to the import transaction in question. As part of the self-assessment procedure, there is no requirement to submit such documents and hence, it is submitted that mala fide cannot be alleged in the present case. In this regard, reference is made *inter alia* to the recent Supreme Court decision in ***Reliance Industries Limited***, ***2023 (7) TMI 196*** where it was held as follows:

"We also take note of the fact that in the show cause notice itself it has been accepted by the revenue that ***the self-assesment procedure did not require an assessee to submit copies of all contracts, agreements and invoices.*** *This being the admitted position in the notice we do not find any basis for agreeing with the findings of the Commissioner that certain relevant documents had not been filed and thereby suppressed from the scrutiny of the revenue officers****. An assessee can be accused for suppressing only such facts which it was otherwise required to be disclosed under the law****. The counsel for the Revenue has, while pleading that facts was suppressed been unable to show us the provision or rule which required the assessee in this case to make additional disclosures of documents or facts. The assertion that there was suppression of facts is therefore clearly not tenable."*

K.3 Therefore, it is submitted that mala fide cannot be alleged in the present case and hence, the penalties proposed vide the impugned SCN are liable to be dropped forthwith on this ground alone.

L. PENALTY UNDER SECTION 117 OF THE CUSTOMS ACT IS NOT APPLICABLE IN THE PRESENT CASE

G.1. Section 117 of the Customs Act reads as under:

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

G.2. Section 117 being residuary penal provision requires 'existence of provision', contravention of the same as well as no specific penalty being provided for the same. The impugned SCN alleges that the Co-noticee's act of alleged misclassification and misdeclaration of the imported goods with intent to evade payment of duty has rendered them liable for penalty under Section 117 of the Customs Act also. However, as submitted in detail supra, the imported products have been rightly classified under tariff item 15111000 and the switched BoLs have not been manipulated. Therefore, in the absence of any contravention of any provision under the Customs Act, the question of imposition of penalty under Section 117 of the Customs Act also does not arise.

M. The Co-noticee craves leave to add, alter, amend and/or rescind any of the above submissions at the time of or before the personal hearing.

N. The Co-noticee craves leave to refer and rely upon any judgment/case law as and when produced.

O. PRAYER

In view of the foregoing, the Co-noticee has prayed as below to:

(i) Drop the proceedings initiated vide Impugned SCN;

(ii) Drop the demands of penalty under Section 112, Section 114AA and Section 117 of the Customs Act, sought to be raised vide the impugned SCN and

(iii) For such and other reliefs as the nature and circumstances of the case may require.

Personal hearing be granted before a final decision is taken in the matter.

20.2. Shri Amit Thakkar, Senior Manager M/s. Tata International Limited, in his submission have stated *interalia* that:

i. Noticee is engaged, *inter alia*, in the business of trading of agricultural commodities including crude soybean oil, crude sunflower oil, Crude Palm Oil ('CPO').

ii. The Co-noticee is the Senior Manager with the Noticee since March 2021, and is involved in the trading business of Noticeee in agricultural commodities specifically pulses, oil and oil seeds. The Co-noticee is involved in both domestic and import procurement of the said commodities.

CPO, RBD palmolein, and PFAD

iii. CPO is the raw oil extracted from palm fruit and normally having high free fatty acid ('FFA') content. Refined Bleached and Deodorized palmolein ('RBD' or 'RBD palmolein') is obtained from CPO through a refining process and has low FFA thereby making it suitable for food industry. Palm Fatty Acid Distillate ('PFAD') is another byproduct having high FFA content, mainly having industrial applications.

iv. Blending CPO, PFAD, and RBD palmolein presents a strategic avenue for tailoring the resulting oil to specific industry requirements as it allows the creation of a customised CPO with a reduced FFA content. It is noteworthy that such blended CPO not only exhibits a lowered FFA content but also retains all the essential characteristics of CPO as per the standards set by the Food Safety and Standards Authority of India ('FSSAI'). This ensures that the blended product adheres to the regulatory requirements, making it suitable for a wide range of applications in accordance with industry standards.

Import of CPO which is in dispute as per the impugned SCN

v. Accordingly, four shipments were placed (initial three shipments are in dispute as per the impugned SCN), and palm oil was acquired following the blending of CPO with RBD palmolein/PFAD prior to goods reaching India. CPO, RBD palmolein and PFAD were procured by the seller, i.e., TISPL or Tata International West Asia DMCC, Dubai ('TIWA'), group companies of Noticee, from third party vendors. Third party vendors raised their invoices for CPO, RBD palmolein and PFAD in the name of TISPL or TIWA, and the same were loaded in the vessel at the load port.

vi. Subsequently, CPO was blended with RBD palmolein/PFAD to obtain CPO with lower FFA content. Surveyors were appointed to oversee the activity of blending and blending was carried out as per the proportion decided by them.

vii. Subsequently, either TISPL or TIWA issued an invoice to the Noticee for CPO. Upon its importation into India, the Noticee filed BoE for warehousing the CPO. The warehoused CPO was sold before clearance and end customers filed the ex-bond BoE. Once the ex-bod BoE were filed, the CPO was cleared by the end customers upon the payment of the applicable customs duties. Details of the same are given below:

Vessel	**Seller**	**Loaded at load port**	**Quantity imported by Noticee (MT)**	**Bill of entry description post blending**	**End customers**	**Quantity (MT)**
FMT GUMULDUR	TIWA	CPO	3,500	CPO	**DIL Exim Commodities Private Limited ('DIL Exim')**	**1,225**
		RBD	8,400		Sheel Oil and Fats Pvt Ltd	1,960
		PFAD	200		COFCO	4,410
		Total	**12,100**		G One Agro Products Ltd ('G One Agro')	735
					Jaliyan Proteins Private Limited	1,470

					(‘Jaliyan Proteins’)	
					Laxmi Agroils Pvt Ltd (‘Laxmi Agroils’)	735
					GIPL	**70**
					Sangrur Agro Limited (‘Sangrur Agro’)	490
					Mantora Oil Products Private Limited (‘Mantora Oil’)	490
					Ables Oil and Cargo Private Limited	490
MT HONG HAI	TISPL	CPO	8,949	CPO	Laxmi Agroils	1,488
		RBD	6,514		G - One Agro	5,456
		Total	**15,462**		Louis Dreyfus Company	1,484
					COFCO	496
					Mantora Oil	2,728
					DIL Exim	**992**
					Sangrur Agro	248
					GIPL	**92**
					Jaliyan Proteins	496
					Kanpur Edibles Private Limited	1,984
MT FMT EFES VOY. 202111	TIWA	CPO	7,873	CPO	G-One Agro	8,000
		RBD	5,086			
		Total	**12,959**		GIPL	47
					COFCO	1,500
					NK Protein Private Limited (‘NK Protein’)	1,400
					Sangrur Agro	1,000
					DIL Exim	**500**
					Bhushan Oil and Fats Private Limited	250
					Ozone Procon Private Limited	250

Issuance of the impugned SCN in respect of ex-bond BoEs filed by DIL Exim

viii. The impugned SCN was issued by Ld. Commissioner in respect of cases where ex-bond BoE were filed by one of the end customers, viz. DIL Exim qua goods imported vide vessels FMT GUMULDUR, MT HONG HAI and MT FMT EFES VOY. 202111 *inter alia* alleging as under:

- The transaction entailed blending of CPO, RBD, and PFAD and Charter Party explicitly provided for blending of cargo during the voyage.

- Distinct goods were imported (CPO, RBD Palmolein, and PFAD) but declared same solely as CPO under HSN 15111000.

- A second set of documents (Switch BoL) was created after blending, camouflaging the shipment as pure CPO. The original load port documents were concealed, and manipulated documents were presented to Customs at Kandla Port.

- The imported cargo qualifies as an admixture of CPO, RBD and PFAD and hence, classifiable under HSN 15119090 (palm oil - others).

- The cargo was knowingly blended and misdeclared to evade customs duty, evidenced by: concealment of original documents, creation of manipulated BoL and misrepresentation in import documents etc.

ix. Accordingly, the following demands are proposed vide the impugned SCN in respect of cases where ex-bond BoE were filed by DIL Exim.

DIL Exim

- The ex-bond BoE filed by DIL Exim under HSN 15111000 (CPO) are proposed to be re-classified under HSN 15119090 (palm oil - others). Accordingly, differential duty amounting to Rs. 4,10,14,504 is proposed to be recovered under Section 28(4) of the Customs Act, along with applicable interest under Section 28AA of the Customs Act.
- Confiscation under Section 111 of the Customs Act is proposed to be imposed on the imported goods.
- Penalty is proposed to be imported under Section 112 (a) & (b), 114A, 114AA and 117 of the Customs Act.

Noticee

- Penalty is proposed to be imposed under Section 112 (a) & (b), 114AA and 117 of the Customs Act, 1962.

x. The impugned SCN has further imposed personal penalty *inter alia* on the Co-noticee under Sections 112, 117 and 114AA of the Customs Act on the following grounds:

- The Co-noticee was aware of the fact that RBD and PFAD were loaded Ports. The Co-noticee was also aware that the BoLs were switched after the blending of RBD, PFAD and CPO on board the vessel and replaced with a manipulated global BoL showing the entire quantity as CPO alone.

- The Co-noticee was instrumental in the submission of the BoL and other related documents to Customs, depicting that the admixture of CPO, RBD and PFAD to be CPO alone, and also admitted to the switching of BoLs post blending of the ad-mixture on board.

- The Co-noticee played an active role in the import of the admixture of CPO, RBD and PFAD by knowingly and intentionally mis-declaring the classification of the same with an intent to evade customs duty.

Allegations denied

xi. At the outset, the Co-noticee denies all the allegations set out in the impugned SCN and submits that the liability to pay penalty does not arise in the present case. In this regard, the following submissions are made which are without prejudice to one another.

SUBMISSIONS

P. CO-NOTICEE PLACES RELIANCE ON THE SUBMISSIONS MADE BY THE NOTICEE IN THE REPLY FILED BY THE NOTICEE TO THE IMPUGNED SCN

A.8 Co-noticee submits that the Noticee has filed a detailed reply against the impugned SCN. The Co-noticee refers relies on and reiterates all the submissions made by the Noticee in its reply and prays that the same may be considered as the submissions of the Co-noticee in so far those relate to the Co-noticee.

A.9 The Co-noticee reiterates the gist of the submissions on merits in the Noticee's reply as under:

- The CPO has been correctly classified under the tariff item 15111000. The essential characteristic of the imported product as CPO has been confirmed by the test reports. Reliance is inter alia placed on common parlance test and end use test also since the imported product in common parlance is identified as CPO and the same is also regarded by end users as CPO for further refining and manufacture of products.

- Further, under General rule for interpretation 3(b), the classification of mixtures is determined by the material imparting the essential character. The quantum or percentage presence of the items is irrelevant; what is relevant is the essential character of the mixture which, as per the description in the transactional documents, is clearly the CPO.

- Moreover, Circular No. 85/2003 dated 24.09.2003 clarifies that CPO when it is not defined should be assessed based on test results indicating its need for further processing. The imported goods meet this criterion and are rightly classifiable under 15111000.

- It is a settled position of law that the imported goods are to be levied to customs duty in the form in which they are at the point of time of importation. In this regard, the Noticee submits that the imported products are homogenously blended product as described in the switch BoL i.e., 'Crude Palm Oil (Edible Grade) in Bulk', and any activities undertaken prior to importation are irrelevant for the purposes of determination of the classification of the imported products.

- Classification of the imported products cannot be made under the residuary entry as proposed vide the impugned SCN.

- The blending process undertaken in the present case, has resulted in a change in the description of the consignment i.e., RBD, CPO & PFAD to CPO, along with the change in the consignor and consignee, and the same is a recognized commercial practice. Hence, the allegation in the impugned SCN that issuance of switch BoL and non-submission of original load port documents amounts to manipulation of documents is without any basis.

- It is also submitted that the test reports issued by independent testing agency post blending confirm that the imported goods qualify as CPO. However, the impugned SCN has relied solely on test reports issued by Central Excise and Customs Laboratory, Vadodara in the case of vessel MT DISTYA PUSHTI to allege that the imported goods do not qualify as CPO. Further, the test reports regarding the consignment in question issued by the independent testing agency were ignored while issuing the impugned SCN. In this regard, it is submitted that test reports and expert opinion are relevant in determining the character of the imported product and the impugned SCN which has relied on irrelevant reports extraneous to the present transaction is liable to be dropped on this ground alone.

Q. THE DEMAND RAISED ON NOTICEE IS NOT MAINTAINABLE, HENCE NO PENALTY CAN BE RAISED ON THE CO-NOTICEE.

Q.1 The Co-noticee submits that, basis the merits of the case and submission made by the Noticee, it is abundantly clear that the goods have been correctly classified under HSN 15111000 as 'CPO'. The impugned SCN has failed to consider the fact that owing to the changes in the imported product after the blending and the changes in the particulars of the BoL pertaining to the consignor and the consignee, the switch BoL was rightly issued, and was not manipulated.

Q.2 It is therefore submitted that since the demand itself is not sustainable, the penalty sought to be imposed upon the Co-noticee vide the impugned SCN deserves to be dropped.

R. WITHOUT PREJUDICE, PERSONAL PENALTY IS NOT IMPOSABLE IN THE CASE WHERE ASSESSEE IS OF THE BONAFIDE BELIEF REGARDING CLASSIFICATION EVEN IF ULTIMATELY QUESTION OF CLASSIFICATION IS HELD AGAINST THE ASSESSEE

G.9. The Co-noticee submits that the Department has failed to appreciate that no penalty is leviable where the actions of the assessee have been bona fide. It submitted that the Co-noticee has a bonafide belief that the imported products are correctly classifiable under the tariff item 15111000 (crude palm oil) and not under the tariff item 15119090 (others-palmolein). Further, the Co-noticee possessed a genuine belief that the switch BoLs were not manipulated.

G.10. Therefore, the Co-noticee also entertained a bonafide belief that the imported product was appropriately classifiable under the tariff item 15111000 (crude palm oil), and impugned SCN fails to put forth any evidence in support of the allegation that the Co-noticee knowingly mis-declared the classification of the imported products and furthered the manipulation of the switched BoLs.

G.11. It is further submitted that the Co-noticee has not made any will-full misstatement or commission as regards the classification of the imported products in question. Except making a bald allegation in the impugned SCN that, the Co-noticee has knowingly and intentionally mis-declared the classification of imported products, revenue has not brought any evidence on record in support of such contention.

G.12. It is a settled position of law that the **personal penalty cannot be imposed even if the question of classification of goods is decided against the classification declared by the assessee for such goods, if the assessee was of the bona fide belief regarding the applicable classification**. Reliance in this regard is placed on the following decisions:

- ***Ratnagiri Impex Pvt. Ltd. and S. A. Gopalakrishna Director v. The Commissioner of Customs, Bangalore 2024 (3) TMI 194 - CESTAT BANGLORE;***

- ***Atherton Engg. Co. (Pvt.) Ltd. Versus Cc. (Airport & Admn.), Kolkata 2006 (3) TMI 669 - CESTAT, KOLKATA***

G.13. Applying the above precedents, the Co-noticee submits that, classification in the present case was adopted by the Noticee basis bona fide belief and hence, there is no question of imposition of personal penalty on the Co-noticee

G.14. Without prejudice, reliance is also placed on the following decisions where it was held that no penalty should be levied where the bona fide belief of the assessee is established.

- ***Hindustan Steel Ltd. v. State of Orissa [1978 ELT J 159]***, ***Akbar Badruddin Jiwani vs. CCE [1990 (47) ELT 161 (SC)]***
- ***Super Electronics vs. CC [2003 (153) ELT 254 (SC)]***

G.15. Further reliance in this regard is placed on the Tribunal decision in the case of ***Smitha Shetty vs. CCE [2004 (156) E.L.T. 84]***, approved by the High Court in the case of ***CCE vs. Sunitha Shetty [2004 (174) E.L.T. 313]***, wherein it was held that no penalty should be levied where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.

G.16. Applying the above precedents, the Co-noticee submits that, classification in the present case was adopted by the Noticee basis bona fide belief and hence, there is no question of imposition of personal penalty on the Co-noticee. Therefore, the impugned SCN is liable to be dropped on this ground alone.

S. PENALTY IS NOT IMPOSABLE UNDER SECTION 112 OF THE CUSTOMS ACT

C.14. The impugned SCN has erroneously alleged that the Co-noticee has played an active role in the mis-declaration of the ad-mixture of CPO, RBD, PFAD as CPO alone by classifying under CTH 15111000 instead of appropriate CTH 15119090 with an intent to evade the Customs duty.

C.15. In this regard, the impugned SCN has alleged that the Co-Noticee's act of alleged misclassification and misdeclaration of the imported goods with an intent to evade payment of duty has rendered them liable for penalty under Section 112 (a) and (b) of the Customs Act. Relevant portion of Section 112 of the Customs Act is extracted hereunder:

> *"**SECTION 112. Penalty for improper importation of goods, etc.** — Any person, -*
> *e. 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*
> *f. 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. […]*
> *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. […]"*

C.16. A bare perusal of the aforesaid Section would clearly indicate that penalty may be imposed under Section 112 of the Act when the goods are rendered liable for confiscation under any of the sub-sections under Section 111 of the Customs Act. Therefore, applicability of Section 111 of the Customs Act is examined hereunder.

The imported products in the present case cannot be rendered liable to confiscation under Section 111 of the Customs Act

C.17. The impugned SCN states that the imported goods in the present case are liable for confiscation in terms of Section 111 (d) (f) (l) (m) of the Customs Act. In this regard, relevant portion of Section 111 of the Customs Act is extracted hereunder:

"SECTION 111. Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation : -

[...]

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs 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 arrival manifest or import manifest or import report which are not so mentioned;

[...]

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

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

C.18. The imported products in the present case cannot be rendered liable to confiscation under Section 111 of the Customs Act for the following reasons:

- there is no prohibition in force in respect of the imported goods and hence, 111(d) of the Customs Act is not applicable;
- there is no question of non-mention of the imported goods in the import manifest in the present case as the goods, viz. CPO were duly mentioned in the import manifest, and hence, Section 111(f) of the Customs Act is not applicable;
- there is no question of non-mention of the imported goods in the bill of entry in the present case as the goods, viz. CPO were duly mentioned in the bills of entry, and hence, Section 111(l) is not applicable; and

C.19. Clause (m) of Section 111 of the Customs Act is applicable when any goods which do not correspond any particular with the entry made under this Act. In this regard, the impugned SCN alleges that the Noticee's act of alleged misclassification and misdeclaration of the imported goods has rendered them liable for confiscation. In this regard, it is submitted that the Noticee has been in *bona fide* belief that the imported goods are to be classified as CPO under tariff item 15111000. Without prejudice to the same, the following submissions are also made in the present case.

Confiscation provision cannot be invoked in the case of allegation of misclassification of goods under the Customs Tariff

C.20. It is submitted that the Noticee classified the impugned goods under tariff item 15111000 under *bona fide* belief. It is now settled law that confiscation under Section 111 (m) cannot be imposed merely because there is a dispute regarding classification of goods. In this regard, reliance is placed on the decision of the Hon'ble CESTAT in ***Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155 - CESTAT NEW DELHI*** where it was held as follows:

"34. If Section 111(m) is read to mean that goods can be confiscated if the classification of the goods and the exemption notifications claimed by the importer self-assessing the duty under Section 17 and indicated in the Bill of Entry do not match the classification of the goods or the exemption notifications which the proper officer may apply during re-assessment or later, it would result in absurd results. The importer cannot predict the mind of the proper officer and self-assess duty so as to conform to it. Insofar as the valuation is concerned, the importer is required to truthfully declare the transaction value, any additional consideration and relationship with the overseas seller. He is not required to predict if the proper officer will reject the transaction value under Rule 12 and if so, what value he will determine. Lex non cogitimpossibilia–the law does not compel one to impossible things. If the classification and exemption notifications in the Bill of Entry do not match the views which the proper officer may during re-assessment or by audit party, etc. later, may take or in any other proceedings, goods cannot be confiscated under Section 111(m). ***The case of the Revenue in this appeal is that the classification of the goods by the importer was not correct. Even if the classification is not correct, it does not render them liable to confiscation under Section 111(m).*** *Similarly, there could be cases where, according to the Revenue, the exemption notification claimed during self assessment will not be available to the*

imported goods. ***The importer self-assessing the goods must apply his mind when classifying the goods. Classification of the goods by the importer, even if it is not in conformity with the re-assessment by the proper officer or even if it is held to be not correct in any appellate proceedings does not render the goods liable to confiscation under Section 111(m).”***

C.21. Reliance is also placed on the decision in ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI*** where it was held that the allegation of misclassification of goods, even if it is true, will not attract 111(m) of the Customs Act.

C.22. Accordingly, the Co-Noticee submits that it is a settled principle of law that a question of classification is an interpretational issue and when the importer has acted in a *bona fide* manner and not withheld any material particulars regarding the imported goods, confiscation under 111(m) is not permissible. In the present case, the Noticee and Co-Noticee have duly submitted all details and information with respect to the imported goods and has classified the same basis *bona fide* belief that the same are classifiable under tariff item 15111000 as ‘CPO’. In light of the same, the imported goods are not liable for confiscation under Section 111(m) of the Customs Act.

Penalty under Section 112 is not applicable as goods are not liable for confiscation

C.23. It is a settled position of law that when the imported products are not liable for confiscation under Section 111 of the Customs Act, no penalty under Section 112 of the Customs Act may be imposed.

C.24. In this regard, in light of the detailed submissions hereinabove, it is evident that the imported goods are not liable for confiscation under Section 111 of the Customs Act. When the imported products are not liable to confiscation under any sub-sections of Section 111 of the Customs Act, it is submitted that the proposal to impose penalty under Section 112 of the Act is legally untenable. Hence, penalty cannot be imposed on the Co-noticee under Section 112 of the Customs Act on this ground alone.

C.25. Reliance in this regard is placed *inter alia* on the following decisions where it was held that, where goods are not liable for confiscation under Section 111 of the Customs Act, penalty under Section 112 cannot be sustained.

- ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI***
- ***Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155 - CESTAT NEW DELHI***
- ***Jindal Waterways Ltd. vs. Comm of Cus [2019 (370) ELT 1451 (Tri. – Mumbai)]***
- ***Ring Gears India Ltd. v. Commissioner of Customs [2017 (356) E.L.T. 158 (Tri. – Mumbai)]***
- ***Morteo Transfreight Reefer Container Ltd. v. Commissioner of Customs [2016 (341) E.L.T. 136 (Tri. – Mumbai)]***
- ***Kuresh Laila V/s Commissioner of Customs, Chennai reported in [2005 (189) E.L.T. 45 (Tri. – Chennai)]***
- ***Polynova Chemical Industries V/s Commissioner of Customs, Mumbai reported in [2005 (179) E.LT. 173 (Tri. - Mumbai)]***
- ***Jupiter Exports V/s Commissioner of Customs, Chennai reported in [2002 (145) E.L.T. 608 (Tri. - Chennai)]***
- ***Pawan Goel V/s Commissioner of Customs, New Delhi reported in [2001 (135) E.L.T. 1425 (Tri. – Del.)]***

C.26. Hence, in light of the aforesaid, it is submitted that in the present case, since the goods are not liable for confiscation in terms of Section 111 of the Customs Act, the proposed imposition of penalty in terms of Section 112(a) and (b) of the Customs Act on the Co-noticee is unsustainable.

T. NO PENALTY CAN BE IMPOSED UNDER SECTION 114AA OF THE ACT ON THE NOTICEE.

F.11. The impugned SCN imposes penalty under Section 114AA of the Customs Act on the ground that the Co-noticee has intentionally and knowingly caused mis-declaration of the imported CPO. It is submitted that such levy of penalty is unsustainable in law.

F.12. As per Section 114AA a penalty can be levied on a person who knowingly or intentionally makes any signs or uses any declaration, statement or documents which is false or incorrect. The extract of Section 114AA of the Act is reproduced below for ease of reference:

"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."

F.13. A bare perusal of the above provisions shows that Section 114AA of the Act can be invoked only in cases where the individual intentionally makes any false particular which he/she knows to be incorrect. Hence, an element of mala-fide intention is necessary for imposition of penalty under Section 114AA. However, in a case where there is no evidence to establish the same, penalty under Section 114AA cannot be imposed.

F.14. It is submitted that there was no false declaration made by the Co-noticee. It is submitted that the Noticee classified the impugned goods under tariff item 15111000 under bona fide belief. Accordingly, there was no false or incorrect statement made by the Co-noticee.

F.15. Reliance is placed on decision of ***Parag Domestic Appliances vs. Commissioner of Customs, Cochin reported in 2018 (360) E.L.T. 547 (Tri. - Bang.)*** wherein it is held that-

"We note that the provisions of Section 114AA will apply in cases where 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. As discussed elaborately above, we find that there is no situation of any false document submitted by the importer or by the Director of the importer. As such, we find that the application of provisions of Section 114AA is not fully justified by the impugned order and accordingly, we set aside the penalties imposed under Section 114AA."

F.16. It is further submitted that the Co-noticee has not signed or used, any declaration, statement or document which is false or incorrect in any material particular under the Customs Act. Detailed submissions have been made in the Noticee's reply to the impugned SCN to the effect that the imported products have been rightly classified, and the test reports also substantiate that the product qualifies as CPO. There is no material evidence brought on record to prove that the Co-noticee has signed or made any false declaration under the Customs Act and accordingly penalty under Section 114AA cannot be invoked.

F.17. The Co-noticee further clearly stated that the switch BoLs were not manipulated and particulars in the switched BoLs were rightly specified to indicate the changes in the imported products after the blending process. Further, the Co-noticee has also clearly stated that all the relevant documents were submitted to the customs authorities. The impugned SCN grossly erred in holding that the Co-noticee had the knowledge that the imported products were not CPO post the blending process, but failed to provide any evidence to show that Co-Noticcee was believed the same. Further, the impugned SCN has, without any justification, alleged that the Co-noticee has played an active role in the mis-declaration of the product as CPO merely because he was aware of the blending on board and submitted the switched BoLs to the Customs authorities.

F.18. Further, there is no evidence available on record to suggest intentional making, signing, using or causing to make, sign or use of any declaration, statement or document against the Co-noticee to suggest that the documents pertaining to the imported product were manipulated to make it seem like the same was CPO. Hence, penalty under Section 114AA of the Act, is not imposable.

Penalty under Section 114AA is not applicable in the case of a classification dispute

F.19. It is settled law that penalty under Section 114AA cannot be imposed merely because there is a dispute regarding classification of goods. In this regard, reliance is placed on the decision in ***Challenger Cargo Carriers Pvt Ltd. v. Principal Commissioner of Customs (Import), 2022 (12) TMI 621 - CESTAT NEW DELHI*** where it was held as follows:

"e) Penalty under section 114AA is imposable 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 under the Act. There is no allegation or evidence that the goods were wrongly declared and the allegation of mis-classification or incorrect assessment of duty, even if it is true, will not attract penalty under section 114AA. Therefore, penalty under section 114AA imposed on the appellant is not sustainable and needs to be set aside."

F.20. Therefore, it is submitted that, penalty under Section 114AA is also not applicable in the present case and hence, the impugned SCN is liable to be dropped on this ground also.

U. WITHOUT PREJUDICE, PENALTIES CANNOT BE IMPOSED IN THE PRESENT CASE AS NOTICEE HAS MADE COMPLETE DISCLOURES REQUIRED UNDER THE SELF ASSESSMENT REGIME

U.1 As submitted in detail supra, for a penalty under Section 112 of the Customs Act to be imposed, the goods must first be liable for confiscation under Section 111. Section 111 is invokable in the case of misdeclaration of imported goods. Further, penalty under Section 114AA is applicable only in the case of mala fide intent. In this regard, it is submitted that there is no misdeclaration or mala fide in the present case as the fact regarding blending was specifically recorded in the relevant contractual documents including the charter party.

U.2 The impugned SCN alleges mala fide on the ground that bill of lading and other contractual documents evidencing blending were suppressed by the Noticee. In this regard, it is submitted that the Noticee has submitted all documents relevant in the present case for the import transaction as between the Noticee and its suppliers, including invoice, bill of lading etc. The Noticee cannot be expected to submit contractual documents as between suppliers of Noticee and third-party vendors as it is completely extraneous to the import transaction in question. As part of the self-assessment procedure, there is no requirement to submit such documents and hence, it is submitted that mala fide cannot be alleged in the present case. In this regard, reference is made *inter alia* to the recent Supreme Court decision in ***Reliance Industries Limited, 2023 (7) TMI 196*** where it was held as follows:

"We also take note of the fact that in the show cause notice itself it has been accepted by the revenue that ***the self-assesment procedure did not require an assessee to submit copies of all contracts, agreements and invoices.*** *This being the admitted position in the notice we do not find any basis for agreeing with the findings of the Commissioner that certain relevant documents had not been filed and thereby suppressed from the scrutiny of the revenue officers****. An assessee can be accused for suppressing only such facts which it was otherwise required to be disclosed under the law****. The counsel for the Revenue has, while pleading that facts was suppressed been unable to show us the provision or rule which required the assessee in this case to make additional disclosures of documents or facts. The assertion that there was suppression of facts is therefore clearly not tenable."*

U.3 Therefore, it is submitted that mala fide cannot be alleged in the present case and hence, the penalties proposed vide the impugned SCN are liable to be dropped forthwith on this ground alone.

V. PENALTY UNDER SECTION 117 OF THE CUSTOMS ACT IS NOT APPLICABLE IN THE PRESENT CASE

G.3. Section 117 of the Customs Act reads as under:

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

G.4. Section 117 being residuary penal provision requires 'existence of provision', contravention of the same as well as no specific penalty being provided for the same. The impugned SCN alleges that the Co-noticee's act of alleged misclassification and misdeclaration of the imported goods with intent to evade payment of duty has rendered them liable for penalty under Section 117 of the Customs Act also. However, as submitted in detail supra, the imported products have been rightly classified under tariff item 15111000 and the switched BoLs have not been manipulated. Therefore, in the absence of any contravention of any provision under the Customs Act, the question of imposition of penalty under Section 117 of the Customs Act also does not arise.

21. M/s. Glentech Industries Private Limited alongwith Shri Sidhant Agarwal and Shri Sudhanshu Agarwal, Directors of M/s. GIPL & M/s. GVPL and Shri Amit Agarwal, Assistant Vice President of M/s. GIPL & M/s. GVPL in their submission have stated *interalia* that:

Submissions

i. 7.1 At the outset, the Noticee denies all the allegations made in the SCN. No allegation, not specifically dealt with herein, may be considered as an admission on behalf of the Noticee. It is submitted that despite detailed investigations conducted by the Department, no case has been

made out against the Noticee M/s GIPL/GVPL and its Directors/employees for illegal import of Admixture of CPO, RBD and PFAD and the allegation has been misdirected and, in fact, been left un-substantiated and there is no evidence cited in the SCN to support the allegations which rendered the goods liable to confiscation.

ii. The Noticee also submits that theyare limiting this reply to the charges made against M/s Glentech Industries Private Limited, GVPL and its Officials. Para 15 of the SCN describes the role played by companies and individuals. As stated earlier, we are concerned with the proposal for imposing penalty under sections and allegations made against GIPL/GVPLand persons associated with these two Companies which include S/Shri Sudhanshu Aggarwal, Sidhant Aggarwal, and Amit Aggarwal (para 15.2),

iii. The Show Cause Notice (SCN) alleges that the Noticee and M/s TIL in connivance with each other devised a 'strategic Plan' to import crude palm oil and other oils into India and clear them by mis-declaring the product as Crude palm Oil (CPO), although the imported products was a mixture of CPO, RBD and PFAD thereby indulging in evasion of customs duty. For the sake of brevity, the Noticee is not repeating the details but craves leave to refer the relevant paragraphs of the show cause notice as and when needed.

iv. It is submitted that the activities of the Noticee and M/S TIL is in terms of the Commodity Supply and Service Agreement dated 09.03.2021 which details the aims and objective of the Agreement and the manner in which the agreement will be implemented. The Agreement details plainly shows that the Agreement is in fact a business arrangement - the kind that occurs among buyers and sellers, importers and exporters, financial managers etc. There is nothing in the Agreement that can be called conspiratorial or anything that is illegal under any law of the country where the business under the Agreement is proposed to be conducted. The SCN has not cited any evidence to show that any of the participant's activity was illegal or was carried out in a clandestine manner. The allegation of a conspiracy remainsunfounded and unsupported allegation that must be discounted by the Adjudicating Officer.It is submitted that mixing of CPO, RBD and PFAD does not violate any of the provisions of the Customs Act, 1962. The alleged violation is mis-declaring the same before the Customs Authority at the time of filing the In-Bond Bills of Entry/Bills of Entry and then by filing Ex-Bond Bills of Entry or filing home consumption Bills of Entry for home consumption which would result or resulted in mis-declaration of the imported goods and subsequently evasion of Customs Duty. It is submitted that the classification of any imported goods is legal responsibility and within the domain of the Customs Authority and more so, when the commodity involved was Chemicals. Claiming classification of a product is not an offence.

v. It is submitted that there is no prohibition against the import of Palm Oil, Palm Olein, and Palm Fatty Acid Distillate (PFAD) or any admixture thereof, which are not classified as prohibited goods under the Indian Customs Act, 1962 or under any other law including the Import and Export Policy issued by the Director General of Foreign Trade or any other law. At least the impugned SCN has not identified any reason or statute which has specifically prohibited import of admixture of CPO, RBD and PFAD. Therefore, the department's allegation that the imported goods were prohibited do not stand any scrutiny. In fact, the department has not mentioned any provision of law which declares act of importing mixture of Palm Oil, RBD and PFAD as prohibited.

vi. (i) By the same token, mixing and blending of Crude Palm Oil, RBD Olein and PFAD is nowhere prohibited. According to para 15.1.2 of the SCN, **"M/s. TIL played active role in ensuring the blending of CPO, PFAD & RBD Olein, which is not only prohibited, but also the act of agreeing/allowing to blend clearly demonstrates that the entire activity right from planning, creation, monitoring and managing of all the operations was with a malafide intention of evading customs duty."** It is submitted that blending was done on board the vessel M T Distya Pushti and no where it is stated that such blending is against any Indian Law as there is no Indian jurisdiction beyond Indian shores. It is clarified that there was no violation of any Indonesian Law either. Here too, the department has made allegation without any evidence (of goods being prohibited). These allegations remain unfounded and unsupported and in the absence any evidence must be discounted. It is re-iterated that the act of mixing is not an offence under Customs Act. The only offence, to repeat, was not declaring the same.

(i) There is no evidence to suggest that any of the Noticees who are being represented in this reply (GIPL, GVPL, S/Shri Sudhanshu Aggarwal, Sidhant Aggarwal and Amit Aggarwal) told or advised the importer to mis-declare the goods or mis-classify the goods.

vii. In the Show Cause Notice, no duty under Section 28(4) of the Customs Act has been demanded, either from GVPL or GIPL or any of the officials of these two companies including Sudhanshu

Agrawal, Sidhant Agrawal or any other employees/Directors of the companies. No interest of any kind has been demanded from the noticee. The duty has been demanded from TIL, which, prima facie, confirms that only TIL has been identified as IMPORTER. Further, the department has itself come to the conclusion that only TIL was the importer. Rest of the Noticee were not importer.

viii. **The Noticee has been called the beneficial owner of the goods and the SCN has proposed penalty on the Noticee**. It will be gainful to refer to Section 2(26) of the Customs act 1962, which defines Importer, is reproduced as under:

ix. *(26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;*

x. Further, Section 2 (3A) of the Customs Act defines Beneficial Owner as below

xi. *(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;*

xii. It is submitted that the definition of Importer, (which includes any owner, beneficial owner) and in relation to any goods is valid ***during the period between the time of importation and the time the goods are cleared for home consumption***. In the instant case M/s TIL filed 83 Bills of Entry and cleared the goods provisionally after paying duty to the tune of Rs 11,93,89,984/-. The fact that Duty under Section 28 (4) of the Customs Act is demanded from M/s TIL and not from the Noticee, itself is proof that none of the entities/employees of GVPL or GIPL is importer. This clearly indicates, that the Noticee is not the owner or beneficial owner under Section 2(26) of the Customs Act.

xiii. It is submitted that the proposal for imposingpenalty against the Noticee and its Directors/employees is based on this presumption that the Noticee is the beneficial owner. However, the preceding para makes it clear that it is a flawed presumption and is contrary to the definition under section 2(26) of the Customs Act 1962. In fact, if the interpretation of Beneficial Owner given by the Department in the Show Cause Notice is accepted, it will lead to a situation that all consumers of such goods will also be considered as beneficial owner (and hence importer) and those entities would also be liable to penalty under the Customs Act, 1962 as amended from time to time.

xiv. Paragraph 15.2.1 of the SCN alleges that after the import of the goods, it was the responsibility of the Noticee to sell the goods in the Indian Market and therefore, the Noticee is the beneficial owner. However, as reiterated in the previous paragraph, the said interpretation is manifestly wrong and is contrary to the wording of the definition of the 'Importer' under Section 2 (26) of the Customs Act.It is submitted that in the instant case M/s TIL did not sell the goods to M/s. GIPL while the goods still awaited clearance for home consumption. Once the goods were cleared for home consumption under Ex-Bond Bill of Entry filed by TIL and released in the economic stream of the country, the term 'Importer" (which term included owner, beneficial owner) under the Customs Act lost its relevance.

xv. Further the term 'beneficial owner' is also contrary to the Commodity Supply and Service Agreement signed between the Noticee and M/s TIL (dated 9.3.2021) which specifically provides vide para 3.1 of the **Agreement that M/s TIL can choose to sell the goods through the Noticee at its own sole discretion.** There is no automatic sale to M/s GIPL by M/s TIL. In the instant case, there is no sale between the period of landing of the goods and sale to the buyers, as M/s TIL, themselves filed the Bills of Entry and cleared the import goods after payment of Customs Duty. It is submitted that the allegation of the Noticee being the beneficial owner is misplaced allegation and deserves to be dismissed in its entirety.

xvi. The contention in the Show Cause Notice that M/s TIL were merely a trade facilitator and that goods had been imported to enable M/s GIPL to sell the same in Indian markets is flawed and does not stand to scrutiny. The phrase Trade Facilitator is alien to the Customs Act and is irrelevant for holding someone as violator of any provision of Custom Act. It is worth noting that no demand of duty has been made from the Noticee or their employee/office bearers. Differential duty having been demanded from M/s TIL, clearly leads to the conclusion that M/s TIL in fact is the actual importer, de-facto and de-jure, of the imported goods.

xvii. Further, the allegation that M/s TIL had imported the goods as a trade facilitator to enable M/s GIPL to sell the goods in the Indian Market, is against the terms and conditions of para 3.1 of the Agreement dated 9.3.2021. The said para reads as follows:

*"3.1 I**mportation of Commodity and onward selling of Commodity.** For the purpose of this Agreement, GLENTECH agrees and acknowledges that TISPL can import the commodity (ies) from the Overseas Supplier through Glentech and /or onward sell the same in Indian market through GLENTECH at its sole discretion and option"*

Section 2(26) of the Customs Act, 1962 as amended, Importer has been defined in following words:

(26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [22] [any owner, beneficial owner] or any person holding himself out to be the importer;

The definition clarify that importer is an entity which imports the goods and remain as importer only till the goods are cleared for home consumption. Even the concept of beneficial owner is limited to the *time between their importation and the time when they are cleared for home consumption*. There is no doubt that in this case M/S TIL filed the Bills of Entry for home consumption and also paid the duty. In fact, the imported goods were detained by the Customs and was provisionally released to TIL on payment of differential duty. At no point of time, Glentech or any of its officials, were asked to pay the duty or the differential duty.**Therefore, it is TIL, who is importer and not any other entity, who buys the goods after those are cleared for home consumption under Bills of Entry properly assessed by the Customs Officials, and duty was paid by M/S TIL.**M/s TIL had option to dispose of the imported consignment, after clearance of the same for home consumption by the Customs, through any agency/entityincluding M/s GIPL, but that is matter of sole discretion of M/s TIL and not the right of M/s GIPL. It is also seen that during the journey of the vessel MT Distya Pushti while there was a Bond to Bond sale of the cargo between M/s TIWA and M/s TIL, there was no sale to M/s GIPL neither the GIPL filed the Bill of Entry. At the port of discharge at Kandla, it was M/s TIL who filed the Bills of Entry for Bonding and/or for Home Consumption and not M/s GIPL. As such the allegation that, in the instant case, goods were only imported for M/s GIPL is irrelevant as that will not make M/S GVPL or GVIL or any of their officials,an importer under the Customs Act, 1962.

xviii. Further, Section 46 of the Customs Act, 1962 requires certain duties of the Importer after the manifest for the imported goods are filed by the Captain of the Vessel.

Entry of goods on importation.

46. *(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting [93][electronically] [94]**[**on the customs automated system**]** to the proper officer a bill of entry for home consumption or warehousing [95]**[**in such form and manner as may be prescribed**]** :*

*[96][**Provided** that the [89][Principal Commissioner of Customs or] Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically [94]**[**on the customs automated system**]**, allow an entry to be presented in any other manner:*

***Provided further** that] if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.*

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

*[97][(3) **The importer shall present the bill of entry under sub-section** (1) [97a]**[**before the end of the day (including holidays) preceding the day**]** on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:*

*[97b] **[Provided** that the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival:*

***Provided further** that**]** a bill of entry may be presented [98]**[**at any time not exceeding thirty days prior to**]** the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:*

*[98a] **[Provided also** that **]** where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]*

(4) The importer while presenting a bill of entry shall [99][***] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration,

produce to the proper officer the invoice, if any, [1][and such other documents relating to the imported goods as may be prescribed].

[2][(4A) The importer who presents a bill of entry shall ensure the following, namely:—

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

Thus, the duties and responsibility of an importer has been prescribed in Section 46.

xxii. None of thesejobs were undertaken by M/S GIPL/GVPL or any of its Directors/ employees

xxiii. At this stage, it will be gainful to refer to the statement of the officials of GVPL and GIPL to identify any admission of the Companies which support the department to allege that, either singly or collectively, they were liable to Penalty under any of the provisions of Customs Act.

