कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
E-mail id- adj-mundra@gov.in

A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/ADC/476/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ ADC/ ZDC/248/2026-27
C	**PASSED BY** जारीकर्ता	Dipak Zala, Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	19.08.2026
E	**DATE OF ISSUE** जारी करने की तिथि	19.08.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/476/2025-Adjn-O/o Pr Commr-Cus-Mundra dated 20.02.2025
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**(i)** M/s. Nishi Overseas (IEC: AMDPL7884N)

1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा,अहमदाबाद 380 009"
"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,
NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within sixty days from the date of communication of this order.

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

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

(i) उक्त अपील की एक प्रति और A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

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

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

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

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

BRIEF FACTS OF THE CASE

M/s. Nishi Overseas (IEC: AMDPL7884N) (hereinafter referred to as the Importer"), having address as "G-141, Madore Industrial Area, Jodhpur, Rajasthan-342007", is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) at Mundra Port by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry.

1.1 Intelligence gathered by the Directorate of Revenue Intelligence (DRI), (hereinafter referred to as 'DRI') indicated that M/s. Nishi Overseas is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of

Foreign Trade, Ministry of Commerce & Industry. As per said notification *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*.

2. Acting upon the intelligence, the containers covered under the Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024 filed by the importer M/s Nishi Overseas at Mundra Custom House lying in the CFS of M/s Mundhra CFS Pvt Ltd, APSEZ, Mundra was put on hold for examination by officers of DRI. The goods covered under Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024 were examined by the officers on 04.11.2024 and accordingly a panchnama dated 04.11.2024 was drawn at the CFS of M/s Mundhra CFS Pvt Ltd, APSEZ, Mundra in respect of the same.

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

4. During the course of investigation, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962 as given below:

4.1 During the course of investigation, statement of Shri Chinmay Jhanwar, son of Shri Om Prakash Jhanwar, Authorized Signatory of M/s. Nishi Overseas, G-141, Madore Industrial Area, Jodhpur, Rajasthan-342007, was recorded under Section 108 of the Customs Act, 1962 on 29.11.2024 wherein he inter alia stated that in year 2022 the firm M/s Nishi Overseas was incorporated and his wife Ms. Nishi Lakhotia is the proprietor of M/s Nishi Overseas; that they process the watermelon seeds at their factory premises and that he looks after all the business related work of M/s Nishi Overseas i.e. the work related to purchase and sales and import-export for M/s Nishi Overseas. He submitted Copy of BL No. OSLSBL-970/24 (Shipped on board 26.06.2024) dated 26.06.2024 along with Invoice, Packing list, COO, Phytosanitary certificate, Fumigation certificate etc. related to Containers No. MSCU6445387, MSCU6587057, OOLU1025905, OOLU3668449 and OSKU2200474 related to Bill of Entry no. 5798005 dated 25.09.2024 and similarly submitted Copy of BL No. OSLSBL-980/24 (Shipped on board 26.06.2024) dated 26.06.2024 along with Invoice, Packing list, COO, Phytosanitary certificate, Fumigation certificate etc. related to Containers No. BBTU8681887, GLDU3547380, GLDU3796000, GLDU5704092, HLXU3213059, SEGU1618570, TDRU1346330, TDRU2951612, TDRU3988072, TDTU3413080 and VSKU7864832 related to Bill of Entry no. 5506498 dated 09.09.2024 respectively which were supplied to him by his overseas supplier M/s Avisa Agro Trading (FZE), UAE. He also stated that he is aware know about Notification No. 05/2023 dated 05.04.2024 issued by DGFT that if watermelons seeds had loaded or shipped on board before 30th June 2024 then it will be under 'Free' category, however if goods loaded on ship or shipped on board after 30th June 2024, then it will be under category of restricted. On being shown two different shipped on board date i.e. 26.06.2024 on OSLSBL-970/24 (document produced by him) and 31.07.2024 on BL No. OSLPZUMUN3079424 dated 26.06.2024 with same container no (which was resumed during the search dated 12.09.2024 at premises of M/s. Paramount Sealink Pvt. Ltd., Gandhidham), he stated that he imported these containers through an agent/broker Shri Dinesh Tanna and they entered into agreement with broker in condition that goods would be loaded in month of June, 2024 and they informed that watermelon seeds had been loaded from Port Sudan in the month of June 2024 itself. On being shown email communication dated 14.08.2024 and 27.08.2024 between M/s. Paramount Sealink Pvt. Ltd. through email ID impdocs@paramountsealink.com from M/s Eastern Shipping Co. Ltd. through email ID nazik@easternship.com (which was resumed during the search dated 12.09.2024 at premises of M/s. Paramount Sealink Pvt. Ltd., Gandhidham) in which it has been mentioned that 'Dear Paramount Team (Mundra Team), Please find attached 7 Switch BL No.' which further contains text as 'BL No. OSLPZUMUN3086824 replaced with switch B/L OSLSBL-980/24 and BL No. OSLPZUMUN3079424 replaced with switch B/L OSLSBL-970/, he stated that he had no idea about this email communication; that if he had known in advance that the shipment (16 containers) was loaded after 30.06.2024, he would never have imported it. On being shown Cargo Manifest of B/L OSLSBL-957/24, B/L OSLSBL-958/24, B/L OSLSBL-960/24 and B/L OSLSBL-961/24 (which was resumed during the search dated 12.09.2024 at premises of M/s. Paramount Sealink Pvt. Ltd., Gandhidham) in which it has been mentioned that Vessel Sunset x with Voyage no. 2423 as same vessel with same voyage no. mentioned in your BL No. B/L OSLSBL-980/24 (11 containers) had sailed on 14.07.2024, he stated that he had no idea about this cargo manifest; that if he had known in advance that the shipment (16 containers) was loaded after 30.06.2024, he would never have imported it.