22. Shri Sidhant Agarwal, Director of M/s. GIPL in his statement which was recorded on 27/28.01.2022 [RUD No 21 & 22 respectively], (Para 10.10 of the SCN)inter-alia stated the following:

a) Under the Agreement dated 09.03.2021, M/s. TATA International Singapore PTE LTD (hereinafter also referred to as TISPL, an affiliate company of TIL)& M/s. GIPL, were business partner. That M/s. GIPL & M/s. **TIL decided to import CPO (edible Grade) and after import in India by TIL after clearance of the goods for home consumption, GIPL will assist TIL in marketing the goods**. However, the first consignment of CPO imported by them, did not find good market because higher percentage of Free Fatty Acid (FFA for short). After market enquiry, it was discovered that the higher value of FFA could be reduced by adding some other products such as RBD and PFAD. Under the said agreement dated 09/03/2021, GIPL, TISPL/TILmutually decided to find out a method to get the FFA reduced. They were also informed that such mixing will not adversely affect the essential character of CPO. This happened because their (M/s GIPL) first consignment with M/s. Tata International Limited (M/s TIL) was import of 2500 MTs CPO and M/s. GIPL purchased through Bond from M/s. TIL on 11.5.2021. It was normal CPO, wherein FFA value (Free Fatty Acid) was around 4.5 to 5, due to which some difficulties were experienced in selling the above said CPO. A market survey indicated a demand in Indian Market of CPO having FFA value below 3.5. **Inquiry in Indonesia revealed that FFA Value of less than 3.5 could be obtained by mixing three different products i.e. CPO, PFAD & RBD Olein and the end product could still remain CPO marketable as per buyer's requirement. Accordingly, above matter was conveyed to M/s. TIL and in response, M/s. TIL confirmed to proceed.** Accordingly, the nextconsignments were ordered and goods were obtained after mixing of CPO with RBD Palmolein and PFAD were imported. The said blended goods imported through vessel MT FMT Gumuldur, Hong Hai & MT FMT EFES, were further sold by M/s. GIPL & M/s. TIL to buyers in the domestic market. To give effect to this method, M/s. GVPL entered in contract with KPBN, Indonesia for supply of Crude Palm Oil. As per agreement between M/s. TIWA & M/s. GVPL, the said goods were supplied to M/s. TIWA. **RBD Olein, and PFAD were procured by M/S TISPL or TIL. Two components obtained by TIL/TISPL were purchased by them and only CPO was purchased by GVPL and loaded on the Ship DistyaPushti.** The mixing was done on board the ship which is not doubted by the Noticee in this case. **The goods carried by DistyaPushti was imported by TIL as they filed the Bills of Entry for home consumption even if the same was kept in Bonded Warehouse before final clearance for home consumption by TIL after payment of applicable duty. Thus, there is no doubt that importer in this case was TIL.**

(b) M/s. TIL were the importer in respect of all consignments imported vide vessel MT FMT Gumuldur (Sep. 2021), Hong Hai (Oct. 2021) & MT FMT EFES (Nov. 2021) &MT Distya Pushti. Goods imported vide vessel namely, MT FMT Gumuldur, MT Hong Hai & MT FMT EFES were further sold in India on Bond to Bond basis by M/s. GIPL as well as M/s. TIL;

(c) All the aforesaid consignments of goods imported by M/s. TIL. M/s. TIL was the Financial Charterer who made arrangements for opening Letters of Credit (LCs) in overseas countries. M/s. GVPL was the Operational Charterer.

(d) That the blending ratio is suggested by the surveyor which were nominated by M/s. TIL. In the case of consignment imported through vessel "MT HONG HAI 6" &"MT.FMT EFES", M/s. TIL had nominated surveyor namely "AM SPEC".

(e) That for the instruction of blending, a Tanker Voyage Charter Party agreement dated 03.11.2021 were entered between M/s. Midas Tankers Pvt. Ltd (Owner of DistyaPushti) and Performance Charterer- M/s. GVPL & Payment Charterer- M/s. TIWA, wherein instructions for blending of CPO, RBD & PFAD were mentioned. The ratio of blending was decided on availability of quantity of CPO & RBD. As per availability of CPO & RBD the surveyor decided the quantity of PFAD which was required to blend with CPO & RBD. It may be kept in mind that the blending was to reduce the FFA to an acceptable level.

(f) In respect of the consignment on MT Distya Pushti, the ratio of blending was 24.7% Crude Palm Oil, 74.1% RBD Palmolein& 1.2% PFAD

xxiv. During the course of statement, Shri Sidhant Agarwal submitted the following documents relating to import of goods by M/s TIL through MT FMT Gumuldur, M/s MTHong Hai, and MT FMT EFES —

(i) Agreement of M/s. GVPL as well as M/s. TIWA with suppliers of CPO, RBD Palmolein& PFAD,

(ii). Agreement of M/s. GVPL as well as M/s. TISPL, Singapore with suppliers of CPO & RBD Palmolein,

(iii) Charterer Party Agreement, Letter of Credits, copy of Bill of Lading, Country of Origin Certificate, Into-bond Bill of Entry for warehousing,

(iv) Agreement of M/s. GIPL with M/s. TIL,

(v) Agreements with buyers of M/s. GIPL.

xxv. **Shri Sidhant Agarwal reiterated that the Noticee procured the goods CPO from Indonesian supplier but other goods vix RBD and PFAD were procured directly by TIL/TIWA (sister concern of M/s TIL,** based in Dubai). Payment for all the threeprocurements was done by M/s TIWA, who in fact were the owners of the goods. Similarly, the Letters of Credit for the three consignments were opened by M/s TIL/TIWA. The fact of blending was done at the instance of M/s TIL/TIWA and the proportion in which the blending was to be carried out-viz 24.7 %CPO; 74.1% RBD and 1.2 % PFAD was received from M/s TIL/TIWA. The Noticee did appoint a surveyor for supervising the blending activity but it was done at the instance of M/s TIL/TIWA. In appointing M/s Geo-Chem as the surveyor, the Noticee was only carrying out the directions of the owner of the goods and not engaged in any conspiracy.

xxvi. Shri Sudhanshu Agarwal is neither ex-CEO nor representative nor Director of M/s. GIPL and the Noticee Company is not bound by his statements.

xxvii. Shri Amit Agarwal, Asstt. Vice President M/s GIPL& M/s. GVPL., Singapore in his statement recorded on 05.01.2022 [RUD No.14], (para 10.5 of the SCN referred), explained the various steps involved in procurement of Crude palm oil, RBD Olein and PFAD in Indonesia, the transportation and importation in India and its further disposal to buyers in the Indian markets. He explained he is engaged in preparing Sale contracts/Bond to Bond Agreement with Domestic buyers of Crude Palm Oil (CPO), Refined Blended &Deodorized (RBD) Palm Oil and Palm Fatty Acid Distillery (PFAD). When they receive advance payment from buyers of said oils, he issues Delivery Order (DO).

xxviii. He further confirmed that M/s. GVPL, Singapore is the parent company of M/s GIPL which was incorporated in 2019. He further explained the Commodity Supply and Service Agreement dated 09.03.2021 entered between M/s GIPL& M/sTISPL and that he was the authorised signatory to sign the agreement. As per the said agreement, **M/s. TIL shall import the Commodity/(ies) viz. Crude Palm Oil/Soya Oil/PFAD and other Edible Oils from the overseas Supplier or from TIL's Affiliat**es on behalf of M/s GIPL. As per the Scope of the Agreement, M/s GIPL agrees and acknowledges that M/s. TISPL can import the commodity (ies) from the overseas supplier through M/s. GVPL and/or onward sell the same in Indian market through M/s. GIPL at its sole discretion and option.

xxix. During the course of his activities, he had requested M/s. TIL to open Bank Letter of Credit (LC) in respect to the 15000 MTs RBD and 250 MTs PFAD and had also requested them not to open LC for 5000 MTs Crude Palm Oil (CPO). In this connection vide mail dated 17.11.2021(20.50 PM) he had sent details of contracts of M/s. TIWA with PT IndustriNabati Lestari (INL) for supply of said 15000 MTs RBD & 250 MTs PFAD.

xxx. He confirmed that 5000 MTs Crude Palm Oil was purchased by M/s. GVPL from PT. Kharisma Pemasaran Bersama Nusantara, Indonesia (M/s KPBN) and further confirmed

that in terms of contract No. TIWA/2122/CPO-RBD/0001 dated 24.11.2021 entered between M/s. GVPL, Singapore and M/s. TIWA, the said consignment of Crude Palm Oil was sold to M/s. TIWA.

xxxi. Shri Agarwal stated that the said consignment of 15000 MTs of RBD, 5000 MTs of CPO & 300 MTs PFAD (50MTS added later vide contract No. 170/SC/FOB/INL/XII/2021) was loaded in vessel MT DistyaPushti at Indonesia on 06.12.2021. The said cargo arrived at Kandla Port and **was imported by M/s. TIL who had purchased it from M/s TIWA.**

xxxii. Regarding page No. 107 of file No.7 resumed under panchnama dated 02.01.2022 drawn at office premises of M/s GIPL, Shri Agarwal stated that the said page is Certificate of Origin issued by Dubai Chamber in respect of goods imported by M/s. TIL from M/s. TIWA and description of goods mentioned therein was Crude Palm Oil (Edible Oil) in Bulk, quantity was mentioned as 20300.234 MTs, and the name of the vessel mentioned as MT DistyaPushti. .

xxxiii. It will be seen from the above statements that the activities of M/s GIPL and M/s GVPL were legitimate business activities, and cannot be called 'conspiracy' by any stretch of imagination. It is also clear from the above sequence of activities that M/s TIL was the actual owner of the consignments and M.s GVPL and M/s GIPL were only performing activities on the direction of M/s TIL.

xxxiv. It is clear from the above statements as well as the statement of Shri Amit Takkar of M/s TIL dated 07.01.2022, that M/s TIL was not the trade facilitator as claimed but rather the prime mover in the activity of import of crude palm oil (edible grade). Even the claim by M/s TIL that they had imported the said consignments to enable M/s GIPL to sell, after clearance of import goods, to the Domestic Buyers, does not stand scrutiny as per terms of Agreement dated 9.3.2021, the imported goods were to be disposed of at the sole discretion of M/s TIL (para 3.1 of the said Agreement is referred).

xxxv. It is submitted that it is incorrect to call the action of the Noticee as a 'conspiracy' unless it can be shown that the action of the Noticee was a violation within Indian Shores and violation of any Custom Laws. The charge of conspiracy is not met by the SCN as no proof has been cited to support the same. The offence, if any, in this case is mis-declaration of the imported goods by the importer.

xxxvi. Insofar as the import of CPO is concerned, it is admitted in the SCN that the importer of the goods is M/s TIL. It is emphasized that the Noticee is not the Importer and the responsibility to declare the import goods as per the provisions of the Customs Act 1962 devolves upon M/s TIL who have filed the Bills of Entry for the imported goods (it covers both Bill of Entries for clearance for Home Consumption or IN-TO Bond Bills of Entry for warehousing).

xxxvii. While the Noticee is not the importer under the Customs Act, it is submitted that the classification relevant for the purposes of assessment is the classification of the goods in imported condition as per the Indian Customs Tariff, and therefore, even if the imported goods were blended prior to its import, the fact is immaterial for the purposes of classification. The entire SCN is based on completely premeditated prejudicial allegation that the imported goods are not CPO but are an admixture of CPO, RBD and PFAD. Blending or mixing of goods are not unusual in the trade and only blending cannot be considered as prohibited. The Customs has to examine whether the mixture imported is prohibited under Customs Act, 1962 or under any other law for the time being in force. It is submitted that the Noticeegot the imported goods samples tested by two independent and reputed Laboratories, who have tested the product over a far larger set of parameters than that covered by the Chemical Examiner of CRCL Vadodara.

xxxviii. Although, the Noticee is not the importer of subject goods, it is ex-facie apparent that the department is well within its power to get the imported goods tested. In fact, it is incumbent upon the Department to get any imported chemical to necessarily get tested to ascertain the identity of the goods. None of the officials of GVPL/GIPL or any person related to these Companies was responsible for getting the goods chemically examined or classify the goods as they were not importer. Neither GVPL or GIPL or any officials working with them had any role to play in mis-declaration of the imported Goods in this case. In this circumstances penalty ought not be imposed on the Noticee.

xxxix. The issues in this case are

a) What is the product which is imported?
b) Is that product prohibited?

c) Is the product liable to confiscation under any of the provisions of Customs Act, 1962 and if it is, then under which Section of the Customs Act, 1962.
d) Who is the importer in this case?
e) Is the respondent GIPL/GVPL or any other employee/office bearers of these companies, liable to be penalised under any provision of the Customs Act, 1962.
f) Can CRCL determine the classification of the Goods?

xl. (i) Coming to the first question, it is admitted that the imported product is mixture of three products, namely CPO, RBD, PFAD in different proportion.

(ii) (a) The second issue is whether the imported goods are prohibited? Prohibition has been defined in Section 11(1) of the Customs Act, 1962. The same is reproduced below:

> ***11.*** *(1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.*

(b) It is submitted that the impugned SCN does not identify the sub-section of Section 111 of the Customs Act, 1962 which was violated in this case and consequently renders the imported goods liable to confiscation. The SCN does not refer to any provision which prohibits import of mixture of CPO, RBD and PFAD neither have they referred to Section 11 to identify the Notification under which a mixture of CPO, RBD and PFAD is prohibited for import under the Customs Act, 1962 or any other law for the time being in force. The department has not pointed out whether the import of such mixture is prohibited under any of the provisions enacted by Director General of Foreign Trade. Hence, the goods are not liable to confiscation under Section 111(d) of the Customs Act, as that sub-section is applicable only when the imported goods are prohibited for import. Further, Sections 111(a), 111(b) and 111(c) are not applicable as those provisions will be applied only in cases of landing/unloading the dutiable goods on a non-designated area/port. We have already submitted that the goods are not prohibited; hence section 111(d) will also not applicable. The goods were not concealed and goods were mentioned in the manifest (may be wrongly) hence Section 111(e) and 111(f) are also not applicable. A reading of all the sub-section of Section 111 of the Customs Act, it is only Section 111(m) which can be applied for confiscation of the goods.

(c) In this case, the offence is committed by the person who has filed the Bills of Entry and not correctly mentioned the identity of the goods, which is an offence under Section 111(m) of the Act. It is submitted that, *prima-facie*, the offence appears to be of mis-declaration of goods where the section relevant for confiscation is Section 111(m) of the Customs Act, 1962.

(i) The third issue is whether the goods are liable to confiscation. In this case, the admitted fact is that M/S TIL has, prima facie, confirmed that M/S TIL is the importer and the goods were released to them provisionally.

(ii) The fourth issue is finding out the identity of the importer. This has become obvious because in this case, TIL filed the Bills of Entry and the goods were provisionally released to them.The Department has confirmed in the impugned SCN that neither the GIPL nor the GVPL are liable to pay any differential duty. It is, therefore, accepted that none of the individuals of GIPL or GVPL are liable to pay any duty as they are not the importer. In fact, the differential duty has been demanded from TIL and not from any of the establishments of GIPL or GVPL or any of the affiliates thereof.

(iii) The fifth issue to be settled is whether M/S GVPL/GIPL or any of their office bearers or employees are liable to be penalized under the Customs Act? The answer to moot point to be decided for coming to a conclusion is who committed the offence. The offence in this case is mis-declaration of the goods, which renders the imported goods liable to confiscation? In the SCN neither GVPL/GIPL or their office bearers/employees has been accused for mis-declaration of the goods (as that is the only sustainable offence), none of them will be liable to be penalized under any provisions of the Customs Act, 1962.

(iv) The last issue, although academic, is whether the Chemical Examiner is capable of suggesting classification of the imported goods. In this connection, we would refer to a recent decision of the CESTAT in the case of **PRINCIPAL COMMISSIONER OF CUSTOMS, PREVENTIVE COMMISSIONERATE, NEW DELHI** *Versus* **N & N TRADERS REPORTED IN (2024) 18 Centax 274 (Tri.-Del),**wherein, the Hon'ble CESTAT held

Classification of the goods under Customs Tariff is the responsibility of the importer or the proper officer or any further appellate authority. The chemical examiner in CRCL has no role to play in the classification because classification is a part of assessment which is a quasi-judicial and appealable order. All that the chemical examiner should say is what the goods are, what is the purity, etc. We, therefore, find that the allegation of mis-declaration of the nature of goods is not very serious especially since it is based on a somewhat ambiguous test report of CRCL.

(1) (The Order is annexed with this reply)

xli. However, M/S GIPL has been called upon to Show Cause as to why penalty should not be imposed on them under Section 112(a), 112(b), 114A and 117 of the Customs Act, 1962. Those sections are being reproduced:

(i) *SECTION 112. Penalty for improper importation of goods, etc.-*

(ii) *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, -*

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) *[(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 4 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;]*

(iv) *(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 5 [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) *(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty 6 [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.]*

xlii. In recent decision in the case of **PRINCIPAL COMMISSIONER OF CUSTOMS, PREVENTIVE COMMISSIONERATE, NEW DELHI** *Versus* **N & N TRADERS REPORTED IN (2024) 18 Centax 274 (Tri.-Del),** the CESTAT has identified the scope of Section 112 of the Customs Act, 1962. Relevant portion of the same is re-produced and has clearly held that CRCL is not authorised to decide or advise on classification of the goods.

Relevant portion is Re-produced below.

In para 29 of the Order, the Hon'ble CESTAT observes

29. *The second allegation is that the respondent had mis-declared the nature of the goods. They were described as 'unflavoured boiled supari (betel nut products)' and the CRCL report said that " the sample is other than betel nut product known as supari as mentioned in the supplementary notes - Note 2 of the Customs Tariff Chapter 21". Two things are interesting in this report. The CRCL test report does not say what the imported goods were nor does it deny that the goods were 'unflavoured boiled supari'. Secondly, it comments on the classification of the goods as per supplementary notes- Note 2 to Chapter 21'.* ***Classification of the goods under Customs Tariff is the responsibility of the importer or the proper officer or any further appellate authority. The***

chemical examiner in CRCL has no role to play in the classification because classification is a part of assessment which is a quasi-judicial and appealable order. All that the chemical examiner should say is what the goods are, what is the purity, etc. We, therefore, find that the allegation of mis-declaration of the nature of goods is not very serious especially since it is based on a somewhat ambiguous test report of CRCL.

Further on the scope of Section 112, the CESTAT observed

"23. The question is how should the expression 'liable to' in sections 111 and 112 be interpreted- that the goods shall be confiscated and that a penalty shall be imposed on the person or that the goods may be confiscated and a penalty may be imposed.

24. A common misunderstanding of this expression is that the adjudicating authority has to only see if the goods fall under one of the clauses of Section 111 or 113 and if so, confiscate them and to see if the persons fall under section 112 or 114 and impose penalty. However, the expression is not 'shall be confiscated' but it is 'shall be liable to confiscation'. Similarly section 112 says "shall be liable to penalty" and NOT "penalty shall be imposed". Liable to be means 'likely to be' and not 'shall be'. After finding if the goods fall under one of the clauses of the section, the adjudicating authority can exercise his discretion and decide not to confiscate them. If the violation is, for instance, a technical violation or a minor violation, the adjudicating authority has the discretion to NOT confiscate the goods although they are liable to confiscation.

25. The High Court of Delhi has, in Jain Exports (P) Ltd. 1987 (29) E.L.T. 753 (Del.) held that not only does the adjudicating authority have the discretion to decide whether or not to confiscate but he has to exercise this discretion judicially and not arbitrarily. The relevant part of this order is as follows:

The language does necessarily imply that there is a discretion because the language is not "such goods shall be confiscated". On the other hand the language is "such goods shall be liable to confiscation". The Collector of Customs when acting under Section 167 obviously acting in a quasi-judicial capacity. When discretion is vested in such a quasi-judicial tribunal, such discretion must be exercised judicially and not arbitrarily. The Collector must decide in each particular case if there were circumstances which would call for the drastic punishment of confiscation. If there was a case in which discretion should have been exercised in favour of the importer, this was such a case....."

This decision was upheld by the Supreme Court 1992 (61) E.L.T. 173 (S.C.) = 1988taxmann.com 606 (SC). The Madras High Court also held so in SHA RIKABDOSS BHAVARLAL 2000 (125) E.L.T. 65 (Mad.).

"26. The words used in section 112 are also similar: 'the person shall be liable to penalty'. It is followed by the upper limit of penalty (the value of the goods or rupees five thousand whichever is greater) with no lower limit. ***Therefore, it will be perfectly legal for an adjudicating authority or an appellate authority to find that the person was liable to penalty under section 112 and still not impose any penalty.*** *As per the law laid down in Jain Exports, the adjudicating authority not only has the discretion but has a responsibility to exercise this discretion judicially. The penalty must be imposed or reduced or enhanced accordingly.*

27. The allegations against the respondent in this case were that (a) mis-declared the nature of the goods; and (b) mis-classified them so as to circumvent the prohibition on imports. It is for these reasons that the goods were confiscated and the confiscation and subsequent redemption have attained finality.

28. ***However, since the penalty under section 112 is based on the actions which rendered the goods liable to confiscation under section 111, it would be necessary to see how serious were these actions by the respondent. The Commissioner (Appeals) recorded that there was a reasonable cause for the respondent to classify the goods under CTI 2106 9030. He recorded that there were rulings by the Advance Ruling Authority that boiled areca nut does not fall under CTH 0802 at all."***

xliii. It is submitted that Section 112(a) is applicable only to those persons 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 has reason to believe are liable to confiscation under section 111. The Section will apply only to a person who does or omits to do any act which act or omission would render such goods liable to confiscation under section 111. In this case, the reason for confiscation is mis-declaration of the imported goods. The mis-declaration is alleged to have been committed by the importer M/S TIL as they had filed the Bills of Entry. As GIPL did not file Bills of Entry, either for warehousing or for clearance in the domestic market, it was not responsible for mis-declaration and they cannot be penalized under the said Section 112(a). Further, the Noticee is not liable to be penalized under Section 112(b) as they acquired the goods after the same were cleared by the Customs after payment of proper duty.

xliv. The department has further alleged that the Company is also liable to penalty under section 114A of the Customs Act, 1962. The said Section is re-produced

(i) *114A. [Penalty for short-levy or non-levy of duty in certain cases. [Inserted by Act 33 of*

(ii) *1996, Section 64 (w.e.f. 28.9.1996).]*

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilfulmis-statement or suppression of facts**, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:]***

[Provided that where such duty or interest, as the case may be, as determined under sub-section (2) of section 28, and the interest payable thereon under section 28-AB, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also beenpaid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the Court, then, for the purposes of this section, the duty or interest as reduced of increased, as the case may be, shall be taken into account:

Provided also that in a case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the Court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, alongwith the interest payable thereon under section 28AB, and twenty-five per cent. of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

(iii) *Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.*

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

(i)the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (2) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii)any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

A plain reading of this section clearly indicated that this provision is applicable to *the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:]*

xlv. It is clear that the duty has not been demanded from M/S GIPL or any of their employees/ officials and hence the Penalty cannot be imposed under this Section on GIPL/GVPL or any of their employees or office bearers.

xlvi. Further in the case of *Vanick Oils and Fats Pvt. Ltd. vs. Commissioner of Central Excise, [2023 (385) E.L.T. 553 (Tri.-Chan*)], the Hon'ble tribunal has observed that penalty under section 114A is invariably linked to the quantum of duty evaded and therefore penalty under section 114A cannot be imposed in isolation. Since there's no duty demanded from the Notice under Section 28(4) of the Act ibid, there is no question of any evasion of duty by the Noticee. On this count too, penal action under Section 114 A against the Notice is not sustainable and is liable to be dropped.

xlvii. *In the case of Dhevi Super Leathers vs. CC, NhavaSheva, 2001 (130) ELT 342 (Tri-Chennai*) it was held by the Hon'ble tribunal that penalty under Section 114A can only be imposed on the person on whom duty liability is determined under Section 114A of the Customs Act. In view of the fact that no duty has been demanded from any of the Noticee or from any of its Officials, no penalty can be imposed on the Noticee under Section 114A of the Act in the present case.

xlviii. It is also submitted that Penalty under Section 112 and 114A cannot be imposed simultaneously. In the present case, the SCN proposes to impose penalty on the Noticee under Section 112 and Section 114A of the Act without having regard to the statutory mandate of the proviso to Section 114A which specifically provides that where any penalty under Section 114A has been levied, then no penalty can be imposed as these sections are mutually exclusive and penalty

cannot be imposed simultaneously. The Courts in a catena of judgments have held that penalty under Section 112 and Section 114A cannot be imposed simultaneously.