4.2 Statement of Shri Vankar Bharatbhai Khengarbhai, Senior Executive (Imports) of Paramount Sea Links Pvt. Ltd., (General Agent working in India on behalf of M/s Oceanic Star Line), was recorded under Section 108 of the Customs Act, 1962 on 31.01.2025 wherein he inter alia stated that after resignation of Shri Bharat Himmatlal Parmar, earlier Branch Manager, he has been handling all the work related to imports, IGM filing and DO work. He submitted copies of 4 Bills of Lading i.e. BL no OSLPZUMUN3079424, OSLPZUMUN3086824, OSLSBL-970/24 and OSLSBL-980/24 that when the original and switched Bills of Lading (BLs) were received by them through mail, Shri Bharat Himmatlal Parmar, was the branch manager of M/s Paramount Sealink Pvt. Ltd and all import-related work was carried out under his supervision. On being shown, email conversation between Overseas Person Shri Tagwa Badri, Sudan and M/s Paramount Sealink Pvt. Ltd., Gandhidham and others, he stated that it appears that original BL No. OSLPZUMUN3079424 replaced by switch BL No. OSLSBL-970/24, original BL No. OSLPZUMUN3086824 replaced by switch BL No. OSLSBL-980/24 and also stated that two Bills of lading had been made for same consignments and shipped on board date as well as vessel name has been manipulated by someone.

4.3 Statement of Shri Dinesh Jayantilal Tanna, Authorized person of M/s Tirupati Brokers, was recorded under Section 108 of the Customs Act, 1962 on 01.02.2025 wherein he inter alia stated that he came into contact with Shri Mohammad of M/s. Avisa Agro Trading (FZE), Sharjah, UAE (Supplier of M/s Nishi Overseas) during Gulf Food Expo held at Dubai in February, 2024; that he discussed with Shri Mohammad of M/s. Avisa Agro Trading (FZE), Sharjah, UAE about business related to Agri Commodities including Watermelon seeds; that he visited Jodhpur in around 2022 to meet the various importers of watermelon seeds including Shri Chinmay Jhanwar of M/s Nishi Overseas and following that visit, they were engaged in brokering deals for the supply of watermelon seeds to M/s

Nishi Overseas. He further stated that prior to these two present trade confirmation No. 5453 dated 11.07.2024 and 5454 dated 12.07.2024, they facilitated 3-4 consignments for M/s Nishi Overseas. He stated that for the consignment covered in contract no. 5453, they received the draft BL on 22.07.2024 and final BL on 11.08.2024 via whatsapp and for the consignment covered in contract no. 5454, draft BL on 12.07.2024 and final BL on 31.07.2024 were received via e-mail and also screenshot of whatsapp chat and copy of e-mail correspondence for both cases were submitted by him.

5. Evidences available on record during investigation :

5.1 It has been noticed that the BL No. OSLPZUMUN3079424 dated 26.06.2024 resumed during the search dated 12.09.2024 at premises of M/s. Paramount Sealink Pvt. Ltd., Gandhidham, contains Shipped on Board date as 31.07.2024 whereas the Shipped-on-Board date mentioned in the B/L OSLSBL-970/24 submitted by the importer (having the same containers as that mentioned in BL No. OSLPZUMUN3079424) as 26.06.2024.

Further, the BL No. OSLPZUMUN3086824 dated 31.07.2024 provided by Vankar Bharatbhai Khengarbhai, Senior Executive (Imports) of Paramount Sea Links Pvt. Ltd., during his statement dated 31.01.2025, contains Shipped on Board date as 15.07.2024 whereas the Shipped-on-Board date mentioned in the B/L OSLSBL-980/24 submitted by the importer (having the same containers as that mentioned in BL No. OSLPZUMUN3086824) as 26.06.2024.

The said manipulation of Bill of Lading shows that the said BL was manipulated/forged to get the 'Restricted' goods cleared. On going through the containers and other details mentioned in aforementioned 4 BLs, it is confirmed that **BL No. OSLPZUMUN3086824 has been replaced with OSLSBL-980/24** and **BL No. OSLPZUMUN3079424 has been replaced with OSLSBL-970/24.** Further, the cargo manifest, recovered during the search conducted at the office Premise of M/s Paramount Sea Links Pvt. Ltd. under Panchnama dated 12.09.2024, confirmed that BL OSLSBL-970/24 and OSLSBL-980/24 were manipulated/forged to get the 'Restricted' goods cleared. The Notification No. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category.

5.2 E-mail conversation: The e-mail conversations recovered during search conducted at the office premise of M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent of Shipping Line i.e. M/s Oceanic Star Line) having office situated at Office No. 14, 2nd Floor, Aviskar Building, Plot No. 204, Ward 12-B, Gandhidham-370201, under Panchnama dated 12.09.2024 indicated that various communications were made between officials of M/s Eastern Shipping Co. Ltd. and M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) to manipulate the Bill of Lading for clearance of subject goods covered under **BL No. OSLPZUMUN3086824 replaced with OSLSBL-980/24** and **BL No. OSLPZUMUN3079424 replaced with OSLSBL-970/24**. Some of the relevant e-mail conversations are mentioned in given below Table:

Subject	***Re "OSL PRE ALERT SIDRA AHLAM // 2406 PORT SUDAN –------MUNDRA"***		
E-mail Date	**Sender Name, Designation, Firm Name**	**Receivers Name and E-mail IDs**	**Relevant portion of e-mail text**
31.07.2024 (4:20 PM)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan (nazik@easternship.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	Dear Paramount Team (Mundra Team) Cc Ashraf//Jeddah T/S team POD: NHAVA SHEVA … … POD: MUNDRA Please find attached of Cargo Manifest, TDR and 7 DBL No. OSLPZUMUN3086824 (11x20) … with Remark Dear Paramount Team (Mundra Team) Please note I will send to you the final Cargo Manifest and DBL ASAP, Please wait
31.07.2024 (1:52 PM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-	Dear Tagwa, Pre-alert Noted, Kindly confirm second leg connecting vessel and ETA at Mundra.

		group.net), Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan (nazik@easternship.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	
31.07. 2024 (7:28 PM	Tagwa Badri, (tagwa@easternship.com)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan (nazik@easternship.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	Dear Ahmed Zunoon Please Advise on below
01.08. 2024 (8:49 AM)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net),	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealin	Dear @Tagwa Badri, Once the connecting details finalized will update the same.

		k.com & various others	
14.08.2024 (03:17 PM)	Tagwa Badri, (tagwa@easternship.com)	Nazik Mohyeldein, (nazik@easternship.com) , , Ahmed Zunnoon, (ts1.jed@oceanic-group.net), Mohit Kumar,., Gandhidham (impdocs@paramountsealink.com) & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	Dear Parmount Team (Mundra Team), Please find final attached of 7 Switch BL No. : … BL No. OSLPZUMUN3086824 replaced by Switch BL No.: OSLSBL-980/24.

Subject	***"OSL PRE ALERT IBN AL WALEED // 24905 PORT SUDAN – MUNDRA // NHAVA SHEVA 07-08-2024"***		
E-mail Date	**Sender Name, Designation, Firm Name**	**Receivers Name and E-mail IDs**	**Relevant portion of e-mail text**
08.08.2024 (3:200 AM)	Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd.,, (nazik@easternship.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com) , Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Naresh Tandon- Paramount Sealink Pvt Ltd. (agency@paramountsealink.com , Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	Dear Nhava Sheva/ Mundra Team Cc Jeddah T/S team Please find attached of Cargo Manifest, TDR and DBL No. OSLPZUMUN3079424 (05x20)-----
08.08.2024 (8:13 AM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@param	Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd.,, (nazik@easternship.com,	Dear Nazik, Pre-alert Noted, Kindly confirm second leg connecting vessel and ETA at Mundra.

	ountsealink.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com) , Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Naresh Tandon- Paramount Sealink Pvt Ltd. (agency@paramountsealink.com & others with Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	
20.08. 2024 (3:27 PM	Tagwa Badri, (tagwa@easternship.com)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan (nazik@easternship.com) Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Naresh Tandon- Paramount Sealink Pvt Ltd. (agency@paramountsealink.com & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	Dear Ahmed Zunoon/ Ashraf Kindly confirm second leg connecting vessel and ETA at Mundra.
25.08. 2024 (11:38 AM)	Tagwa Badri, (tagwa@easternship.com)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Nazik Mohyeldein, Senior	Dear Ahmed Zunoon/ Ashraf/ Mostafa Please share second leg connecting vessel and ETA.