(1) *In the case of CC, New Delhi vs. Ashwini Kumar Alias Amanullah, 2021 (376) ELT 321(Tri-Del) it was held that penalty cannot be imposed under Section 112 when penalty has been imposed under Section 114A of the Act.*

(2) *Similarly, in the case of Amit RajkumarSinghania v. Commissioner - 2019 (368) E.L.T. A348 (Tri. - Mumbai) it was held that penalty under Section 114A and Section 112 cannot be imposed simultaneousl*y.

xlix. Similarly, no penalty can be imposed on them under Section 117 of the Customs Act, 1962. For ease of reference, the said section is reproduced.

117. Penalties for contravention, etc., not expressly mentioned.

- *Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees] [Substituted by Act 18 of 2008, Section 70, for " ten thousand rupees" .].*

It is submitted that M/S GIPL has not done any act which contravenes any provision of the Customs Act. The offence in this case is of wrongly declaring the imported goods and claiming benefit of classification in the Bills of Entry submitted by TIL. Correct declaration of the imported goods was the duty of the importer and any mis-declaration of the imported goods was attempted by the importer M/S TIL as has been mentioned in the impugned SCN. Further, the differential duty for such mis-declaration was demanded from TIL and not from the Noticee in this case. Therefore, no penalty could be imposed on the Noticee M/S GIPL or any of their office bearers/ employees.

l. Penalty has been proposed under Section 112(a) and 112(b), Section 117 and Section 114 AA of the Act on following individuals:

a) SHRI SIDHANT AGARWAL, DIRECTOR OF M/S GIPL & M/S GVPL,
b) SHRI SUDHANSHU AGARWAL, DIRECTOR OF M/S GIPL & M/S GVPL,
c) SHRI Amit AGARWAL, Assistant VP OF M/S GIPL & M/S GVPL,

li. Provisions of Section 112 (a), 112(b) and 117 have been earlier quoted. Section and reply has been given in earlier paras. However, as the penalty has been proposed under Section 114AA, it will be prudent to analyze the scope of Section 114AA. The said section is reproduced

114AA. [Penalty for use of false and incorrect material. [Inserted by Act 29 of 2006, Section 27 (w.e.f. 13.7.2006).]

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

In this case, the Noticees or his employees, has not signed or used, or caused to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular.

lii. We have already given in detail that neither the Company nor any of their employees or Office Bearer have **acquired 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.** The employees were instrumental in buying the goods after those were cleared by the importer M/S TIL. The Company purchased the goods only after those were ex-bonded by the importers M/S TIL after payment of duty. Hence they are not liable to be penalized under any of the provisions of the Customs Act.

Further Submissions on Penalty

liii. The Noticee have acted bona fide and without any intention to abet any evasion of duty. It is submitted that in view of the fact that there was no violation of any of the provisions of the law by the Noticee (s) and that they have not contravened the provisions of the Act, the charge of abetment of any offence cannot be sustained against the Noticee(s) herein. As such there can be no imposition of penalty on the Noticee.

liv. It is submitted that the SCN itself does not clearly specify the commissions or omissions of the Noticee due to which the penalty is proposed to be imposed. The Hon'ble Tribunal in Raj

Television vs. CC 2007 (215) ELT 71 and Chistia Textiles vs. CCE 2007 (212) ELT 41, has held that there has to be a clear finding on the involvement of the officers, in the absence of which, no personal penalty can be imposed. Similarly, in the absence of any clear allegations, no penalty can be imposed on the Noticee as well.

lv. Further, it is a settled principle that no penalty can be imposed in the absence of mensrea. In the case of Akbar Badruddin vs. CC (1990) 41 ELT 161 (SC), the Hon'ble Supreme Court while citing the judgement in the case of *Merck Spares vs. Collector of Central Excise and Customs, New Delhi (1983) 13 ELT 1261, Shama Engine Valves Ltd., Bombay vs. Collector of Customs, Bombay, (1984) 18 ELT. 533 and Madhusudan Gordhandas and Co. vs. Collector of Customs, Bombay (1987) 29 ELT 904, h*eld that in imposing penalty the requisite mensrea has to be established. It has also been observed in Hindustan Steel Ltd. v. State of Orissa, (1969) 2 SCC 627:

"The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in cases where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct, or acts in conscious disregard of its obligation, but not, in cases where there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute"

lvi. The SCN has also proposed penalty against Shri SidhantAgarwal , Shri Sudhanshu Agarwal and Shri Amit Agarwal under the Provisions of Sections 112 (a) and (b), 114 A and 114AA and 117 of the Act ibid, for the same alleged contravention as imputed against the Noticee M/s GIPL, inasmuch as the charges are the same, the defence against penalty is also the same advanced in the case of M/s GIPL. Nevertheless at the risk of repetition, it is reiterated that on behalf of Shri Sidhant Agarwal, Shri Sudhanshu Agarwal and Shri Amit Agarwal that:

lvii. The Noticee M/s GIPL and its sister concern M/s GVPL and the above mentioned Officials have carried out their part of the business activities in terms of the Agreement dated 9.3.2021.

lviii. None of their activities can be called irregular or in violation of any Indian Law, or even under Indonesian law.

lix. None of the officials viz Shri Sidhant Agarwal, Shri Sudhanshu Agarwal and Shri Amit Agarwal along with the Noticee are Importers or Beneficial owner under the Act.

lx. The imported goods Crude Palm Oil are not prohibited goods. No evidence has been produced to show that Mixture of crude Palm Oil, RBD Olein and PFAD is prohibited.

lxi. Blending of Crude Palm Oil, RBD Olein and PFAD is not prohibited and the admixing of the same is not a prohibited activity. The only offence in this case is mis-declaration of the imported goods in the Bills of Entry.

lxii. It is clear from the investigations of the Departmental Officers, that the ownership of the goods, from the time of procurement of CPO, RBD and PFAD in Indonesia to its discharge Kandla Port remained with M/s TIL and its sister concerns M/s TIWA (UAE) and the Noticee carried out its responsibilities as determined under the said 'agreement dated. 9.3.2021

lxiii. It is reiterated that it was M/s TIWA who arranged the Certificate of Country of Origin No 21117495 dated 20.12.2021 from Dubai Chamber of Commerce.

lxiv. M/s TIL filed 83 Bills of Entry for clearance of import consignment classifying them under tariff heading 15111000 and claimed exemption under Sl. No. 30 of Notification 21-cus dated 1.3.2002 as amended. The Noticee(s), for whom this reply is given has no concern in filing the Bill of Entry where the imported goods were wrongly classified.

lxv. Penalty under Section has specifically mentioned against all the employees, office bearers et all under section 114 AA also. For ease of reference, the said provision is reproduced.

114AA 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.]*

From the plain reading of Section 114AA, it is evident that penalty under this section can be imposed on a person who 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 for the transaction of any business under the Customs Act, 1962. In the present case nothing has been brought on record by which it can be said that any of the Noticees covered by this SCN, had made or caused to be made any declaration/used or caused to be used any statement or document which is false or incorrect. In the present case, as stipulated in the SCN, the charge is only for mis-declaration of the goods. None of the Noticee covered by this SCN, had any role to play. It was the duty of the importer to correctly declare the imported goods in the Bill of Entry. And obviously, none of the Noticee as mentioned in the SCN had any role to

play as the declaration was in the domain of TIL who filed the Bill of Entry. As the ingredients for invocation of provisions of Section 114AA are absent in the present case, penalty under the said section is not warranted. We rely on the decision of the CESTAT in the case of **WAQAR Versus COMMISSIONER OF CUSTOMS (PREVENTIVE),** reported in **(2023) 11 Centax 123 (Tri.-All)**. (Copy enclosed for ready reference). Para 4.7 of the judgment is reproduced

4.7 Section 114AA of Customs Act, 1962 is reproduced below:

"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."

From the plain reading of Section 114AA it is evident that penalty under this section can be imposed on a person who 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 for the transaction of any business under the Customs Act, 1962. In the present case nothing has been brought on record by which it can be said that the appellant had made or caused to be made any declaration/used or caused to be used any statement or document which is false or incorrect. In the present case the appellant carrying the Gold has in fact not made any declaration to the Custom Authorities as required under the Custom Act, 1962. No document etc., which has been produced by him which has been produced by him was found to be materially wrong. As the ingredients for invocation provisions of Section 114AA are absent in the present case penalty under the said section is not justified. Bangalore bench has in case of *Ismail Ibrahim* [2019 (370) E.L.T. 1321 (Tri. - Bang.)] held as follows:

"6.3 ……. Further penalty under section 114AA of the Customs Act is concerned, I find that the penalty under section 114AA can only be imposed if the 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. Further I find that in the present case, the appellants have not made intentionally any false sign or declaration, incorrect statements or declarations to attract penalty under section 114AA of the Act. Therefore I *set aside* the penalty imposed under section 114AA of the Customs Act, 1962 on both the appellants."

It is submitted that in this case, none of the Noticees represented in this reply hasknowingly or intentionally made, signed or used, or caused to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular. For all the foregoing reasons, no case is established against Shri Sidhant Agarwal, Shri Sudhanshu Agarwal and Shri Amit Agarwal. The proposal for penalty deserves to be dismissed in toto.

lxvi. In view of the foregoing reply to the Show Cause Notice F. No. GEN/ADJ/COMM/139/2024-Adjn-O/O Commr-Cus-Kandladated 14.3.2024, it is humbly submitted that the charges against all the Noticees including GIPL, GVPL, and S/Shri Sushant Aggarwal, Nishant Aggarwal and Amit Aggarwal be dropped.

lxvii. The Noticee reserves the right to add, amend, modify any part of the submission hereinabove. The Noticee also reserves the right to expound, elaborate and explain any part of the submissions made herein above.

23. RECORD OF PERSONAL HEARINGS:

23.1. Shri Kashyap P. Solanki and Shri Jignesh Ghelani, CA appeared for personal hearing on behalf of (i) M/s. Tata International Limited, Gandhidham, (ii) Shri Shrikanth Subbarayan, Head Agri Business Division, M/s. Tata International Pvt. Ltd. and (iii) Shri Amit Thakkar, Senior, Manager, M/s. Tata International Pvt. Ltd. on 30.01.2025. During the course of hearing, they reiterated the submissions dated 30.01.2025 alongwith compilations including of case laws. They requested to drop the proceedings.

23.2. Shri B K Singh, Advocate and Shri Sidhant Agarwal appeared for

personal hearing on behalf of (i) M/s. Glentech Industries Pvt. Ltd, (ii) Shri Sidhant Agarwal, (iii) Shri Sudhanshu Agarwal, (iv) Shri Amit Agarwal on 05.11.2024. They reiterated the submissions dated 04.11.2024. They opposed the charges against them and requested the same be dropped as without merits. They relied on case laws submitted alongwith the said submissions.

23.3 Shri Pankaj Rachch, Advocate, appeared for personal hearing on 14.02.2025 on behalf of M/s. DIL exim and once again reiterated the submission and requested to drop the proceedings considering the submission.

23.4 Opportunities of personal hearing were provided to the following noticees as given below:-

Sr.No.	Name of the notice	Dates of Hearing
1.	Capt. Julio Uytiepo	17.12.2024, 08.01.2025, 15.01.2025, 05.06.2025
2.	Capt. Liu Youyi	17.12.2024, 08.01.2025, 15.01.2025, 05.06.2025
3.	Capt. Sanjay Kumar	17.12.2024, 07.01.2025, 15.01.2025, 05.06.2025
4.	Telcom International PTE	17.12.2024, 07.01.2025, 17.01.2025,
5.	Oka Tankers PTE Ltd	17.12.2024, 07.01.2025, 15.01.2025 and 05.06.2025

EXTENSION OF TIME LIMIT FOR ADJUDICATION-

24. Since the instant matter involved a large number of noticees and there were other 9 other cases involving the same issue, the adjudication of instant show cause notice could not be completed within stipulated time limit of one year from the date of show cause notice. Therefore, this office vide letter dated 20.12.2024 sought extension of time limit by further one year for the purpose of adjudication. Accordingly, the Chief Commissioner, Customs Zone, Gujarat granted extension of one year in terms of first proviso to Section 28 (9) of the Customs Act, 1962.

DISCUSSION AND FINDINGS:

25. I have carefully gone through the show cause notice, all the RUDs, written submissions and records of personal hearing and all the evidences available on record.

26. The issues to be decided before me are the following:-

(i) Whether the imported goods declared as "Crude Palm Oil" under CTH 15111000 as declared by the importer or the said goods are classifiable under CTH 15119090;

(ii) Whether blending of cargo on board the vessel is allowed;

(iii) Whether Bills of Lading are allowed to be switched in the facts of present case;

(iv) Whether the goods are liable for confiscation under Section 111 of the Customs Act, 1962;

(v) Whether penalties are liable to be imposed under various sections of the Customs Act, 1962;

(vi) Whether the ex-bonder M/s. DIL Exim Commodities Pvt. Ltd is liable to pay differential duties of Customs amounting to Rs.4,10,14,504/-under Section 28(4) of the Customs Act, 1962 alongwith interest under Section 28AAA of the Customs Act, 1962;

INVESTIGATION IN RESPECT TO MT DISTYA PUSHTI-

27. I find that the investigation revealed that M/s. GIPL had entered into an agreement dated 09.03.2021 with M/s. Tata International Singapore PTE Ltd (TISPL), which is affiliate Company of M/s. TIL., for commodity supply and service agreement. As per the said agreement M/s. TIL would import the goods viz. Crude Palm Oil/Soya Oil/PFAD and other Edible Oils from the overseas suppliers or from TIL's affiliates on behalf of M/s GIPL. As per the scope of the said Agreement, TISPL can import the goods from the overseas suppliers through M/s GIPL and/or sell the same in Indian market through M/s GIPL at its sole discretion and option.

28. I find that M/s. TIL had purchased and imported different goods, viz., CPO, RBD and PFAD, however, in the import documents presented before Customs, they declared the product as CPO, by classifying the same under CTH 15111000. On perusal of the test reports, evidences recovered during investigation and statements of various persons recorded, it was revealed that M/s. TIL had procured CPO, RBD and PFAD from the suppliers in Indonesia and blended all the three products during voyage of the vessel 'MT. Distya Pushti Vo MID-DP-07/21'. They had an arrangement of Switch Bill of Lading for the product such formed after blending of all three goods viz. CPO, RBD and PFAD.

29. With respect to imports by MT Distya Pushti as discussed above, a show cause notice F.No. GEN/ADJ/COMM/764/2023-ADJN dated 23.12.2023 was issued to M/s. TIL and others and the same has been adjudicated vide OIO No. KND-CUSTM-000-COM-05-2025-26 dated 30.06.2025.

INVESTIGATION INTO PAST IMPORTS-

30. Further during the investigation it was revealed that the import of CPO was undertaken by M/s TIL, using similar *modus operandi* in the previous imported consignments imported vide Vessels "FMT GUMULDUR V.202109", "MT HONG HAI6 V.2106", "MT FMT EFES V.202111", which resulted in short payment of Customs duties by various ex-bond filers. The instant case pertains to Ex-Bond Bills of entry filed by M/s. DIL Exim.

31. The details of the 12199.71 MT of admixture imported vide vessel FMT GUMULDUR V.202109 was purchased from M/s TIWA and declared as CPO in the bill of entry before Indian Customs is as below mentioned table:-

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
1	*CPO*	*3499.71*	*OLAM*	*DUMAI, INDONESIA*	*5302477, 5302489, 5302500, 5302513, 5302519 & 5302523*	*03.09.2021*
	RBD PALM OLEIN	*8500*	*INL*	*KUALA TANJUBG, INDONESIA*		
	PFAD	*200*	*INL*	*KUALA TANJUBG, INDONESIA*		
	Total	***12199.7***				

32. The details of the 15462.070 MT of admixture imported vide vessel MT HONG HAI6 V.2106 was purchased from M/s. Tata International Singapore PTE Ltd and declared as CPO in the bill of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
1	*RBD PALM OLEIN*	*6513.520*	*KUALA TANJUBG, INDONESIA*	*5916265, 5916285, 5916291 & 5916292*	*20.10.2021*
	CPO	*8948.550*	*Phuket, Thailand*		
	Total	***15462.070***			

33. The details of the 12959.31MT of admixture imported vide vessel MT FMT EFES VOY. 202111was purchased from M/s. TIWA and declared as CPO in the bill of entry before Indian Customs is as below mentioned table:

Sr. No.	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***
3	*RBD PALM OLEIN*	*5086.015*	*PT INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824*	*11.11.2021*
	CPO	*7873.290*	*THA CHANG*	*PHUKAT PORT, THAILAND*		

	Total	***12959.31***				

34. The details of above imports are summarised below:-

Sr. No.	***VESSEL NAME***	***SELLER***	***COMMODITY loaded at load Port***	***QTY (MTs)***	***SUPPLIER (M/s.)***	***LOAD PORT***	***Warehouse Bill of Entry no.***	***Bill of Entry date***	***Description of imported goods declared in bill of entry***	***QTY (MTs)***
1	*FMT GUMULDUR V.202109*	*M/s. TIWA*	*CPO*	*3499.71*	*OLAM*	*DUMAI, INDONESIA*	*5302477, 5302489, 5302500, 5302513, 5302519 & 5302523*	*03.09.2021*	*CPO*	*12199.71*
			RBD PALM OLEIN	*8500*	*INL*	*KUALA TANJUBG, INDONESIA*				
			PFAD	*200*	*INL*	*KUALA TANJUBG, INDONESIA*				
			Total	*12199.7*						
2	*MT HONG HAI6 V.2106*	*M/s. TISPL*	*RBD PALM OLEIN*	*6513.520*		*KUALA TANJUBG, INDONESIA*	*5916265, 5916285, 5916291 & 5916292*	*20.10.2021*	*CPO*	*15462.070*
			CPO	*8948.550*		*Phuket, Thailand*				
			Total	*15462.070*						
3	*MT FMT EFES VOY. 202111*	*M/s. TIWA*	*RBD PALM OLEIN*	*5086.015*	*PT INL*	*KAULA TANJUNG, INDONESIA*	*6212683 & 6212824*	*11.11.2021*	*CPO*	*12959.31*
			CPO	*7873.290*	*THA CHANG*	*PHUKAT PORT, THAILAND*				
			Total	*12959.31*						

35. M/s. DIL Exim Commodities Private Limited. (IEC: AAHCD7279A), (herein after referred as 'M/s DIL') had filed the Ex-Bond BoE for Home consumption in respect of clearance of goods which were imported after blending vide aforementioned vessels, as listed under **Annexure – C** to this show cause, by mis-declaring the goods as CPO under CTH 15111000 in the said Bills of Entry instead of correct CTH, i.e. 15119090.

36. I find that the refined goods viz. RBD & PFAD are part of the said resultant/ blended goods w.r.t. the Distya Pushti consignment around 74.1% RBD Palmolein & 1.2% PFAD which are refined goods. Further, w.r.t. to consignment imported through MT FMT Gumuldur, Hong Hai & MT FMT EFES, the ratio of refined goods are as under: -

Sr. No.	**Name of the Vessel**	**Quantity of RBD Palmolein (%)**	**Qty. of PFAD (%)**
01.	MT FMT Gumuldur	69.67	1.64
02.	Hong Hai	42.12	--
03.	MT FMT EFES	39.25	--

PRELIMINARY REMARKS TO EVALUATION OF EVIDENCE AND DISCUSSION ON THE QUESTION OF CLASSIFICATION-

37. I find from the record that, SCN alleges blending of CPO, RBD Palmolein and PFAD/ CPO and RBD Palmolein (as given in table above) before arrival of goods in India. It is also seen that importer noticee accepted such blending before arrival of declared goods for import in India and filed various documents such as IGM, Bill of Entry etc. Thus, blending of CPO, RBD and PFAD or CPO and RBD before arrival of goods for import in India is not in dispute.

38. SCN alleges that though CPO, RBD and PFAD or CPO and RBD were blended, the fact of blending was not declared at the time of filing of Bills of Entry for import of goods declared as Crude Palm Oil (Edible Grade) in Bulk. The Show Cause Notice relies upon Test reports issued by Head/Chemical Examiner, Central Excise & Customs Laboratory, Vadodara in respect of samples drawn from the respective 15 tanks, loaded at MT Distya Pushti, under Panchnama dated 03/04.01.2022. One such report dated 02.02.2022 is also reproduced in the show cause notice to seek classification under CTH 15119090 to treat the goods as Others. However, the instant show cause notice is in respect of past imports pertaining to FMT Gumuldur, MT EFES and MT HONG Hai as shown in the table above. It is seen that the imported goods covered in the instant show cause notice were also obtained by blending CPO, RBD and PFAD or CPO and RBD. It is observed that CPO, RBD and PFAD were blended per vessel Gumuldur whereas CPO and RBD were blended onboard the vessels EFES and Hong Hai. The importer/noticee and Ex-Bond filer M/s. DIL supports their declared description '*Crude Palm Oil (Edible Grade in Bulk)'* and its classification under CTH 15111000 on the basis of mainly on the gravamen of grounds being 'common parlance test'.