		Export Executive, Eastern Shipping Co. Ltd., Sudan (nazik@easternship.com) Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Naresh Tandon- Paramount Sealink Pvt Ltd. (agency@paramountsealink.com & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	
25.08.2024 (12:32 PM)	Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net),	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	Dear Tagwa, Will confirm once finalized.
27.08.2024 (8:43 AM)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com)	Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan (tagwa@easternship.com), Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd.,, (nazik@easternship.com, Naresh Tandon- Paramount Sealink Pvt Ltd. (agency@paramountsealink.com, Ahmed Zunnoon, Pricing	Dear Tagwa/ Nazik, Pls note we are going to file manifest as per attached BL if any changes then pls confirm us in 30 min otherwise we will not be responsible for any changes.

		Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), & others with CC to Bharat Himmatlal Parmar, Branch Manager, Paramount Sealink Pvt. Ltd., Gandhidham (brmgr@paramountsealink.com & various others	
27.08.2024 (09:43 AM)	Tagwa Badri, (tagwa@easternship.com)	Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham (impdocs@paramountsealink.com), Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan (nazik@easternship.com) Ahmed Zunnoon, Pricing Executive, Oceanic Group, Pakistan (ts1.jed@oceanic-group.net), Naresh Tandon- Paramount Sealink Pvt Ltd. (agency@paramountsealink.com & others with CC to various others	Dear Mohit I will share the final DBLs by today Please wait
27.08.2024 (03: PM)	Tagwa Badri, (tagwa@easternship.com)	Nazik Mohyeldein, (nazik@easternship.com) , , Ahmed Zunnoon, (ts1.jed@oceanic-group.net), Mohit Kumar,., Gandhidham (impdocs@paramountsealink.com) & others with CC to various others	Dear Mohit/Nhava Sheva/Mundra Team, Please find attached of final cargo Manifest and 7 Switch BL No. : … BL No. OSLPZUMUN3079424 replaced by Switch BL No.: OSLSBL-970/24.

The email correspondences referenced above, while not exhaustive, provide sufficient evidence to demonstrate that all parties involved—namely Ahmed Zunnoon, Pricing Executive, M/s. Oceanic Group, Pakistan, Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan, Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan, Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham, Shri Bharat Himmatlal Parmar, Branch Manager of

M/s Paramount Sealink Pvt. Ltd, and the consignee (importer)—were fully aware of the restrictions on the import of watermelon seeds. Despite being cognizant of the applicable penalties imposed by customs, these entities deliberately concealed the fact that the actual 'Shipped on Board' date was after June 30, 2024 i.e. 15.07.2024 for BL No. OSLPZUMUN3086824 (replaced with OSLSBL-980/24) and 'Shipped on Board' date was 31.07.2024 for BL No. OSLPZUMUN3079424 (replaced with OSLSBL-970/24). Through intentional misrepresentation and manipulation of dates, they sought to facilitate the clearance of restricted cargo in violation of the established regulations.

6. Seizure:

During the investigation, it was observed that the imported goods i.e. Watermelon Seeds the imported goods i.e. Watermelon Seeds have been loaded on board after 30th June 2024 and hence are restricted goods as per Notification no. 05/2023 dated 05.04.2024 issued by the DGFT. Thus, it appears that the imported goods by M/s Nishi Overseas, under both Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024 filed at Mundra Custom House, appears to have been mis-declared in documents submitted to the Customs. Therefore, there being a reasonable belief that that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 30.11.2024 .

7. Brief of investigation conducted and liability of imported goods for confiscation:

7.1 Investigation conducted by DRI has revealed that the containers covered under both Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024 were shipped from Sudan port on 15.07.2024 and 31.07.2024 respectively well beyond the cut-off date of 30.06.2024 specified in DGFT Notification No. 05/2023 dated 05.04.2024. Moreover, email correspondences and other evidence clearly demonstrate that forged Bills of Lading bearing No. OSLSBL-970/24 and OSLSBL-980/24 were created, falsely reflecting the 'shipped on board' date as 26.06.2024, instead of the actual Shipped-on-Borad date i.e. 31.07.2024 and 15.07.2024 respectively. This deliberate manipulation of shipping documents was aimed at unlawfully availing the benefits under the DGFT Notification No. 05/2023. The investigation indicates that the importer, in collusion with Ahmed Zunnoon, Pricing Executive, M/s. Oceanic Group, Pakistan, Tagwa Badri, Marketing Executive, Eastern Shipping Co. Ltd., Sudan, Nazik Mohyeldein, Senior Export Executive, Eastern Shipping Co. Ltd., Sudan, Mohit Kumar, Paramount Sealink Pvt. Ltd., Gandhidham and Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd, to facilitate the clearance of restricted cargo. By doing so, the importer has failed to adhere to the conditions of DGFT Notification No. 05/2023, thereby violating the provisions of the Foreign Trade Policy 2023. This constitutes a serious breach of regulatory compliance and evidences deliberate intent to mislead customs authorities.

7.2 The facts and evidence discussed above indicate that the Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import. It means that all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order. However, as established in the preceding paras, M/s. Nishi Overseas, located at G-141, Madore Industrial Area, Jodhpur, Rajasthan-342007', illegally imported Watermelon Seeds under both Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board beyond the permissible date of 30th June 2024 using forged Bills of Lading. Furthermore, it was revealed during the investigation that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under both Bill of Entry No. 5506498 dated 09.09.2024 having quantity **200 MTS** (Assessable value of **Rs. 4,68,90,648/-**) and Bill of Entry No. 5798005 dated 25.09.2024 having quantity **85 MTS** (Assessable value of **Rs. 1,98,44,078/-**) and accordingly total quantity of **285 MTs** and declared assessable value of **Rs. 6,67,34,726/-** imported by M/s. Nishi Overseas are liable for confiscation under confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962.

8. Roles of persons/firms involved:

8.1 Role of the importer M/s Nishi Overseas (IEC No. AMDPL7884N) (Proprietor: Ms. Nishi Lakhotia):

Ms. Nishi Lakhotia is Proprietor of M/s. Nishi Overseas and being importer, she was well aware of the Import policy and Notification. M/s. Nishi Overseas had imported watermelon seeds covered under both Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024 in by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject both Bill of entry is **285 MTs** having declared Assessable value of **Rs. 6,67,34,726/-**. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under **Section 112 (a) and 112 (b)** of the Customs Act, 1962. By not uploading the original and correct documents as mandated during filing of Bills of Entry, the importer has attempted to mislead the department thereby rendering themselves liable to penalty under **Sec 114AA** of Customs Act, 1962.

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

The facts and evidence gathered during the search, including email correspondences, clearly establish that M/s Paramount Sealink Pvt. Ltd., acting on behalf of M/s Oceanic Star Line, deliberately colluded with representatives of M/s

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

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

During the search conducted at the office Premise of M/s Paramount Sea Links Pvt. Ltd. (General Agent working in India on behalf of M/s Oceanic Star Line) having office situated at ‘Office No. 14, 2nd Floor, Aviskar Building, Plot No. 204, Ward 12-B, Gandhidham-370201’ under Panchnama dated 12.09.2024 Shri Bharat Himmatlal Parmar admitted to looking after work related to export, import and accounts operations. The facts and evidences gathered during the search, including email correspondences, clearly establish that Shri Bharat Himmatlal Parmar, being the Branch Manager was made copy receiver to each and every mail conversation between their Principal Shipping Line (M/s. Oceanic Star Line) and overseas agents of their Principal Shipping Line (i.e. M/s. Eastern Shipping Co. Ltd., Sudan and M/s. Gulf Gate Shipping Co. Ltd., Jeddah). It has also been confirmed from statement of Shri Vankar Bharatbhai Khengarbhai, Senior Executive (Imports) of Paramount Sea Links Pvt. Ltd., recorded under Section 108 of the Customs Act, 1962 on 31.01.2025 that when the original and switched Bills of Lading (BLs) were received by them through mail, Shri Bharat Himmatlal Parmar, was the branch manager of M/s Paramount Sealink Pvt. Ltd and all import-related work was carried out under his supervision. During investigation, it was revealed that he was fully aware about the manipulation of actual dates on Bill of Lading. This manipulation was intended to facilitate the clearance of restricted cargo in direct violation of established regulations. Despite being fully aware, he failed to disclose the actual facts to the customs department and in connivance with their principal shipping line and its overseas agents, he attempted to facilitate the clearance of restricted cargo. By engaging in the creation of forged Bills of Lading in collusion with shipper, broker and shipping line representatives, Shri Bharat Himmatlal Parmar not only mislead the customs department but also rendered himself liable to penalty under **Section 112 (b)** of the Customs Act, 1962.

8.4 Role of Shri Dinesh Jayantilal Tanna, Authorized Signatory of M/s. Shree Tirupati Brokers :

Statement of Shri Chinmay Jhanwar, Authorized Signatory of M/s Nishi Overseas, was recorded under Section 108 of the Customs Act, 1962, on 29.11.2024. In his statement, Shri Chinmay Jhanwar stated that they had imported these containers through an agent/broker Shri Dinesh Tanna of Tirupati Brokers, Rajkot and they entered into agreement with broker with condition that goods will be loaded on vessel in the month of June, 2024 and further stated that they informed that watermelons seeds had been loaded from Port of Sudan in the month of June, 2024 itself. During investigation, Shri Dinesh Tanna accepted that they used to import goods i.e. Watermelon seeds from Sudan. It was noticed that although **Shri Dinesh Tanna, Authorized representative of M/s Tirupati Broker, Rajkot** was handling the import related work as a Broker and used to contact Sudanese suppliers in order to finalize the deal with the suppliers of the goods. He used to bargain with foreign suppliers and used to arrange the payment against the subject import goods to the Sudanese suppliers. It appears that Shri Dinesh Tanna had given instructions to the container line through the overseas supplier that even if the goods are shipped after 30th June 2024, the documents must be maintained before 30th June 2024, only then the goods will be cleared in India. From the investigation conducted, it has come to notice that Shri Dinesh Tanna of Tirupati Brokers attempted to facilitate the clearance of restricted cargo. Email correspondences further indicate that Shri Dinesh Tanna sought to obtain forged dates from shipping line representatives in a manner that would mislead customs and enable the clearance of restricted cargo. By engaging in the creation of forged Bills of Lading in collusion with importer and shipping line representatives, Shri Dinesh Jayantilal Tanna not only mislead the customs department but also rendered himself liable to penalties under **Section 112(b)** and **Section 114AA** of the Customs Act, 1962.