39. CUSTOMS TARIFF HEADING 1511-

Tariff Item		**Description of goods**
(1)	(2)	(3)
1511		PALM OIL AND ITS FRACTIONS, WHETHER OR NOT REFINED, BUT NOT CHEMICALLY MODIFIED
15111000	-	Crude oil
151190	-	Other:
15119010	---	Refined bleached deodorised palm oil
15119020	---	Refined bleached deodorised palmolein
15119030	---	Refined bleached deodorised palm stearin
15119090	---	Other

39.1 CTH 1507 to 1515 refers to vegetable oils, whether or not refined but not chemically modified. In terms of structure of Tariff, mixture of different oils get consigned to CTH 1517 or 1518. Mixture of a particular oil and its fractions rest under respective CTH heading.

39.2 In the present case, relevant 4 digit CTH is 1511 meant for Palm Oil and its fractions. Under 1511, there are two entries at single dot level (-) i.e. 'crude oil' (15111000) and 'other' (151190). Under 'other', there are 4 entries at three dot (---) level viz. 15119010, 15119020, 15119030 and 15119090.

39.3 In the present case only two entries are in contest i.e. 15111000 and 15119090. Thus it is necessary to understand the scope of 15111000 and 15119090.

39.4 Under 1511, there is no proposal in SCN nor any plea of importer to classify the goods under 15119010, 15119020 and 15119030 for the obvious reasons that the goods are not described or found to be of such description.

VALID PARAMETERS TO BE APPLIED TO ASCERTAIN THE SCOPE OF 15111000 and 15119090 TO CLASSIFY THE IMPUGNED GOODS -

40. From SCN and submissions of the noticees and relevant judicial pronouncements on the subject, it is seen that-

Crude Oil is not defined in tariff including chapter notes. However, there were judicial pronouncements that held raw palm oil to be crude oil (2017 (357) E.L.T. 899 (Tri.-Bom)) in the decision of Godrej Industries Ltd. Vs Commissioner of Customs Mumbai. In certain notifications of earlier period (such as Notification No. 21/2002-Cus. (Now 12/2012-Cus.), where exemption was available to 'edible' grade w.r.t specifications of acidic value and carotenoid value, the Tribunal held that 'edible' needs to be understood in view of supplementary note to Chapter 15 w.r.t Appendix B to the Prevention of Food Adulteration Rules, 1955 (PFA).

40.1 In this regard, it is necessary to state that word 'edible' doesn't find mention under CTH 1511 and also that crude palm oil is not mentioned under Appendix to PFA Rules, 1955. Said Appendix B refers to the standards pertaining to RBD Palm oil and RBD Palmolein.

40.2 It is also understood from the case of Cargill India Pvt. Ltd (2013(288) ELT.209 (Guj.) that the parameters of standards in PFA relating to items of CTH 1511 should not be used to decide classification of Crude Palm Oil, though they may be used to ascertain their eligibility to exemption notification meant for edible oils.

EVALUATING EVIDENCES TO ASCERTAIN CORRECT CLASSIFICATION-

41. In view of above findings, considering issues raised in SCN and submissions of importer/noticee, what becomes relevant in the facts of the present case, to ascertain the scope of 15111000 and 15119090, are as below and they are discussed in subsequent paras with the help of evidence on record-

(i) Details of blending of CPO, RBD Palmolein and PFAD, and identity of resultant item - Is it 'Crude Palm Oil' or other than 'Crude Palm Oil'?

(ii) In absence of definition of 'crude' in tariff, what is the relevance of HSN to decide the scope of two competing entries.

(iii) Common Parlance Test

(iv) Scope of 15111000 and 15119090

ISSUE OF CLASSIFICATION-

***BLENDING OF CPO, RBD AND PFAD; IDENTITY OF RESULTANT PRODUCT:* WHETHER THE PRODUCT SO OBTAINED BY BLENDING CAN BE TERMED AS "CRUDE" PALM OIL FOR THE PURPOSE OF CLASSIFICATION-**

42. I find that it is not disputed by the importer-noticee i.e M/s. TIL that CPO, RBD Palmolein and PFAD (in case of Vessel GUMULDUR) and CPO and RBD in case of vessels HONGHAI were loaded at the ports of export and the said cargoes were blended onboard the vessels en-route to India. They have admitted to having blended the said goods in order to obtain the customized product i.e. CPO (Edible Grade) having lower Free Fatty Acid (FFA). They have argued that mixing CPO, PFAD and RBD Palmolein presented a strategic avenue for 'tailoring' the 'resulting oil' to specific industry requirements. They have further added that such blended CPO not only exhibited a lower FFA content but also retained all the essential characteristics of CPO as per the standard set by FSSAI. In support of such a gravamen of grounds they have relied upon various case laws.

NOTE ON ITEMS USED IN BLENDING-

43. Before proceeding further, it is necessary to understand the manufacturing/production process of CPO, RBD Palm oil, RBD Palm olein and PFAD in order to ascertain the true nature of the comingled cargo wherein CPO, RBD olein and PFAD were mixed in 24.7%, 74% and 0.12% respectively.

On going through the website https://inl.co.id/bulk-products/ of M/s. Pt. Industri Nabati Lestari (One of the suppliers in the investigation), the process of CPO, RBD and PFAD are as given below:-

Crude Palm Oil (CPO)

is an edible oil that is extracted from the pulp of oil palm fruits and it is an important vegetable oil that is used as the raw material for both food and non-food industries. Main usage of Crude Palm Oil is for edible purposes after refining, and some was also used for energy purpose by turning it into biodiesel with Glycerine as the by product.

Crude Palm Oil specifications as below:-

- FFA as Palmitic : 5.0% Max
- Moisture & Impurities (M&I) : 0.5% Max

PFAD (Palm Fatty Acid Distillate)

is product of crude palm oil after refining. PFAD is used in many industries such as laundry soap, animal feed industries and also as raw material for the oleo chemical industry. PFAD is also often considered as a valuable and low cost raw material for bio-diesel production. It is composed of free fatty acids which are oleic, stearic and palmitic.

Palm Fatty Acid Distillate specifications as below :

- FFA as Palmitic : 70% Min
- Moisture & Impurities (M&I) : 1% Max
- Saponifiable Matter : 95% Min

Palm Fatty Acid Distillate (PFAD)

RBD PALM OIL

is derived from the process of refined, bleached and deodorized crude palm oil. One of the main applications of RBD Palm Oil is for cooking oil and formula for shortening, margarine and other edible purposes. RBD PO can also be processed further into RBD Palm Olein and RBD Palm Stearin.

RBD Palm Oil specifications as below :

- FFA as Palmitic : 0.1% Max
- Moisture & Impurities (M&I) : 0.1% Max
- Iodine Value (IV) : 50 – 55

- Melting Point : 36 – 39°C
- Color (5 1/4 Lovibond Cell) : 3 Red Max

RBDPO

RBD PALM OLEIN

Obtained from the fractionation of RBD Palm Oil which undergoes a crystallization process at a controlled temperature. One of the most prominent applications of RBD Palm Olein includes salads and cooking oil. RBD Palm Olein specifications are as follows:

Olein IV 56

- FFA as Palmitic : 0.1% Max
- M&I : 0.1% Max
- Melting Point : 24°C Max
- Color : 3 Red Max

Olein IV 58

- FFA as Palmitic : 0.1% Max
- M & I : 0.1% Max
- CP : 8 °C Max
- Color : 3 Red Max

Olein IV 60

- FFA as Palmitic : 0.1% Max
- M & I : 0.1% Max
- C P : 6 °C Max
- Color : 2 Red Max

RBDP OLEIN

RBD PALM STEARIN

RBD Palm Stearin is obtained from fractionating RBD Palm Oil to separate Olein from Stearin. RBD Palm Stearin is an essential raw materials used by shortening and margarine industries, as a source for producing specialty fats for coating in confectionery and also used in the manufacturing of oleochemicals.

RBD Palm Stearin specifications as below:

- *FFA as Palmitic : 0.2% Max*
- *Moisture & Impurities (M&I) : 0.15% Max*
- *Iodine Value (IV) : 48 Max*
- *Melting Point : 44°C Min*
- *Color (5 1/4 Lovibond Cell) : 3 Red Max*

RBD PALM STEARIN

44. From the above discussion, it is apparent that CPO is a crude form of palm oil whereas RBD olein and PFAD are obtained from refining from CPO. Therefore, the pertinent question that arises is whether the product so obtained by blending can be termed as "CRUDE" Palm Oil for the purpose of classification.

ARGUMENT THAT BLENDING WAS DONE IN PRECISE PROPORTION TO GET CPO WITH LOWER FFA-

45. I find that M/s. TIL and M/s. Glentech in their submission have argued that mixing CPO, RBD and PFAD presented as strategic avenue for tailoring the resulting oil to specific industry requirements. By blending these components in precise proportions, it becomes feasible to create a customized CPO with a reduced FFA content. They further argued that GIPL gave a proposal that there is more demand for CPO having FFA value below 3.5 in market and accordingly, proposed for blending of three different products. They further argued that the precise proportion in which the blending was to be done was decided by surveyor appointed by them as per the availability and other factors.

In this regard, I find that the arguments are contradictory as on the one hand they stated that certain FFA was achieved by blending in very precise proportions and on the other hand they argued that the blending was done as per the availability of oils. This shows that there was no fixed proportion and it was mixed as per the availability. The quantity (in %) of RBD and PFAD is discussed as below:-

Sr. No.	Name of the Vessel	Quantity of RBD Palmolein (%)	Qty. of PFAD (%)
01.	MT FMT Gumuldur	69.67	1.64

02.	Hong Hai	42.12	--
03.	MT FMT EFES	39.25	--
04.	MT Distya Pushti	74.10	1.20

Thus, it can be said that there was no precise proportion in which the goods were to be blended and it is just an afterthought that blending was done in precise proportions to get CPO with lesser FFA.

Therefore, the argument of the importer is not substantiated with evidence to prove that the blending was done to reduce the FFA content of CPO when the percentage of RBD is varying from 39% to 74% as mentioned above. Since CPO is mixed with RBD Palmolein, which is a refined product, the blended product can not be identified as 'Crude' as mixing Crude with Refined would not give a product being 'crude' in nature as provided under 15111000 in terms of compliance with HSN note discussed below, notwithstanding the fact that such product may require refining to conform to the standards of PFA Rules for further use. Such requirement of refining as per PFA rules or also that the agreements made thereto ipso facto cannot render HS Note inapplicable to facts of the case.

IN ABSENCE OF DEFINITION OF 'CRUDE' IN TARIFF, WHAT IS THE RELEVANCE OF HSN TO DECIDE THE SCOPE OF TWO COMPETING ENTRIES-

46. I find that the importer has relied on various case laws wherein import of crude palm oil has been examined by the respective courts/Tribunal for the purpose of checking eligibility for availing exemption as per the Notification and the courts/Tribunal in said cases have held that reliance on definition of CPO provided in the Notification can not be relied upon for the purpose of classification in order to deny the exemption as per the Notification. Further, it is worth noting that in neither of the cases, it has been ascertained whether the imported Palm oil was Crude or otherwise as the said Notification allowed exemption from the duties of Customs to goods declared as CPO and its fractions having fixed FFA and carotenoid content. Further, HSN notes have also never been examined in the said cited decisions.

47. Therefore, it becomes imperative on my part to examine and evaluate the HSN Note for the purpose of ascertaining whether the imported Palm Oil could be termed as "Crude" or otherwise for the purpose of 15111000.

47.1 According to the Explanatory Notes to the HSN, Oil is considered to be crude if it has not undergone any processing other than decantation, centrifugation or filtration provided that in order to separate the oil from the solid particles only mechanical force such as gravity, pressure or centrifugal force has been employed excluding any adsorption filtering process, fractionation or any other physical or chemical process.

47.2 The HSN notes has been discussed in the decision of Hon'ble CESTAT in the matter of M/s. Gujarat Ambuja Exports vs. Commissioner of Customs, kandla 2011 (269) E.L.T. 239 (Tri. - Ahmd.). The relevant paragraphs of the decision of Tribunal are reproduced herein below:-

"6. Admittedly, Crude Palm Oil has not been defined in the tariff. However, as pointed out by the learned advocate, the HSN provides the definition of crude oil, which is reproduced below :

"Fixed vegetable oils, fluid or solid, obtained by pressure shall be considered as 'Crude' if they have undergone no processing other than decantation, centrifugation or filtration, provided that in order to separate the oils from solid particles only mechanical force, such as gravity, pressure or centrifugal force, has been employed, excluding any adsorption filtering process, fractionation or any other physical or chemical process. If obtained by extraction oil shall continue to be considered as 'crude', provided it has undergone no change in colour, odour or taste when compared with corresponding oil obtained by pressure."

7. The above discussion about the tariff heading leads us to conclusion that the palm oil produced by mechanical extraction shall be considered to be 'Crude' provided it has undergone no change in colour, odour or taste when compared with corresponding oil obtained by pressure. The oil imported by the appellant has been tested and the test report by the Chemical Examiner reads as follows: The sample is in the form of reddish orange semi-liquid. It is palm oil having FFA (as palmitic acid) 4.1%, acid value 8.99%, total carotenoids (as beta carotene) 395 mg/kg.

8. In view of the fact that tariff heading clearly segregates the crude oil and others between 1511 00 and 1511 90 (divided to further headings), what we have to decide is as to whether the imported palm oil in this case is Crude or not. The Chemical Examiner has clearly stated that it was raw oil and he was not in a position to say whether any of the process as which according to HSN, would take the palm oil out of the description of the crude palm oil, have been carried out or not. We find considerable force in the argument advanced by the learned advocate that the imported product has to be classified under CTH 1511 10 00 only."

47.3 In view of the above decision, it is amply clear that an oil can be termed as crude if they had undergone no processing other than decantation, centrifugation or filtration. In case the adsorption process, fractionation or any other physical or chemical process is employed, the oil can not be considered as crude. Thus, I find that, test is to see whether an item under 1511 is Crude or not, and it is not merely Crude or Refined.

47.4 In the instant case, RBD & PFAD or RBD were blended with CPO. Both RBD and PFAD are obtained by such physical processes viz. demugging, de-acidification, refining, bleaching, odorizing, fractionation etc. which are beyond the scope of above processes listed in HSN Note and also changes the color of the goods as well as taste, odor and other characteristics like FFA and carotenoids. Therefore, in terms of HSN notes, blending RBD, PFAD and CPO or RBD and CPO, the admixture loses the characteristic of "Crude".

47.5 Board Circular No. 85/2003-Cus dated 24.09.2003 underscores the importance of HS Note while understanding the nature of palm oil to be crude, and Circular is an evidence in the form of Contemporanea expositio.

47.6 Thus it is to state that *Oil can be termed as "Crude" if they have*

undergone no processing other than decantation, centrifugation of filtration, provided that, in order to separate the oils from solid particles only mechanical force, such as gravity, pressure or centrifugal force has been employed, excluding any absorption filtering process, fractionation or any other physical or chemical process. Therefore, the admixture of CPO, RBD and PFAD can not be termed as crude as the said product has been obtained by mixing crude oil with refined oil and a by product of the refinery process. The resultant product of blending has travelled beyond the nature of being 'crude' interms of HSN though resultant product require further refining.

COMMON PARLANCE TEST- WHAT IS IT AND WHICH VIEW IT VALIDATES-

48. The importer Noticee has argued that the imported product can be classified as CPO by relying on the principle of common parlance test.

48.1. In this regard, Importer Noticee relies on following two grounds:-

(i) Various parties to the transaction understood the goods to be CPO and in support of the same, that their supply was not disputed by the buyers in India, and insupport they referred to the transaction between M/s. TIL and M/s. TIWA and the transactions between M/s. TIL and its customers in India.

(ii) FSSAI NOC for clearane of goods, as the goods complied to the specifications prescribed under FSSA 2006 and regulations made thereunder, is evidence enough to find goods to be CPO and such certification is the same as trade understanding.

48.2. As regards (i) above, as stated in foregoing paras, it is stated that what is sought to be imported is a product created by blending CPO, RBD Palmolein and PFAD to achieve lower FFA that will undergo refining subsequently. Importer noticee called it as CPO and SCN referred to it as admixture.

48.3. Regarding (ii) above, I find that the said NOC of FSSAI can not be relied upon while deciding the classification of the imported goods as the process of blending was not disclosed to the FSSAI authorities. Further, the said certification is an NOC for release of goods from the port only and not a test to certify whether the goods were Crude in nature or otherwise. The said certification doesn't verify the crude nature of the imported goods w.r.t HSN.

49. Accordingly, whether common parlance test is applicable in the instant case is discussed below:-

49.1 In the case of HITACHI HOME & LIFE SOLUTION LTD. Versus C.C. (IMPORT), NHAVA SHEVA, 2012 (285) E.L.T. 504 (Tri.-Bom), the Hon'ble Tribunal in Para 5.12 has held that-

An argument has been advanced to say that the term "refrigerator" used in the customs tariff should be interpreted not in technical terms but according to commercial parlance. This argument is fallacious as the customs duty applies to import and export transactions in commodity trade and the tariff takes into account the commercial parlance while classifying the products. The Indian Customs Tariff is based on the Harmonised System of Nomenclature (HSN in short). According to World Customs Organisation website -

"HSN is a multi-purpose international product nomenclature developed by the World Customs Organization. It comprises about 5000 commodity

groups, each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs Tariffs and for the collection of international trade statistics. Over 98% of the merchandise in international trade is classified in terms of the HS."

In other words, the commercial parlance in international trade is already built into the Customs Tariff. Therefore, when the commodity classification is done under the HS code, it automatically satisfies the trade parlance test."

49.2. Further, in the case of Oswal Agro Mills Ltd. Vs. CCE 1993 (66) E.L.T. 37 (S.C.), the Apex court held that-

"The goods are to be identified and then to find the appropriate heading, sub-heading under which the identified goods/products would be classified. To find the appropriate classification description employed in the tariff nomenclature should be appreciated having regard to the terms of the headings read with the relevant provisions or statutory rules of interpretation put up thereon."

The Hon'ble Supreme Court in the above decision laid down the principle that before deciding the classification, the goods are required to be correctly identified.

49.3. The Hon'ble Apex Court in the case of AKBAR BADRUDDIN JIWANI Versus COLLECTOR OF CUSTOMS in para 36 held that-

"……There is no doubt that the general principle of interpretation of Tariff Entries occurring in a text statute is of a commercial nomenclature and understanding between persons in the trade but it is also a settled legal position that the said doctrine of commercial nomenclature or trade understanding should be departed from in a case where the statutory content in which the Tariff Entry appears, requires such a departure. In other words, in cases where the application of commercial meaning or trade nomenclature runs counter to the statutory context in which the said word was used then the said principle of interpretation should not be applied."

The Hon'ble Supreme Court in the above decision held that the doctrine of commercial nature (common parlance test) or trade understanding is not be considered where the statutory content in which the Tariff Entry appears requires so.

49.4. Therefore, first the identity of the product is to be ascertained and then see if the common parlance test can be applied in the instant case. In the instant case, it is undisputed that CPO was mixed with RBD Palmolein and PFAD. Though the term CPO is not defined under Tariff or chapter/section notes however, whether an oil can be called as crude or otherwise is provided in HSN wherein it is clearly described as-

"Oil is considered to be crude if it has not undergone any ***processing*** *other than decantation, centrifugation or filtration provided that in order to separate the oil from the solid particles only*

mechanical force such as gravity, pressure or centrifugal force has been employed excluding any adsorption filtering process, fractionation or any other physical or chemical process."

49.5. The Hon'ble Tribunal in the decision of Health India Laboratories Vs. Commissioner of C.Ex., Chennai (2007 (216) E.L.T. 161 (Tri.-Mad)), upheld or maintained in the the Supreme court, held that Classification based on HSN explanatory notes has a overriding precedence over trade parlance in classification of goods involving identical Chapter Headings.

50. As discussed earlier, the imported product is not in the crude form as it is mixed with refined oil (RBD) and a byproduct of such refining process (PFAD). On mixing the said oils, the resultant product (which has been imported) loses the nature of "crude" or raw as the mixture contains RBD and PFAD which are obtained by processes other than decantation, centrifugation or filtration required under HSN.

51. As regards claim to consider NOC of FSSAI as supporting their claim that trade also understood the goods as CPO, it is to state that-

51.1. The said NOC of FSSAI can not be relied upon while deciding the classification of the imported goods as the process of blending was not disclosed to the FSSAI authorities. Further, the said certification is an NOC for release of goods from the port only and not a test to certify whether the goods were Crude in nature or otherwise. The said certification doesn't verify the crude nature of the imported goods w.r.t HSN.

51.2. Further, Hon'ble HC of Gujarat in the case of Cargill India Pvt. Ltd (2013(288) ELT.209 (Guj.)laid down the principle that application of PFA certification to import of goods under CTH 1511 is only to the extent of understanding scope of exemption notification but not for the purpose of classification under CTH 1511.

52. Further, Noticees in their submission stated that the CPO was mixed with RBD and PFAD in order to reduce FFA content as per the requirement of the domestic buyers in India. Therefore, it is amply clear that CPO (having higher FFA) and importer goods termed as CPO (having Lower FFA) have distinct marketability.

53. Further, there is no evidence to suggest that such blended products are used in the trade parlance as "CPO". In the instant case, it is clear that it was only an arrangement by the Indian domestic buyers and importer and other noticees to mis-declare their product as "CPO" in order to evade duties of Customs. There is no evidence to suggest that such blending of CPO with RBD and PFAD results in CPO and the same is used as "CPO" in the trade.