9. Relevant Legal provisions :

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

9.2 Whereas vide Notification No. 05/2023 dated 05.04.2024 issued by the Directorate General of Foreign Trade, Ministry of Commerce & Industry, it has been envisaged that *“Import Policy of Melon Seeds is ‘Free’ with effect from 01st May 2024 up to 30th June 2024. Consignments with ‘shipped on board’ Bill of lading issued till 30th June 2024 shall be treated as ‘Free’ to import”*. As a corollary, all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on ‘Actual User’ basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024.

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

9.3.1 FTDR Act, 1992 :

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

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

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

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

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

The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, inlike manner, amend that policy:
Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.

9.3.2 Foreign Trade Policy, 2023 :

Para 1.02: Amendment to FTP

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

Para 2.01: Policy regarding import /Exports of goods

(a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and

Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed under 'Regulatory Updates' at https:// dgft. gov.in

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

9.3.3 Relevant Sections of the Customs Act, 1962 :

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

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

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

shall be liable, -

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

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

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

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

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

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

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

Section 125. Option to pay fine in lieu of confiscation.-

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods... an option to pay in lieu of confiscation such fine as the said officer thinks fit."

"(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

10.1 Accordingly, Show cause Notice GEN/ADJ/ADC/476/2025-Adjn-O/o Pr Commr-Cus-Mundra dated 20.02.2025 was issued to M/s. Nishi Overseas, (Proprietor: Ms. Nishi Lakhotia) wherein they were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why:

(a) The imported goods declared as 'Watermelon Seeds' under CTH 12077090 covered under both Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry

No. 5798005 dated 25.09.2024 having total quantity **285 MTs** having declared Assessable value of **Rs. 6,67,34,726/-** should not be confiscated under Section 111 (d), 111(m) and 111(o) of Customs Act, 1962.

(b) Penalty under Section 112(a), 112(b) and Section 114AA of the Customs Act, 1962 should not be imposed on M/s. Nishi Overseas, G-141, Madore Industrial Area, Jodhpur, Rajasthan-342007.

10.2 Vide SCN dated 20.02.2025, M/s Paramount Sealink Pvt. Ltd. were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed on M/s Paramount Sealink Pvt. Ltd. under Section 112(b) & Section 114AA of the Customs Act, 1962.

10.3 Further vide SCN dated 20.02.2025 , Shri Bharat Himmatlal Parmar, Branch Manager of M/s Paramount Sealink Pvt. Ltd. was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why penalty should not be imposed on him under Section 112(b) of the Customs Act, 1962.

10.4 Furthermore vide SCN dated 20.02.2025**,** Shri Dinesh Jayantilal Tanna of M/s. Shree Tirupati Brokers was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House as to why penalty should not be imposed on him under Section 112(b) & Section 114AA of the Customs Act, 1962.

11.1 After considering the submissions of the noticees and personal hearing conducted in the impugned matter, the Order-in-Original No. MCH/ADC/ZDC/446/2025-26 dated 19.12.2025 was issued as follows:

(i). *I order to absolute confiscation of impugned goods i.e.* ***285 MTS "Watermelon Seed"*** *imported vide Bills of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024 having total value Rs.* ***6,67,34,726/- (Six Crore Sixty Seven Lakh Thirty Four Thousand Seven Hundred and Twenty Six only)*** *under Section 111 (d),111(m) & 111(o) of the Customs Act, 1962.*

(ii). *I impose penalty of Rs. 30,00,000/- (Rupees Thirty Lakh only) on the importer M/s. Nishi Overseas under Section 112 (a)(i) of the Customs Act, 1962.*

(iii). *I refrain from imposing penalty on the importer M/s. Nishi Overseas under Section 112(b) of the Customs Act, 1962.*

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

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

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

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

(viii). *I impose penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the importer Shri Dinesh Jayantilal Tanna, under Section 112 (b) of the Customs Act, 1962.*

(ix). *I impose penalty of Rs. 25,000/- (Rupees Twenty Five Thousand only) on the importer Shri Dinesh Jayantilal Tanna, under Section 114AA of the Customs Act, 1962.*

11.2 Being aggrieved by Order-in-Original No. MCH/ADC/ZDC/446/2025-26 dated 19.12.2025 (hereinafter referred to as "the said OIO"), the importer M/s. Nishi Overseas, along with eight other similarly placed importers involved in identical facts and issues, preferred appeals before the Commissioner of Customs (Appeals), Ahmedabad. The said appeals were disposed of vide a common Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 (hereinafter referred to as "the OIA"), passed by the Commissioner of Customs (Appeals), Ahmedabad.