54. In view of the above, common parlance test is not of any assistance to the importer noticee in the instant case for the following reasons:-

(i) To understand Tariff entry for Palm oil and its fractions, scientific and technical requirement of HSN prevails as explained in Akbar Badruddin Jiwani Versus Collector Of Customs 1990 (47) E.L.T. 161 (S.C.). and HEALTH INDIA LABORATORIES VERSUS COMMISSIONER OF C. EX., CHENNAI 2007 (216) E.L.T. 161 (Tri. - Chennai)

(ii) The imported product can not be identified as Crude Palm Oil as the goods have been created by blending Crude Oil with refined Oil and

fraction of such refining process (PFAD), and the nature of goods have travelled beyond the scope of relevant HSN Note .

(iii) There is no evidence to suggest that such blended products are used as CPO in the market apart from the current transactions.

(iv) Customs tariff being based on the HSN is already built on the Common/ Trade test as held in HITACHI HOME & LIFE SOLUTION LTD. Versus C.C. (IMPORT), NHAVA SHEVA, 2012 (285) E.L.T. 504 (Tri.-Bom).

SCOPE OF 15111000 and 15119090- Whether the classification of imported goods is 15111000 or 15119090-

55. In this regard, first scope of CTH 15111000, 151190 and 15119090 are to be examined. The Tariff Sub-Headings of CTH 1511 are once again reproduced as under:-

Tariff Item		**Description of goods**
(1)	(2)	(3)
1511		PALM OIL AND ITS FRACTIONS, WHETHER OR NOT REFINED, BUT NOT CHEMICALLY MODIFIED
15111000	-	Crude oil
151190	-	Other:
15119010	---	Refined bleached deodorised palm oil
15119020	---	Refined bleached deodorised palmolein
15119030	---	Refined bleached deodorised palm stearin
15119090	---	Other

56. I find that Chapter heading 1511 includes Palm oil and its fractions whether or not refined but not chemically modified. In this regard, I reproduce General Note (B) to Chapter 15 that interalia states the scope of CTH 1511-

"(B) Heading 15.07 to 15.15 of this chapter cover the single (i.e. not mixed with fats or oils of another nature), fixed vegetable fats and oils mentioned in the headings, together with their fractions, whether or not refined, but not chemically modified
Vegetable fats and oils occur widely in the nature and are found in the cells of certain parts of plants (e.g. seeds and fruit) from which tey are extracted by pressure or by means of solvents."

SCOPE OF 15111000-

57. The said Tariff Entry having single dash (-) includes Crude Oil. Thus, the said entry is exclusively for Crude Palm Oil. In terms of HSN note as explained above, the tariff entry 15111000 shall include Crude Palm Oil obtained from the process of decantation, centrifugation or filtration. Once any other process is carried out, it takes the goods out of the scope of 15111000.

SCOPE OF 151190-

58. The Chapter sub heading 151190 having single dash (-) refers to Other which implies that this sub heading is for goods other than provided in CTH 15111000 i.e. Palm oil and its fractions which are not crude, and shall fall within the scope of CTH 151190-Other. 151190 is further divided into entries RBD Palm Oil (15119010), RBD Palm olein (15119020), RBD palm stearin (15119030) and Others (15119090). RBD Palm stearin is a fraction obtained during refining process of RBD Palm oil to RBD Palmolein. Clearly, CTH 151190 includes goods other than 'crude as provided for under 15111000'. Thus, 151190 includes refined Palm Oil&fractions and also impugned goods that fail to fit in under 15111000

SCOPE OF 15119090-

59. Clearly, CTH 151190 includes goods other than 'crude as provided for under 15111000'. Thus, 151190 includes refined Palm Oil&fractions and also impugned goods that fail to fit in under 15111000

60. As already discussed in the foregoing paras, the imported goods cannot be considered as "Crude Oil" therefore, the goods don't merit classification under CTH 15111000. Whether the said imported goods can be classified as RBD palm olein or not is not the case of importer noticee and also of SCN.

61. In this regard, reference is once again invited towards the Para 5 of the decision of Hon'ble CESTAT, Chennai in the matter of Pandi Devi Oil Industry Vs Commissioner of Customs, Trichy, referred supra, wherein the Hon'ble Court noted that:-

> "5. We also find that the Commissioner has correctly identified the issue by discussing the tariff headings as under:-
>
> > "There are two sub-divisions of Entry 1511. First is 1511 10 00 which covers Crude Palm Oil and second 1511 90 which covers Palm Oil other than Crude Oil. The second category has been further divided into three sub-categories. First, if the Oil is refined, bleached and deodorized, then it is to be classified under Heading 1511 90 10 or 1511 90 20 depending on whether the oil is Palm or Palmolein. <u>If a non-crude oil is not covered under 1511 90 10 or 1511 90 20, then the same is classifiable under Heading 1511 90 90. Therefore, the basic issue is whether the imported goods are Crude Oil."</u>

62. The judgements referred by the noticee viz. Kanchan Oil Industries Ltd. v. Commr. Of Cus. (Port), Kolkata [2019 (368) E.L.T. 96 (Tri. - Kolkata)] affirmed by the Hon'ble Supreme Court in 2023 (386) E.L.T. 4 (SC) and Pandi Devi Oil Industry v. Commissioner of Customs, Trichy and Vice – Versa [2015 (9) TMI 817 - CESTAT CHENNAI] are not applicable in the instant case as the said case pertained to import of Crude Palmolein whereas in the instant case, the imported goods are composed of admixtures of RBD, PFAD and CPO.

63. In view of the above discussion and findings, I hold that the goods imported and warehoused by the noticee (M/s. TIL) and cleared by M/s. DIL Exim in domestic market on filing of ex-bond bills of entry are correctly classifiable under CTH 15119090 as Other and they are liable to pay differential duties of customs as proposed in the show cause notice alongwith interest under Section 28(4) of the Customs Act, 1962.

SUMMARY OF THE ISSUE OF CLASSIFICATION-

64. Both SCN and noticee have accepted the fact of blending resulting goods that are imported into India. SCN refer to such resultant product as admixture, whereas importer noticee declared it as 'CPO'.

64.1. As per HSN, fixed vegetable oils obtained by pressure shall be considered as 'Crude' if they have undergone no processing other than decantation, centrifugation or filtration,

64.2. Therefore, the argument of the importer is not substantiated with evidence to prove that goods in question underwent only the processes specified in HSN i.e. decantation, centrifugation or filtration. In fact, by their own admission of the facts, it is seen that the inputs used for blending had undergone processes other than decantation, centrifugation or filtration as the said inputs were refined in nature.

64.3. Thus, mixing Crude with Refined would not give rise to a product being 'crude' in nature, as provided under 15111000, due to non compliance with HSN note discussed, notwithstanding the fact that such resultant product may require refining to conform to the standards of PFA Rules for further use. For the said reasons, mere NOC of FSSAI or that the agreements made for supply of CPO, ipso facto cannot render HS Note inapplicable to facts of the case. The product arising from blending of CPO, RBD and PFAD, as in the present case, is not the same as CPO obtained through decantation, centrifugation or filtration as provided in HSN notes.

64.4. On mixing the said oils, the resultant product (which has been imported) loses the nature of "crude" as the mixture contains RBD and PFAD which are obtained by processes other than decantation, centrifugation or filtration required under HSN. Test is to see whether an item under 1511 is Crude or not, and it is not merely Crude or Refined. Thus, 1511 refers to goods that are not Crude as understood in terms of HSN note. If a non-crude oil is not covered under 1511 90 10 or 1511 90 20 or 15119030, then the same is classifiable under Heading 1511 90 90.

64.5. Thus, w.r.t said construction of Tariff entry 15111000 read with Rule 2 and Rule 3 of GIR, the subject goods are correctly classifiable under 15119090.

Whether the instant case involves mis-declaration in order to evade duties of Customs-

65. I find that it there are evidences which indicate that CPO, RBD Palmolein and PFAD were loaded at the load ports and onboard blending was carried out during the voyage to discharge port Kandla. On blending, the new Bills of Lading were issued having the description of goods as 'CPO' switching the original Bills of Lading having the description as CPO, RBD Palmolein and PFAD.

66. In this regard, it is worth noting that none of the noticees has disputed the facts of blending of the said cargos onboard and switching of Bills of lading rather they have argued that blending onboard and switching Bills of lading are internationally accepted trade practices and the resultant product on mixing of the goods was "CPO" (Crude palm Oil) only.

67. Therefore, in view of the above evidences, the following issues are to be addressed in order to decide whether the mis-declaration was done with an intent to evade duties:-

(i) Whether blending of cargo onboard the vessel is allowed as per the international maritime laws;

(ii) Whether the practice of switch Bill of lading allows change in description of goods in pursuance of blending of goods;

(iii) Whether the argument of M/s. TIL, M/s. GIPL that all the processes including blending and switch bill of lading was well documented in the charter agreement and voyage order and there was no suppression of the facts;

Whether Blending of Cargo is allowed onboard-

68. M/s. GVPL/GIPL and its directors/employees submitted that mixing of CPO, RBD and PFAD does not violate any of the provisions of Customs Act, 1962. They have further argued that the alleged violation is mis-declaring the same before the Customs Authority at the time of filing the In-Bond Bills of Entry/Bills of Entry and then by filing Ex-Bond Bills of Entry or filing home consumption Bills of Entry for home consumption which would result or resulted in mis-declaration of the imported goods and subsequently evasion of Customs Duty. It is submitted that the classification of any imported goods is legal responsibility and within the domain of the Customs Authority and more so, when the commodity involved was Chemicals. Claiming classification of a product is not an offence.

69. In this regard, it is important to note that the show cause notice not only challenges the classification of the goods but also the description of goods and the show cause notice categorically mentions that the imported products were mis-declared in terms of description of the goods. The issue of classification has already been dealt in the earlier section of this order which has established that the goods were mis-declared in order to evade duties of customs.

70. Further the argument of the noticee that mixing of CPO, RBD and PFAD does not violate any of the provisions of Customs Act, 1962 is not sustainable as such admixing/blending of cargoes during the voyage of the vessel has resulted into a new product which has been mis-declared before the authorities of customs, which is in contravention of Section 46 of the Customs Act and such contravention of the provisions of Customs Act, 1962 beyond the territorial waters of India is duly covered under Section 1(2) of the Customs Act, 1962.

71. They have further argued that blending was done on board the vessel and no where it is stated that such blending is against any Indian Law as there is no Indian jurisdiction beyond Indian shores. It is clarified that there was no violation of any Indonesian Law either.

72. Proceeding further, it is important to examine whether onboard mixing or physical blending of two or more liquid cargoes is allowed or otherwise and to what extent.

73. Blending of cargoes during sea voyage—especially in the context of international maritime trade—is governed by a combination of international maritime law, flag state regulations, and the laws of the importing and exporting countries.

74. As of January 1, 2014, the International Maritime Organization (IMO) implemented SOLAS Regulation VI/5-2, which prohibits the blending of bulk liquid cargoes and production processes during sea voyages. This regulation aims to prevent environmental pollution and ensure maritime safety. However, blending operations may be permitted under certain conditions, such as when the vessel is in port and with appropriate approvals. Prohibition of the blending of bulk liquid cargoes and production processes during sea voyages:-

1. The physical blending of bulk liquid cargoes during sea voyages is prohibited. Physical blending refers to the process whereby the ship's cargo pumps and pipelines are used to internally circulate two or more different cargoes with the intent to achieve a cargo

with a new product designation. This prohibition does not preclude the master from undertaking cargo transfers for the safety of the ship or protection of the marine environment.

2. The prohibition in paragraph 1 does not apply to the blending of products for use in the search and exploitation of seabed mineral resources on board ships used to facilitate such operations.

3. Any production process on board a ship during sea voyages is prohibited. Production processes refer to any deliberate operation whereby a chemical reaction between a ship's cargo and any other substance or cargo takes place.

4. The prohibition in paragraph 3 does not apply to the production processes of cargoes for use in the search and exploitation of seabed mineral resources on board ships used to facilitate such operations.

75. However, the Maritime Safety Committee (MSC) has agreed that blending operations (and assumingly any production processes) would be permitted on board when conducted in port or while moored, for example, where it is presupposed that safer conditions would exist and additional spill response equipment would be readily available.

76. In view of the above, it is clear that blending onboard the vessel during voyages is not allowed with exceptions as given above. However, such blending is allowed when conducted in port so as to minimize the effect of any spill occurring during such mixing.

77. In the instant case, it is seen that the blending has been carried out during the voyage and not at the port, therefore, in view of the above, it is clear that such blending was in contravention of the International Maritime laws.

Whether Switch Bills of lading are allowed-

78. A switch bill of lading is often used when a “triangle trade” takes place. A Switch Bill of Lading is simply the second set of bills of lading that may be issued by the carrier or their agent “in exchange for” or “substituting” the full first set of bills of lading originally issued when the shipment was effected. Switch bills of lading may be requested or required for a few different reasons.

(i) When there has been a change in the original trading conditions ;

(ii) Goods have been resold (probably high-seas sale) and the discharge port has now changed to another port ;

(iii) The seller (who could be an intending agent) does not wish the name of the actual exporter to be known to the consignee in case the consignee strikes a deal with the exporter directly ;

79. In the instant case, it is seen that different cargoes (having RBD Palmolein, CPO and PFAD or RBD and CPO) were blended onboard the vessel and bills of lading were switched while declaring the description of goods as ‘CPO’. As already discussed in the previous section of this order, the imported goods merit classification under CTH 15119090 as Others and not as CPO under CTH 15111000, therefore, it is clear that the intention of the importers alongwith other noticees were malafide to evade duties of customs. Thus, the practice of Switch Bill of lading has been misused by the noticees in order to evade duties of Customs. Clearly, as alleged in the Show cause notice, Refined Palm Oil attracts higher rate of duties of customs and Crude Palm Oil attracts lesser rate of duty, therefore, this plan was devised by the noticees to mis-declare the goods in order to defraud the Revenue. The facility of Switch Bill of Lading does not allow mis-declaration of imported goods. The importer and other noticees have failed to declare the correct description, nature and constituents of the imported goods which clearly establish their malafide

intent to evade the duties of Customs. Clearly, the facts and true nature of the goods have been suppressed by the importer and other noticees from the custom authorities.

80. In this regard, it is important to examine the Schedule to the Indian Carriage of Goods by Sea Act, 1925, reproduced below:-

SCHEDULE

RULES RELATING TO BILLS OF LADING

ARTICLE I.- Definitions.

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say-

(a) "carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper:

.....

(e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

ARTICLE III.—Responsibilities and Liabilities

2. Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.
3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things-

a. The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of voyage:
b. either the number of packages or prices, or the quantity, or weight, as the case may be, as furnished in writing by the shipper;
c. the apparent order and condition of the goods:

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the sea carriage document any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

81. Clearly, Rule 3(a) of Article III.- Responsibilities and Liabilities clearly states that t*he Bill of Lading shall show leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts,* provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of voyage. This clearly implies that it is the responsibility of the carrier to carry the same goods which have been loaded at the port with clear identification marks which can be identified at the discharge port.

82. However, it is pertinent to note that the above Rule applies to ship/vessel leaving the Indian port. In this regard, on going through the Indian Carriage of Goods by Sea Act, 1925, it is seen that the International Conference on Maritime Law held at Brussels in October, 1992, the

delegates at the Conference, agreed unanimously to recommend their respective Governments to adopt as the basis of a convention a draft convention for the unification of certain rules relating to bills of lading.

83. In view of the above discussion and findings, I find that neither the load port nor the discharge port allows change in description of goods in the Bills of Lading and it is the responsibility of the carrier including charterer (TATA UAE/payment charterer and Glentech Singapore/performance charterer) to discharge the same goods which were loaded on the vessel. Thus, it is clear that the description of goods (nature, grade, quantity, classification, etc.) cannot be changed when issuing a switch bill of lading.

84. Thus, the importer and other noticees have attempted to mis-lead the customs authorities in order to evade duties of customs.

CONFISCATION OF GOODS-

85. I find that despite being aware of the true nature of the impugned goods (i.e. the blended goods having FFA<3.5 and refining is cheaper in respect of such goods as percentage of RBD is more and their resultant product is admixture of Crude Palm oil, PFAD and RBD only), the manner adopted by the importer for mis-classification of impugned goods for the sole purpose of claiming lower rates of duty is indicative of their *Mensrea*. Therefore, by not declaring the true and correct facts, at the time of import in the W.H. Bills of Entry, M/s. TIL by mis-declaring and misclassifying the goods as 'CPO' have indulged in suppression of facts with intent to evade payment of applicable BCD and Additional duty of Customs. In view of the foregoing, the amount of customs duty short paid on account of mis-declaration and misclassification by M/s. TIL and other ex-Bond filers (M/s. DIL Exim here) of the Bills of Entry for Home Consumption is required to be recovered from such importers. The above action on the part of M/s. TIL and such Ex-Bond filers of Bills of Entry for Home Consumption have rendered the goods(non-seized and already cleared) liable for confiscation under Section 111 of the Customs Act, 1962, which are already cleared on payment of lesser amount of customs duty.

86. I find that Section 111(d), 111(f) and 111(l) are not applicable in the instant case for the following reasons:-

111(d)- there is no prohibition in force in respect of the imported goods and hence, 111(d) of the Customs Act is not applicable;

111(f)-there is no question of non-mention of the imported goods in the import manifest in the present case as the goods, viz. CPO were duly mentioned in the import manifest, and hence, Section 111(f) of the Customs Act is not applicable;

111(l)- there is no question of non-mention of the imported goods in the BoE in the present case as the goods, viz. CPO were duly mentioned in the BoE, and hence, Section 111(l) is not applicable; and

87. However, the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962 as the imported goods do not correspond to the description of goods mentioned in the W/H as well as ex-bond Bills of Entry.

88. In the instant case, it is seen that goods were cleared in the past and were never seized by the department. In such cases, redemption fine is imposable if it is found that the goods were liable for confiscation. In this regard, reliance is placed on the decision Visteon Automotive Systems India Limited v. CESTAT, Chennai 2018 (9) G.S.T.L. 142 (Mad.) and

Synergy Fertichem Pvt. Ltd v. State of Gujarat 2020 (33) G.S.T.L. 513 (Guj.) to hold that the availability of the goods is unnecessary for imposing the redemption fine or penalty.

CONFISCATION OF VESSELS-

89. Further, I find that the vessels MT FMT Gumuldur (non-seized- cleared in past), MT EFES and MT Hong Hai6 (non-seized- cleared in past), were used for transporting the said goods have been proposed liable for confiscation under Section 115 of the Customs Act, 1962 in the instant Show Cause Notice.

89.1. In this regard, it is observed that all three vessels have been held liable for confiscation for the past imports in the case of SCN issued to M/s. G-One Agro Products Ltd. which has been adjudicated vide OIO No. KND-CUSTM-000-COMM-06-2025-26 dated 30.06.2025 and since the vessels were not available for confiscation, redemption fines of Rupees One Crore each were imposed.

89.2. Since the vessels have been used for transporting the subject goods, therefore, the said vessels are liable for confiscation and as the vessels have been allowed to be redeemed on payment of Rs. One crore each as mentioned above, in the instant case, a lenient view is required to be taken while imposing the redemption fine.

CALCULATION OF DIFFERENTIAL DUTY-

90. The documentary as well as oral evidences, as discussed in brief in foregoing paras conclusively establish that though M/s. TIL had imported admixture of CPO, RBD and PFAD and while filing warehouse bill of entry at the Kandla port, M/s TIL in the import documents mis-declared the entire quantity of 40521.39 MT cargo as CPO brought into the country vide vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 and mis-classified the same under CTH 15111000. It is safe to conclude that the same was done by suppressing the facts that the goods imported were actually admixture of CPO, RBD and PFAD, CPO and RBD respectively which merits classification under CTH 15119090. The above act on the part of M/s. TIL subsequently resulted in short payment of customs duties to the tune of **Rs. 4,10,14,504/-** at the time of clearance of such imported goods from warehouse by M/s. DIL and thus, defrauding the government exchequer.

90.1. CBIC vide following notification have notified the tariff rate of items vide various non- tariff notification of Customs. The notifications applicable on the date of presentation of Bills of Entry for Home consumption by M/s. DIL are:- Notification No. 69/2021 – Customs (N.T.) dated 31.08.2021, 81/2021- Customs (N.T.) dated 14.10.2021 and 87/2021-Customs (N.T.) dated 29.10.2021 respectively. The tariff rate (USD per metric Ton) are notified therein, and mentioned as below:-

Notification No.	Sr No.	Chapter/ heading/ sub-heading/ tariff item	Description of Goods	Tariff rate (US$ per metric Ton)
69/2021 - Customs (N.T) dated 31-08-2021	6 of Table - I	15119090	Others - Palmolein	1063

81/2021-Customs (N.T.) dated 14.10.2021	6 of Table -I	15119090	Others - Palmolein	1223
87/2021-Customs (N.T.) dated 29.10.2021	6 of Table -I	15119090	Others - Palmolein	1261

90.2. Further, M/s. DIL had filed the self- assessed Ex-Bond BoE for Home consumption for clearance of goods **(approx. 2717 MTs)** imported vide aforementioned vessels as discussed above **(Annexure-C)**. The above act on the part of importer resulted into short payment of Customs duties which appears to be payable under CTH 15119090 as per the below mentioned Customs Tariff notifications: -

DUTY STRUCTURE ON ADMIXTURE OF CPO, RBD PALMOLEIN & PFAD UNDER CTH 15119090 OVER DIFFERENT PERIOD OF TIME

Effective Date	BCD (%)	AIDC (%)	SWS (@10% of all duties) (%)	IGST (%)
30.06.2021 to 10.09.2021	37.5% [BCD @37.5% as per Ntfn No. 34/2021 – Cus. dated 29.06.2021]	NIL	3.75%	5%
11.09.2021 to 13.10.2021	32.50% [BCD @ 32.5%, amended vide Ntfn No. 42/2021- Cus. dated 11.09.2021]	NIL	3.25%	5%
14.10.2021 to 20.12.2021	17.50% [as amended vide Ntfn No. 48/2021- Cus. dated 11.09.2021]	NIL	1.75%	5%
21.12.2021 to 15.02.2022	12.5% [as amended vide Ntfn no. 5.3/2021-Cus dated 20.12.2021	NIL	1.25%	5%

Further, the duty paid by M/s. DIL vis-à-vis duty actually payable by M/s. DIL is calculated as per **Annexure –C** to this show cause.

90.3. The total differential duty to be paid by M/s. DIL on the goods imported by way of mis-declaration and misclassification of the goods as CPO under CTH 15111000 amounts to Rs.4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only) in respect of goods already cleared by them having assessable value, arrived as per the aforementioned tariff notification equivalent to Rs.24,64,06,525/- (Rupees Twenty Four Crores, Sixty Four Lakhs, Six Thousand Five Hundred and Twenty Five only). The differential duty is required to be recovered from them by invoking the provisions of Section 28 of the Customs Act, 1962 along with interest under Section 28AA.

ROLE PLAYED BY VARIOUS COMPANIES/PERSONS:

91. The instant matter is a case of connivance amongst all the parties involved, wherein every stakeholder involved was aware of their illegal role being played by them. It is evident that each stakeholder intended to suppress the facts before Indian Customs, to mis-declare the subject cargo to evade the duties of customs. There are evidences of determinative character which complied with the inference arising from the dubious conduct of stakeholders lead to the conclusion that it was all planned to mis-declare the subject cargo and suppress the information from the department. The role in brief is reproduced below: -

M/s. TATA INTERNATIONAL LTD:

91.1. I find that Scrutiny of the various documents/records as well as facts stated by various persons during investigation revealed that M/s. TIL and M/s. GIPL, in connivance with each other devised a strategic plan to import admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO. They purchased CPO, RBD and PFAD in Indonesia from different suppliers. M/s. TIL facilitated M/s. GIPL, for procurement of Oil products i.e. CPO, RBD, PFAD from Indonesia. They gave go ahead to M/s. GIPL to enter into Charter Agreement with M/s. Oka Tankers PTE Ltd., Singapore & M/s. Telcom International Trading PTE. Ltd., Singapore for transporting the goods viz. RBD Palmolein, CPO, PFAD from different ports at Indonesia/ Thailand to India through vessels viz., MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111 as discussed in foregoing paragraphs; loaded on the vessels. As per the said Charter Agreement, after loading the above goods on vessel, blending of the above goods was carried out with the help of Owners of the vessel. After blending, they switched Bills of Lading to show the goods imported as CPO and presented the same before Customs. M/s. TIL filed W.H. Bills of Entry for entire quantity of 40486.172 MTs cargo, by mis-declaring the same as CPO, though they knew that the goods imported were actually admixture of CPO, RBD and PFAD. M/s. TIL classified the goods so mis-declared under CTH 15111000, with intent to evade the appropriate duties of Customs by M/s. GIPL & others (Ex-Bond filers) and to earn commission.

91.2. From the above, it is clear that M/s. TIL imported '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*' by mis-declaring the same as '*Crude Palm Oil*', classifying under CTH 15111000 instead of correct classification under CTH 15119090, which is the appropriate classification of the goods viz. '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*', imported by them.

91.3. I further find that M/s. TIL played an active role in ensuring the blending of CPO, PFAD & RBD Olien, and the act of agreeing/allowing to blend clearly demonstrates that the entire activity right from planning, creation, monitoring and managing of all the operations was with a mala fide intention of evading customs duty. Thus, this is a clear case of suppression of information from the department and mis-declaration. The above action on the part of M/s. TIL had rendered the goods liable for confiscation which has rendered them liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

91.4. With regard to penalty under Section 114AA of the Customs Act, 1962, I find that M/s. TIL were well aware of the correct constituents or composition of the imported goods and filed incorrect details in the W/H Bills of Entry for warehousing the goods. Accordingly, the Ex-Bonders (M/s. DIL Exim here) also filed incorrect details (description and classification) in the Ex-Bond Bills of Entry, thus M/s. TIL has caused the ex-bonders to declare incorrect information in the Ex-Bond Bills of Entry in order to evade duties of Customs. Thus, their act of commission and omission has rendered them liable for penal action under Section 114AA of the Customs Act, 1962.

91.5. With regard to penal action under Section 117 of the Customs Act, 1962, I find that the importer M/s. TIL was actively involved in switching of Bills of Lading and changed the correct description of the goods in the said Bills of Lading in order to evade the duties of customs, which has rendered them liable for penal action under Section 117 of the Customs Act, 1962.

M/s. GLENTECH INDUSTRIES-

92. I find that scrutiny of the various documents/records, as well as facts stated by various persons during investigation, as discussed hereinabove, revealed that M/s. GIPL and M/s. TIL, in connivance with each other devised a strategic plan to import admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO. They purchased CPO, RBD and PFAD overseas from different suppliers. They entered into Charter Agreement with M/s. OKA Tankers PTE Ltd., Singapore and M/s. Telcom Trading International PTE Ltd., Singapore for transporting the goods from Indonesia to India through vessels MT FMT Gumuldur V.202109, MT Hong Hai6 V.2106, MT FMT EFES V202111; loaded CPO on the vessels at different ports at Indonesia/ Thailand. As per the Charter Agreement, after loading the above goods on vessel, blending of the above goods was carried out with the help of the Owner(s) of the vessel(s). After blending, they arranged switching of documents to show the goods imported as CPO and presented the same before Customs.

92.1. As per the instructions of Charterers, the original documents viz. Bills of Lading etc. were secreted in the vessel and intentionally not produced before Customs. After import of the goods into India, the importer M/s. TIL filed W.H. Bills of Entry, by mis-declaring the goods as CPO, though they knew that the goods imported were admixture of CPO, RBD and PFAD. Further, after import of the goods into India, it was the responsibility of M/s. GIPL to sell the goods into Indian market. The goods so mis-declared and mis-classified under CTH 15111000, with intent to evade the appropriate duties of Customs.

92.2. Thus, M/s. GIPL has played an active role in the purchase, transport, blending of the cargo during voyage of the vessels and import of the said goods by mis-declaring the same as CPO. From the above, it is clear that M/s. GIPL actively connived in the import of '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*' by mis-declaring the same as '*Crude Palm Oil*', classifying under CTH 15111000 instead of correct classification under CTH 15119090, which is the appropriate classification of the goods imported viz. '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*'. They were actively involved in the entire activity right from planning,

creation, monitoring and managing of all the operations with a mala fide intention of evading customs duty. Thus, this is a clear case of mis-declaration with an intent to evade duties of Customs.

92.3. I find that their actions have rendered the goods liable for confiscation and they acquired possession of and were concerned in carrying, removing, depositing, selling and purchasing of imported goods which they knew that were liable for confiscation. Thus, M/s. GIPL has rendered themselves liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

92.4. With regard to penalty under Section 114AA of the Customs Act, 1962, I find that M/s. GIPL were well aware of the correct constituents or composition of the imported goods and being the performance charterer were actively involved in the whole design of import of admixture of CPO, RBD and Other Palm oils by mis-declaring them as CPO in order to evade duties of Customs. Shri Amit Agarwal, Asst. Vice President M/s. GIPL and M/s. GVPL, Singapore in his statement dated 05.01.2022 stated that he was engaged in preparing Sale contracts/Bond to Bond Agreement with Domestic buyers of Crude Palm Oil (CPO), Refined, Blended & Deodorized (RBD) Palm Oil and Palm Fatty Acid Distillery (PFAD). He further stated that Shri Sudhanshu Agarwal, former CEO of M/s. GIPL and father of Shri Sidhant Agarwal, one of the Directors of M/s. GIPL, looked after sales of M/s. GIPL and he used to be in contact with buyers of Crude Palm Oil (CPO), Refined, Blended & Deodorized (RBD) Palm Oil and Palm Fatty Acid Distillery (PFAD).

I find that the Ex-Bonder (M/s. DIL Exim here) filed incorrect details (description and classification) in the Ex-Bond Bills of Entry, thus M/s. GIPL has caused the ex-bonder M/s. DIL Exim to declare incorrect information in the Ex-Bond Bills of Entry in order to evade duties of Customs. Thus, their act of commission and omission has rendered them liable for penal action under Section 114AA of the Customs Act, 1962.

92.5. With regard to penal action under Section 117 of the Customs Act, 1962, I find that M/s. GIPL, in connivance with M/s. TIL, switched Bills of Lading and changed the correct description of the goods in the said Bills of Lading in order to evade the duties of customs, which has rendered them liable for penal action under Section 117 of the Customs Act, 1962.

M/s. OKA Tankers Pvt. Ltd. and M/s. Telcom International PTE Ltd.

93. I find that M/s. OKA Tankers Pvt. Ltd., Singapore 17943 were owner of the vessel MT Hong Hai6 and M/s. Telcom International PTE Ltd., Singapore were the owners of the vessels 'MT FMT Gumuldur', 'MT FMT EFES'. They entered into Tanker Voyage Charter Party agreement with M/s. TIWA, UAE/M/s. TISPL/ M/s. TIL and M/s. GIPL for transporting cargo from the ports in Indonesia/ Thailand to Kandla port in India. Further, as per the agreement, the above goods were to be blended on board, which were confirmed by all the parties viz. payment charterer, operational charterer and despondent owners; actively connived to replace the original BLs prepared at the port of loading with switched BLs after

blending of the cargo on board; to present the said documents before Customs at the time of arrival of the cargo at discharge port. The switching of Bills of Lading was done by the crew of the vessel owners, under guidance of their management. The Vessel owners viz., M/s. OKA Tankers Pvt. Ltd. and M/s. Telcom International PTE Ltd. entered into agreement which allowed blending of cargo i.e. CPO, RBD Palmolein and PFAD on board vessel. Therefore, by indulging in such act of blending on board, switching of Bills of Lading etc. in connivance with M/s. GIPL and M/s. TIL., allowing their conveyance to be used in such a manner which rendered the goods (non-seized – cleared in past) as well as vessel (non-seized – cleared in past) liable for confiscation under section 111(m) and 115 of the Customs Act, 1962. Accordingly, by indulging in such act of omission and commission, on their part abetted the importer to import goods by mis-declaring the same as CPO, by classifying the same under CTH15111000, by allowing comingling/blending of cargo with led to evasion of the Customs Duty.

100.1 The indulging in the act of manipulation of the documents is punishable offence and thus by concerning themselves in such act of manipulation of documents concerned themselves liable to be charged for violations of Section 30 (Arrival Manifest production) read with Section 38 (Production of the documents) of the Customs Act. Further, they have also concerned themselves in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported(non-seized and cleared) by mis-declaring the same as CPO became liable for confiscation and they rendered themselves liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

ROLE OF CAPT. SHRI SANJAY KUMAR, MASTER OF VESSEL MT FMT GUMULDUR V.202109:

94. I find that Capt. Shri Sanjay Kumar, Master of vessel 'MT FMT Gumuldur V.202109' looked after the supervision of all activities relating to the vessel and responsible for all activities pertaining to the vessel including issuance of documents like Bill of Lading, Mate receipt, IGM/EGM related Customs documentation etc. Therefore, a summons dated 20.12.2023 was issued to him(via e-mail) to join the investigation, which was not responded to by him nor the vessel owner. Further, he allowed blending of 3499.71 MT Crude Palm Oil (CPO), loaded from Dumai (Indonesia), 8400.309 MT RBD and 200 MT PFAD, loaded from Kuala Tanjung Port, Indonesia and accordingly as per the instructions of their management; presented manipulated BLs, showing import of CPO thereby hiding the true nature of the goods onboard vessel. Thus, he was instrumental in blending of all the three cargos loaded on the vessel, preparation of manipulated documents, and presenting manipulated documents before Customs at the port of discharge, i.e., Customs, Kandla. It is pertinent to mention here that he issued/signed the switched Bill of lading by mis-declaring the goods as CPO instead of admixture of CPO and RBD Plamolein and filed the same before Indian Customs.

94.1. Thus, he has failed in discharging his duties in the capacity of Master of vessel to declare and submit the documents received at load port at the

discharge port with correct descriptions and other material particulars. Instead, he produced false documents viz. switched Bills of Lading before Customs for clearance of the cargo and supressed the original Bills of Lading issued at the port of load. Thus, he abetted in blending/comingling of the goods onboard vessel, failed in declaring the correct particulars of the subject cargo in the documents, abetted in manipulation of original documents pertaining to the subject imported goods and mis-declared the same as 'CPO' instead of 'admixture of Crude Palm Oil, RBD olein and PFAD'. He actively assisted the importer to enable them to mis-declare the imported goods as 'CPO'.

94.2. Further, he also concerned himself in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported by mis-declaring the same as CPO became liable for confiscation and he rendered himself liable to penalty under Section 112(a), 112(b),114AA and 117 of the Customs Act, 1962.

ROLE OF CAPT. SHRI LIU YOUYI, MASTER OF VESSEL MT. HONG HAI6 V.2106:

95. I find that Capt. Shri Liu Youyi, Master of Vessel MT. Hong Hai6 V.2106, looked after the supervision of all activities relating to the vessel and responsible for all activities pertaining to the vessel including issuance of documents like Bills of Lading, IGM/EGM related Customs documentation etc. Therefore, a summons dated 20.12.2023 was issued to him(via e-mail) to join the investigation, which was not responded to by him nor the vessel owner. Further, he allowed blending of 8948.55 MT Crude Palm Oil (CPO), loaded from Phuket (Thailand), 6513.52 MT RBD, loaded from Kuala Tanjung Port, Indonesia and accordingly as per the instructions of their management, presented manipulated BLs, showing import of CPO thereby hiding the true nature of the goods onboard vessel. Thus, he was instrumental in blending of all the three cargos loaded on the vessel, preparation of manipulated documents, and presenting manipulated documents before Customs at the port of discharge, i.e. Customs, Kandla. It is pertinent to mention here that he issued/signed the switched Bill of lading by mis-declaring the goods as CPO instead of admixture of CPO and RBD Plamolein and filed the same before Indian Customs.

95.1. Thus, he has failed in discharging his duties in the capacity of Master of vessel to declare and submit the documents received at load port at the discharge port with correct descriptions and other material particulars. Instead, he produced false documents viz. switched/ manipulated Bills of Lading before Customs for clearance of the cargo and supressed the original Bills of Lading issued at the port of load. Thus, he abetted in blending/comingling of the goods on-board vessel, failed in declaring the correct particulars of the subject cargo in the documents, abetted in manipulation of original documents pertaining to the subject imported goods and mis-declared the same as 'CPO' instead of 'admixture of Crude Palm Oil, RBD olein and PFAD'. He actively assisted the importer to enable them to mis-declare the imported goods as 'CPO'.

95.2. Further, he also concerned himself in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported by mis-declaring the same as CPO became liable for confiscation and he rendered himself liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

ROLE OF CAPT. SHRI JULIO UTIYEPO CONEJERO, MASTER OF VESSEL MT FMT EFES VOY.202111:

96. I find that Capt. Shri Julio Utiyepo Conejero, Master Of Vessel MT FMT EFES Voy.202111, looked after the supervision of all activities relating to the vessel and responsible for all activities pertaining to the vessel including issuance of documents like Bills of Lading, IGM/EGM related Customs documentation etc. Therefore, a summons dated 20.12.2023 was issued to him(via e-mail) to join the investigation, which was not responded to by him nor the vessel owner. Further, he allowed blending of 7873.290 MT Crude Palm Oil (CPO), loaded from Phuket (Thailand), 5086.015 MT RBD, loaded from Kuala Tanjung Port, Indonesia and accordingly as per the instructions of their management, presented manipulated BLs, showing import of CPO thereby hiding the true nature of the goods onboard vessel. Thus, he was instrumental in blending of all the three cargos loaded on the vessel, preparation of manipulated documents, and presenting manipulated documents before Customs at the port of discharge, i.e Customs, Kandla. It is pertinent to mention here that he issued/signed the switched Bill of lading by mis-declaring the goods as CPO instead of admixture of CPO and RBD Palmolein and filed the same before Indian Customs.

96.1. Thus, he failed in discharging his duties in the capacity of Master of vessel to declare and submit the documents received at load port at the discharge port with correct descriptions and other material particulars. Instead, he produced false documents viz. switched/ manipulated Bills of Lading before Customs for clearance of the cargo and supressed the original Bills of Lading issued at the port of load. Thus, he abetted in blending/comingling of the goods onboard vessel, failed in declaring the correct particulars of the subject cargo in the documents, abetted in manipulation of original documents pertaining to the subject imported goods and mis-declared the same as 'CPO' instead of 'admixture of Crude Palm Oil and RBDOlein'. He actively assisted the importer to enable them to mis-declare the imported goods as 'CPO'.

96.2. The act of manipulation of the documents is punishable offence and he rendered himself liable to be charged for violations of Section 30 (Arrival Manifest production) read with Section 38 (Production of the documents) of the Customs Act, and therefore liable to be charged under Section 132 (false documentation). Further, he also concerned himself in mis-declaration of goods by manipulating the actual documents for filing IGM with intent to help the importer M/s. TIL to evade Customs Duty. By such acts of omission and commission, the goods so imported by mis-declaring the same as CPO became liable for confiscation and he rendered himself liable to penalty under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

SHRI SIDHANT AGARWAL, DIRECTOR OF M/S. GLENTECH INDUSTRIES PRIVATE LIMITED and M/s GVPL:

97. I find that Shri Sidhant Agarwal, Director of M/s. GIPL and M/s. GVPL, Singapore was the key person in the instant import of '*admixture of Crude Palm Oil, Palmolein and other Palm based oil*', by mis-declaring the same as Crude Palm Oil. M/s. GVPL, Singapore purchased and/or arranged purchase of the goods CPO, RBD and PFAD in Indonesia and sold to/ changed the contracts to the name of M/s. TIWA, UAE/ M/s. TISPL, who in turn sold the goods to M/s. TIL., Mumbai, the importer and filer of W.H. Bills of Entry of the goods in the present case, as per the agreement between M/s. TIWA &M/s. GVPL. The said goods viz. CPO, RBD & PFAD were blended during voyage of the Vessels MT Gumuldur, CPO & RBD were blended during the voyage of MT Hong Hai6 and CPO & RBD were blended during the voyage of MT FMT EFES at the behest of charterer M/s. GIPL and M/s. GVPL(operational charterer). The importer, M/s. TIL filed the W.H. Bills of Entry, by mis-declaring the goods as CPO, by classifying the same under CTH 15111000. Further, after import of the goods into India, it was the responsibility of M/s. GIPL to sell the goods into Indian market.

97.1. Further, M/s. GIPL in connivance with M/s. TIL entered into agreement with respective vessel owners for transporting the goods into India. It was decided to blend the goods onboard during voyage of the vessel. The instructions for blending were given by M/s. GIPL to M/s. Midas Tankers Pvt. Ltd. Thus, Shri Sidhant Agarwal, Director of M/s. GIPL played active role in ensuring the blending of CPO, PFAD & RBD olien. The above act of import of goods by blending the three products right from planning, creation, monitoring and managing of all the operations was with a mala fide intention to evade Customs duty. Thus, he knowingly played an important role in effecting the said unscrupulous import which became liable to confiscation under Section 111(m) of the Customs Act, 1962. The acts of omission and commission on the part of Shri Sidhant Agarwal has rendered the imported goods (non-seized- cleared in past) liable for confiscation under Section 111(m) of the Customs Act, 1962. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 112(a), 112(b) and 114AA of the Customs Act, 1962.

97.2. With regard to penalty under Section 117 of the Customs Act, 1962, I find that M/s. GIPL, wherein Shri Sidhant Agarwal played an active role, switched Bills of Lading and changed the correct description of the goods in the said Bills of Lading in order to evade the duties of customs, which has rendered Shri Sidhant Agarwal liable for penal action under Section 117 of the Customs Act, 1962.

SHRI SUDHANSU AGARWAL, REPRESENTATIVE AND EX-CEO OF M/S. GIPL:

98. I find that Shri Sudhanshu Agarwal, Representative and Ex-CEO of M/s. GIPL is looking after all the business affairs of the company. He used to execute business deals of M/s. GIPL, got business support through M/s. GVPL, which is parent company of M/s. GIPL M/s. GIPL entered into contract with the vessel owners to blend the different cargoes viz. CPO, RBD Palmolein and PFAD as discussed in foregoing paras and accordingly issued directions for blending of CPO, RBD & PFAD. He was in direct touch with Shri Amit Thakkar of M/s. TIL to obtain concurrence for blending of goods; and also appointed the surveyor, in agreement with M/s. TIL who approved the blending plan. He on behalf of M/s. GIPL, being operational charterer floated inquiry with the vessel broker for requirement of vessel with blending facility only.

98.1. Though the title of the goods always remained with M/s. TIL, he passed the orders/directions in connivance with M/s. TIL. M/s. GIPL in connivance with M/s.TIL imported the cargo after blending RBD, CPO, PFAD on board and indulged in bond to bond sale of the said quantity of 40486.172 MT of imported cargo through vessels MT FMT Gumuldur, MT Hong Hai6, MT FMT EFES which were mis-declared as CPO under CTH 15111000 instead of appropriate CTH 15119090 with an intent to evade the Customs duty by them as well as to make it marketable and to sell such goods in Indian market. By such acts of omission and commission the goods have been rendered liable for confiscation and he was actively involved in the import, warehousing, selling and purchasing of goods which he knew were liable for confiscation thereby rendering himself liable to penalty under section 112(a) and 112(b) of the Customs Act, 1962.

98.2. I find that he had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962.

98.3. With regard to penal action under Section 117 of the Customs Act, 1962, I find that M/s. GIPL switched Bills of Lading and changed the correct description of the goods in the said Bills of Lading in order to evade the duties of customs, in which Shri Sudhanshu has played a crucial role, which has rendered him liable for penal action under Section 117 of the Customs Act, 1962.