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

> *"5.6 I find that the impugned order does not contain any detailed examination or findings on the aforesaid legal submissions, judicial precedents, and contentions raised by the appellants as detailed in their defence reply. Since these issues have a direct bearing on the present cases, I am of the considered view that they require proper examination and adjudication by the original adjudicating authority.*
>
> *5.7. Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A(3) of the Customs Act, 1962. In this regard, reliance is placed upon the judgment of the Hon'ble Gujarat High Court in Medico Labs [2004 (173) E.L.T. 117 (Guj.)], the judgment of the Hon'ble Bombay High Court in Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)], and the decisions of the Hon'ble Tribunal in Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del.)], wherein the appellate authority's power to remand under Section 128A(3) of the Customs Act, 1962 has been recognized.*

5.8. In view of the foregoing discussion, the impugned orders are set aside and the matters are remanded to the adjudicating authority for de-novo adjudication in accordance with law. It is expressly clarified that no opinion or views have been expressed on the merits of the cases."

11.4 I find it pertinent to mention that the observation of the learned Commissioner (Appeals) at Paras 5.5 & 5.6 of the said OIA, that the said OIO did not contain any examination of the contention regarding redemption, has to be viewed in the context that the judicial precedent on this aspect was not a settled one at the time of passing of the said OIO on 19.12.2025. The said OIO dated 19.12.2025 was passed after affording due opportunity of personal hearing to the noticees, in compliance with the principles of natural justice. The Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026 in the case of M/s. Shreeshiv Agri Impex LLP, being subsequent in time to the said OIO, had itself ordered absolute confiscation without extending any option of redemption. It was only pursuant to the Common Oral Order dated 29.01.2026 of the Hon'ble High Court of Gujarat, and the Addendum dated 10.02.2026 issued thereto, that the option of redemption came to be extended in the case of M/s. Shreeshiv Agri Impex LLP. The said development, being subsequent to the said OIO, was not available for consideration at the time of issuance of earlier OIO dated 19.12.2025, and the same now falls for consideration in the present de novo adjudication.

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

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

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

12. WRITTEN SUBMISSION

12.1 M/s. Nishi Overseas (IEC: AMDPL7884N), submitted their earlier reply, wherein they have, *inter alia*, submitted that:

12.1.1 Acting upon specific intelligence gathered by DRI regarding importer importing Watermelon Seeds in contravention to the DGFT Notification No. 05/2023 dated: 05.04.2024 an investigation was initiated. In due course of investigation, a search was conducted at the premises of Paramount Sealink Pvt Ltd located at Suit No 20, Second floor Avishkar complex, Ward 12 B, Plot No. 204, Gandhi Dham, Kutch, Gujrat. It is submitted that the foundation of the entire case is based upon the Panchnama drawn at the premises of M/s Paramount Sealink Pvt Ltd however the said Panchnama is totally unreliable and inadmissible along with the statements and contents mentioned or drawn during it as the Panchnama dated: 12.09.2024 has Pancha 1: Shri Vikash Pandit whose sign can be found at every page however the Pancha – 2: is mentioned to be Shri Rukhi Manubhai Chhagan at the beginning of the Panchnama however the signature on each page for P2 reveals name of one Shri Manoj Rathod. There is no record of Shri Manoj Rathod being called or being present during Panchnama much less him being pancha for the aforementioned Panchnama. This discrepancy questions the validity and legality of the document in its entirety. Therefore, the Panchnama in the said case has become non-est and hence cannot be relied or used in the said proceedings.

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

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

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

i. In Arjun Pandit Rao v. Kailash Kushanrao 2020 (7) SCC 1 (Civil Appeal No. 20825-20826 of 2017). It was held by Supreme Court regarding the contents of the 'Certificate' as: *"The certificate submitted under this provision constitutes particulars of those electronic records and identity inclusive of authorized signature of a person having official responsibility in relation to the management and operation of the relevant device."*
ii. The Supreme Court in the case of Anvar P.V. v. P.K. Basheer and Others (2014) 2017 (352) ELT 416 (SC) have held in the case of similarly worded provision of Section 65B Indian Evidence Act 1872 that such certification is an essential requirement for making any of

such printouts admissible as evidence. *"Electronic Evidence - Admissibility of - Speeches, songs and announcements recorded using other instruments and by feeding them into a computer, CDs made therefrom and* ***produced in court, without due certification*** *- Such CDs produced by way of secondary evidence,* ***not admissible in evidence, mandatory requirements of Section 65B of Indian Evidence Act, 1872 being not satisfied*** *-* ***Whole case set up*** *regarding corrupt practice using songs, announcements and speeches* ***fails."***(Highlighting Supplied)