ROLE OF SHRI AMIT THAKKAR, SENIOR MANAGER, M/S. TATA INTERNATIONAL LTD (AGRI DIVISION):

99. I find that Shri Amit Thakkar, Senior Manager, M/s. TIL (Agri Division) was aware of the fact that “RBD” and “PFAD” were loaded at Kuala Tanjung Port, Indonesia and CPO was loaded in DUMAI port and Phuket Port, Thailand. He was also aware that after blending, the original BLs were switched and were replaced by switched BLs, showing entire cargo as CPO. Despite the facts that he knew that the goods imported were not CPO, but an admixture of CPO, RBD and PFAD, BL and other documents, showing import of CPO were submitted before the Customs Authority. He admitted that post blending of the goods onboard, the original Bills of

Lading were switched to Global Bills of Lading, showing entire quantity as CPO.

99.1. Thus, Shri Amit Thakkar has played an active role in import of admixture of CPO, RBD and PFAD, by mis-declaring the same as CPO, classifying under CTH 15111000 instead of appropriate CTH 15119090 with an intent to evade the Customs duty. By such acts of omission and commission he has rendered the goods liable for confiscation and he was actively involved in acquiring possession, removing, storing, selling and purchasing of goods which has rendered him liable to penalty under section 112 (a) and 112(b) of the Customs Act, 1962.

99.2. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962.

99.3. With regard to penal action under Section 117 of the Customs Act, 1962, I find that the M/s. GIPL in connivance with M/s. TIL switched Bills of Lading and changed the correct description of the goods in the said Bills of Lading in order to evade the duties of customs and as discussed Shri Amit Thakkar has played an active role therefore, he has rendered himself liable for penal action under Section 117 of the Customs Act, 1962.

ROLE OF SHRI SHRIKANT SUBBARAYAN, HEAD OF AGRI (BUSINESS) DIVISION, M/S. TIL (AGRI DIVISION):

100. I find that Shri Shrikant Subbarayan had given approval for finalizing the deal in providing Trade Facilitation to M/s. GVPL. He approved the final contract between M/s. TIL and M/s. GVPL to facilitate the latter in import of goods by way of mis-declaration and mis-classification of goods. He was aware of the purchase of CPO, RBD and PFAD in Indonesia, blending of all the three cargo onboard, preparation of manipulated documents. He was also aware that at the time of import the W.H. Bills of Entry were filed mis-declaring the goods as CPO, by classifying the same under CTH 15111000, though he knew that the goods imported is admixture of CPO, RBD and PFAD, which merits classification under CTH 15119090 (non –seized and cleared), with an intent to earn commission and evade the Customs duty. By such acts of omission and commission he has rendered himself liable to penalty under section 112 (a) and 112(b) of the Customs Act, 1962.

100.1. He had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part rendered him liable for penalty under Section 114AA of the Customs Act, 1962.

100.2. With regard to penal action under Section 117 of the Customs Act, 1962, I find that Shri Shrikant Subbarayan abetted M/s. TIL and M/s. GIPL in switching Bills of Lading and changing the description of the

goods in the said Bills of Lading in order to evade the duties of customs, which has rendered him liable for penal action under Section 117 of the Customs Act, 1962.

ROLE OF SHRI AMIT AGARWAL, ASSTT. VICE PRESIDENT, M/S. GLENTECH INDUSTRIES PRIVATE LIMITED & M/S. GLENTECH VENTURE PTE LTD., SINGAPORE:

101. I find that he was actively involved in purchase of imported cargo imported in the name of M/s. TIL., from overseas suppliers. Being Authorized Signatory of M/s. GIPL., he was instrumental in entering into the agreement for commodity supply and service agreement dated 09.03.2021 between M/s. GIPL & M/s. TIL. He was aware of the fact that CPO, RBD and PFAD were purchased from the overseas suppliers in Indonesia. He was also aware that the above goods were blended on board vessel. Being authorised signatory, he concerned himself in signing of charter party agreement with M/s Telcom International PTE Ltd and M/s. Oka Tankers PTE Ltd. As per the agreement, CPO was to be loaded from Dumai port and RBD and PFAD were to be loaded from Kuala Tanjung port. After loading the above goods, all the goods were blended on board. After blending, manipulated documents, switch BL was prepared, showing cargo as CPO, though it was an admixture of CPO, RBD and PFAD.

101.1. Thus, he was actively involved in the acts of omission and commission to assist the importer to import goods by mis-declaring the same as CPO, by classifying the same under CTH 15111000, though the goods imported was admixture of CPO, RBD and PFAD, which merits classification under CTH 15119090, with an intent to evade the Customs duty. The above act on his part rendered the goods liable for confiscation and rendered himself liable to penalty under section 112(a) and 112(b) of the Customs Act, 1962.

101.2. I find that he had knowingly and intentionally caused to be made, signed or used documents relating to import of goods by mis-declaring it as CPO, which he knew or had reason to believe were false and incorrect in material particulars. Hence, the said act on his part has rendered him liable for penalty under Section 114AA of the Customs Act, 1962.

101.3. With regard to penal action under Section 117 of the Customs Act, 1962, I find that Shri Amit Agarwal abetted M/s. TIL and M/s. GIPL in switching Bills of Lading and changing the description of the goods in the said Bills of Lading in order to evade the duties of customs, which has rendered him liable for penal action under Section 117 of the Customs Act, 1962.

ROLE OF M/s. DIL EXIM COMMODITIES PRIVATE LTD.

102. I find that M/s DIL had purchased the **2717 MTs** of said blended goods viz. admixture of CPO, RBD Palmolein, PFAD which were originally imported by M/s TIL by the way of mis-declaration and mis-classifying as CPO under CTH 15111000 in the W.H. B.E.s filed before Kandla Customs with intent to evade the appropriate duties of Customs. M/s. TIL had

suppressed this information from Department while filing W.H.B.Es. Also, by entering into charter agreement as financial charterer they were aware that the blending on board vessel has to be undertaken in order to make it marketable in domestic market.

102.1. Further, M/s. DIL cleared a portion of such imported goods having quantity of 2717 MTs of goods having assessable value of Rs. 24,64,06,525/- (Rupees Twenty Four Crores Sixty Four Lakhs Six Thousand Five Hundred and Twenty Five only) by way of mis-declaring the same as 'CPO' in the Ex-Bond Bills of Entry filed by them and thus evaded Customs Duty amounting to Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only) under the following Bills of Entries as **per Annexure -C.**

102.2. On perusal of the statement dated 28.02.2022 of Shri Ricky Mukeshkumar Pabari, Director of M/s. DIL, I find that he, interalia, stated that-

"M/s. DIL has purchased and filed Ex-Bond Bills of Entry w.r.t. total 2717 MTS of Crude Palm Oil which were imported by M/s. Tata International Ltd. through vessels namely, MT FMT Gumuldur, MT Hong Hai 6 and MT FMT EFES and produced the details of such Bills of Entry. He was shown the statements dated 27.01.2022 and 28.01.2022 of Shri Sidhant Agarwal, Director of M/s. Glentech Industries Private Limited wherein it is stated that M/s. Tata International Limited in connivance with M/s GIPL imported blended foods viz. admixture of CPO, RBD Palmolein & PFAD through vessels namely MT FMT Gumuldur, MT Hong Hai6 and MT FMT EFES and the said admixture of CPO with RBD & PFAD were declared as Crude Palm Oil (CPO) before Customs, Kandla. On perusal of the same, it is stated and affirmed that the said goods viz. admixture of CPO, RBD & PFAD purchased by M/s. DIL from M/s. Tata International Ltd. which was imported through vessel MT FMT Gumuldur, MT Hong hai 6 and MT FMT EFES; that the said goods were mentioned as CPO Edible Grade (in Bulk) in the bond to bond agreement with respective seller. He also stated that refining cost and refining time in case of the blended goods with FFA 3.5 is lesser than natural CPO (generaly FFA as 4.5- 5) as proportion of impurities are less in the said blended goods in comparison to the natural CPO. Further he agreed to the fact that there is a presence of RBD Palm Olien, which is a refined product, thus the said imported goods are partially refined."

102.3. From the statement, it is clear that M/s. DIL Exim were aware of the constituents and blending nature of the imported goods. Therefore the argument of Shri Pankaj Rachchh, Advocate, during the course of personal hearing that the instant case is not of the investigation that M/s. DIL and its Directors were aware of blending is unfounded. It is further seen from the statement that they were fully aware of the fact that the imported goods had contained RBD Palm Olein, a refined product which made the imported goods as partially refined. In view of the same, it is established that they were party to the whole planning and design orchestrated by M/s. TIL and M/s. GIPL to import refined oil (admixture of RBD, CPO and PFAD) and mis-declare the same as Crude Palm Oil.

102.4. Thus, in view of the commission and omisisons mentioned herein above, the differential duty of **Rs. 4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only)**has been short paid by them on account of suppression, mis-declaration and misclassification of goods in the respective Ex- Bond Bills of Entry and is due to be recovered from them. The acts of omission and commission on the part of M/s. DIL and Shri Ricky Mukeshkumar Pabari, Director has

rendered the imported goods (non-seized – cleared in past) liable for confiscation under Section 111(m) of the Customs Act, 1962 and rendered them (M/s. DIL and Shri Ricky Mukeshkumar Pabari, Director) liable to penal action under Section 112(a) and 112(b) of the Customs Act, 1962.

102.5. With regard to penal action under Section 114A, I find that since there is demand of differential duty under Section 28(4), the penalty under Section 114A is invoked on the persons liable to pay duty, thus M/s. DIL Exim is liable for penal action under Section 114A of the Customs Act, 1962 and Shri Ricky Mukeshkumar Pabari is not liable for penal action under Section 114A of the Act. Further, in terms of fifth proviso to Section 114A, once penalty is invoked under Section 114A, no penalty is invoked under Section 112, thus M/s. DIL Exim is not required to be penalised under Section 112(a) and/or 112(b)

102.6. With regard to penal action under Section 114AA, I find that despite being aware of the blending nature of the goods and the facts that imported goods are refined in nature and not in the crude form, they wilfully mis-declared the goods in order to evade duties of customs, thus they (M/s. DIL and Shri Ricky Mukeshkumar Pabari, Director) have rendered themselves liable for penal action under Section 114AA of the Customs Act, 1962.

102.7. With regard to penal action under Section 117 of the Customs Act, 1962, I find that they have contravened provisions of Section 46(2) of the Customs Act, 1962 to the extent that they have not mentioned all the goods mentioned in the respective Bills of lading.

103. With regard to penal action under Section 132 of the Customs Act, 1962 against Capt. Shri Sanjay Kumar, Master of Vessel MT FMT Gumuldur and Capt. Mr. Liu Youyi, Master of Vessel MT Hong Hai 6, I find that action under Section 132 of the Customs Act, 1962 is beyond the scope of the instant adjudication proceedings.

104. In view of the above discussion and findings, I hereby pass the following order:-

A. ORDER IN RESPECT OF M/S. DIL EXIM COMMODITIES PRIVATE LIMITED-

(i) I reject the declared value of the imported goods (non-seized and cleared) imported vide vessels “FMT GUMULDUR V.202109”, “MT HONG HAI6 V.2106”, “MT FMT EFES V.202111” on account of mis-declaration and mis-classification of goods and order to take the total assessable value as Rs.24,64,06,525/- (Rupees Twenty Four Crores Sixty Four Lakhs and Six Thousands Five Hundred and Twenty Five only) for calculation of customs duty as detailed in Annexure C and as per the relevant Customs Tariff notifications as discussed in foregoing paras;

(ii) I reject the declared classification of the subject goods, i.e. 2717 MT of imported cargo vide vessels “FMT GUMULDUR V.202109”, “MT HONG HAI6 V.2106”, “MT FMT EFES V.202111” under CTH 15111000 in the Ex- Bond Bills of Entry as detailed in **Annexure – C** and order to re-classify the same under CTH 15119090 of the Customs Tariff Heading of

the First Schedule to the Customs Tariff Act, 1975 and order to re-assess the subject Ex- Bond Bills of Entry accordingly;

(iii) I order to confiscate the goods (non-seized and cleared in the past) imported by way of mis-declaration and mis-classification as discussed in above paragraphs under Section 111(m) of the Customs Act, 1962;

Since the goods are not available for confiscation, I impose redemption fine of Rs. 4,00,00,000/- (Rupees Four Crore only) under Section 125 of the Customs Act, 1962.

(iv) I determine and confirm the Customs Duty **Rs.4,10,14,504/- (Rupees Four Crores Ten Lakhs Fourteen Thousand Five Hundred and Four only)** which is short paid on account of misclassification and mis-declaration in various Ex- Bond Bills of Entry for Home Consumption (non-seized and cleared) and order to recover the same from them under the provisions of Section 28(4) of the Customs Act, 1962, along with the applicable interest thereon under Section 28AA, ibid;

(v) I impose penalty equal to the duty plus interest confirmed at (iv) above under Section 114A of the Customs Act, 1962.

(vi) I don't impose penalty under Section 112 in terms of fifth proviso to Section 114A of the Customs Act, 1962.

(vii) I impose penalty of Rs. 4,00,00,000/- (Rupees Four Crore only) under Section 114AA of the Customs Act, 1962.

(viii) I impose penalty of Rs. 4,00,000/- (Rupees Four Lakhs only) under Section 117 of the Customs Act, 1962.

B. ORDER IN RESPECT OF M/S. TATA INTERNATIONAL LIMITED-

(i) I impose penalty equal to Rs.15,00,000/-(Rupees Fifteen lakhs only) under Section 112(a) of the Customs Act, 1962

(ii) I impose penalty equal to Rs.25,00,000/-(Rupees Twenty Five lakhs only) under Section 112(b) of the Customs Act, 1962

(iii) I impose penalty equal to Rs. 3,00,00,000/- (Rupees Three Crore only) under Section 114AA of the Customs Act, 1962.

(iv) I impose penalty equal to Rs. 4,00,000/- (Rupees Four Lakhs only) under Section 117 of the Customs Act, 1962.

C. ORDER IN RESPECT OF M/s. GLENTECH INDUSTRIES PVT. LTD.-

(i) I impose penalty equal to Rs.15,00,000/-(Rupees Fifteen lakhs only) under Section 112(a) of the Customs Act, 1962

(ii) I impose penalty equal to Rs.25,00,000/-(Rupees Twenty Five lakh only) under Section 112(b) of the Customs Act, 1962

(iii) I impose penalty equal to Rs. 3,00,00,000/- (Rupees Three Crore only) under Section 114AA of the Customs Act, 1962.

(iv) I impose penalty equal to Rs. 4,00,000/- (Rupees Four Lakhs only) under Section 117 of the Customs Act, 1962.

D. ORDER IN RESPECT OF M/S. OKA TANKERS PTE LTD.-

(i) I order to confiscate the vessel MT Hong Hai6 (non-seized- cleared in past), used for transporting the said goods under Section 115 of the Customs Act, 1962;

Since the vessel is not physically available for confiscation, I impose redemption fine of Rs.10,00,000/-(Rupees Ten lakhs only)

(ii) I impose penalty equal to Rs.5,00,000/-(Rupees Five lakhs only) under Section 112(a) of the Customs Act, 1962

(iii) I impose penalty equal to Rs.5,00,000/-(Rupees Five lakhs only) under Section 112(b) of the Customs Act, 1962

(iv)I impose penalty equal to Rs.10,00,000/-(Rupees Ten Lakhs only) under Section 114AA of the Customs Act, 1962.

(v) I impose penalty equal to Rs. 4,00,000/- (Rupees Four Lakhs only) under Section 117 of the Customs Act, 1962.

E. ORDER IN RESPECT OF M/S. TELCOM INTERNATIONAL PTE LTD.-

(i) I order to confiscate vessels MT FMT Gumuldur (non-seized-cleared in past), and MT.FMT EFES (non-seized- cleared in past), used for transporting the said goods under Section 115 of the Customs Act, 1962;

Since the vessels are not available for confiscation, I impose redemption fine of Rs.20,00,000/-(Rupees Twenty Lakhs only)

(ii) I impose penalty equal to Rs.5,00,000/-(Rupees Five lakhs only) under Section 112(a) of the Customs Act, 1962

(iii) I impose penalty equal to Rs.5,00,000/-(Rupees Five lakhs only) under Section 112(b) of the Customs Act, 1962

(iv)I impose penalty equal to Rs.10,00,000/-(Rupees Ten Lakhs only) under Section 114AA of the Customs Act, 1962.

(v) I impose penalty equal to Rs. 4,00,000/- (Rupees Four Lakhs only) under Section 117 of the Customs Act, 1962.

F. PENALTIES IN RESPECT OF OTHER PERSONS-

(i) I impose penalties against various persons (Co-noticees) under sections as given below:-

Sr.No.	Name of the persons	Section 112(a)	Section 112(b)	Section 114AA	Section 117
1.	Shri Sidhant Agarwal	20,00,000/-(Twenty Lakhs)	20,00,000/-(Twenty Lakhs)	50,00,000/-(Fifty Lakhs)	2,00,000/-(Two Lakhs)
2.	Shri Sudhanshu Agarwal	20,00,000/-(Twenty Lakhs)	20,00,000/-(Twenty Lakhs)	30,00,000/-(Thirty Lakhs)	2,00,000/-(Two Lakhs)

3.	Shri Amit Agarwal	20,00,000/- (Twenty Lakhs)	20,00,000/- (Twenty Lakhs)	30,00,000/- (Thirty Lakhs)	2,00,000/- (Two Lakhs)
4.	Shri Shrikant Subbarayan	20,00,000/- (Twenty Lakhs)	20,00,000/- (Twenty Lakhs)	50,00,000/-(Fifty Lakhs)	1,00,000/- (One Lakh)
5.	Shri Amit Thakkar	20,00,000/- (Twenty Lakhs)	20,00,000/- (Twenty Lakhs)	50,00,000/-(Fifty Lakhs)	1,00,000/- (One Lakh)
6.	Capt. Shri Sanjay Kumar	2,00,000/-(Two Lakhs)	2,00,000/-(Two Lakhs)	2,00,000/-(Two Lakhs)	1,00,000/- (One Lakh)
7.	Capt. Liu Youyi	2,00,000/-(Two Lakhs)	2,00,000/-(Two Lakhs)	2,00,000/-(Two Lakhs)	1,00,000/- (One Lakh)
8.	Capt. Julio Uytiepo Conejero	2,00,000/-(Two Lakhs)	2,00,000/-(Two Lakhs)	2,00,000/-(Two Lakhs)	1,00,000/- (One Lakh)
9.	Shri Ricky Mukeshkumar Pabari	20,00,000/- (Twenty Lakhs)	20,00,000/- (Twenty Lakhs)	50,00,000/-(Fifty Lakhs)	2,00,000/- (Two Lakhs)

(ii) I don't impose penalty under Section 114A upon Shri Ricky Mukeshkumar Pabari.

105. This order is issued without prejudice to any action that can be taken under any section of the Customs Act, 1962 including Section 132 of the Customs Act, 1962 or any other law for the time being in force.

Digitally signed by
M Ram Mohan Rao
Date: 04-07-2025
16:37:47

(M. RAM MOHAN RAO)
COMMISSIONER

F. No. GEN/ADJ/COMM/46/2024-Adjn-O/o Commr-Cus-Kandla

DIN- 20250771ML000000E0CF

By Speed Post/ email

To (noticee): -

(1) M/s. DIL Exim Commodities Private Limited, The Millenium, 12th Floor, Office No 1206 To 1211, 150ft Ring Road, Near Nana Mauva Circle, Rajkot, Gujarat- 360005 [E-mail:- dileximcommoditiespvtltd@gmail.com] having IEC : AAHCD7279A.

(2) M/s. Tata International Limited, Office No. 11, Ground Floor, Plot No. 40, Sector 8, Gandhidham, Kachchh-370201 having IEC 388024291. [E-mail:-til.post@tatainternational.com]

(3) M/s. Glentech Industries Private Limited, 508, 5th Floor, Wegmans Business Park, Plot No. 3, Sector-Knowledge Park-III, Surajpur Kasna

Main Road, Greater Noida, Gautam Budh Nagar-201308 (UP) having IEC AAICG1071A [E-mail: marketing@glentech.co]

(4) M/s. Oka Tankers PTE Ltd., 77 HIGH STREET, #08-10, HIGH STREET PLAZA, SINGAPORE (179433)

(5) M/s. Telcom International PTE Ltd., 50 Bukit Batok Street 23, #06-11, Midview Building, Singapore 659578 [E-mail : telcom@telcom-int.com]

(6) Shri Sidhant Agarwal, Director of M/s. GIPL & M/s. GVPL [E-mail:-sidhant@glentech.co]

(7) Shri Sudhanshu Agarwal, Director of M/s. GIPL & M/s. GVPL [E-mail:-sudhanshuagarwal90@gmail.com]

(8) Shri Amit Agarwal, Assistant Vice President of M/s. GIPL & M/s. GVPL [E-mail:-operations@glentech.co]

(9) Shri Shrikant Subbarayan, Head Agri Businees Division, M/s. Tata International Limited [E-mail:-shrikant.subbrayan@tatainternational.com]

(10) Shri Amit Thakkar, Senior Manager M/s. Tata International Limited[E-mail:-amit.thakkar@tatainternational.com]

(11) Capt. Shri Sanjay Kumar, Master of Vessel MT FMT Gumuldur V.202109 [E-mail:- gumuldur@skyfile.com]

(12) Capt. Liu Youyi, Master of Vessel MT Hong Hai6 V.2106 [E-mail:-Honghai6@msatmail.com]

(13) Capt. Julio Uytiepo Conejero, Master of Vessel MT FMT EFES Voy.202111 [E-mail:-Efes@skyfile.com]

(14) Shri Ricky Mukeshkumar Pabari, Director of M/s. DIL Exim Commodities Private Limited [E-mail: rickypabari@gmail.com]

Copy to: -

1) The Chief Commissioner, Customs Zone, Ahmedabad for Review
2) The Additional Director General, Directorate of Revenue Intelligence, Unit No. 15 Magnet Corporate Park Near Sola Flyover, S.G. Highway, Thaltej, Ahmedabad -380054 for information.
3) The Assistant Commissioner (EDI) for uploading on the website.
4) The Assistant Commissioner (TRC) for necessary action.
5) Guard File.