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

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

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

iv. Further reliance is placed on Junaid Kudia Versus Commissioner of Customs, Mumbai Import-II (2024) 16 Centax 503 (Tri.-Bom) wherein in Para 10 it was held: *"****10.*** *Upon perusal of the judgment of the Hon'ble Supreme Court in the case of Anvar P.V. (supra), we note that the Apex Court has categorically laid down the law that unless the*

requirement of Section 65B of the Evidence Act is satisfied, such evidence cannot be admitted in any proceedings. ***We note that the Section 138C of the Customs Act is parimateria to Section 65B of the Evidence Act*****.** ***Consequently, the evidence in the form of computer printouts, etc., recovered during the course of investigation can be admitted in the present proceedings, only subject to the satisfaction of the sub-section (2) of Section 138C ibid.*** *This refers to the certificate from a responsible person in relation to the operation of the relevant laptop/ computer. After perusing the record of the case,* ***we note that in respect of the electronic documents in the form of computer printouts from the seized laptops and other electronic devices, have not been accompanied by a certificate as required by Section 138C(2) ibid as above. In the absence of such certificate****, in view of the unambiguous language in the judgment of the Hon'ble Supreme Court (supra),* ***the said electronic documents cannot be relied upon*** *by the Revenue for confirmation of differential duty on the appellant. In the present case, the main evidence on which, Revenue has sought to establish the case of undervaluation and misdeclaration of the imported goods is in the form of the computer printouts taken out from the laptops and other electronic devices in respect of which the requirement of Section 138C(2) ibid has not been satisfied.* ***On this ground, the impugned order suffers from uncurable error and hence, is liable to be set aside"*** (Highlighting Supplied)
This case was further upheld by Hon'ble Supreme Court in case of Commissioner of Customs, Mumbai Import-II Versus Junaid Kudia (2024) 16 Centax 504 (S.C.)/2024 (388) E.L.T. 529 (S.C.) where in the Hon'ble Supreme Court after condoning the delay and hearing the Ld. ASG has dismissed the appeal of department and upheld the order of CESTAT, Mumbai.

12.1.5 A statement of Shri Chinmay Jhanwar Authorized Representative of M/s Nishi Overseas was recorded at Gandhidham wherein in Q5 he was asked to produce the import related documents called under summons in answer to which he had produced B/L, Invoice, Packing List, Certificate of Origin, Phytosanitary, Fumigation, etc.

12.1.6 Further in Q7 he was shown another copies of B/L with Shipped on Board dated: 31.07.2024 to which he answered that he had already submitted all the original available import related documents to the officer and also highlighted the fact that they had entered the agreement with the broker on condition that the goods must be loaded before 30.06.2024 as he was very well aware of the DGFT Notification restricting import of melon seeds after 30.06.2024.

12.1.7 Further statement of Shri Vankar Bharatbhai Khengarbhai Senior Executive (Import) of Paramount Sealink was recorded wherein in answer to Q4 he was asked as to how there are 2 B/L existing for one consignment and if the same has been made on his instructions to which he hase replied that Shri Bharat Parmar was the Branch manager during the relevant period and he has no ideas as to why Shri Bharam 'MAY' have supressed the fact pertaining to 2 Bs/L. In Q7 he was again sown 2 Bs/L submitted by him to which he answered that the Bs/L appear to have been manipulated by someone however, he has no idea as to who has given direction for making such changes.

12.1.8 In answer to Q8 of his statement he has admitted that he has filed the Cargo manifest in accordance with the 'Final B/L' received by them on email and thereby has agreed that the Original Copy of Bs/L as submitted by the importer are valid and final and not the 'Verify Copy' of Bs/L retrieved by the investigating officers. It appears that a deliberate attempt to get it admitted that the B/L has been manipulated / forged has been made by the investigators since Shri Bharat during the panchnama has revealed that he is the Manager and all import related work is looked after by Shri Mohit and not him whereas in the statement it is implicated that Shri Bharat used handle all the work of import in person which is not the fact in present case. Hence, it appears that his statement is in contradiction to his own depositions made during panchnama and facts on record and thus is totally unreliable and inadmissible.

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

12.1.10 Further statement of Shri Dinesh Tanna was recorded wherein in answer to Q3 he was sked to produce the documents called under summons whereby he had submitted copies of Brokers Contract No 5453 dated: 11.07.2024 and documents pertaining to import related to that contract i.e. Performa Invoice, Commercial Invoice cum Packing list, Phytosanitary, Fumigation, COO, B/L etc., along with Broker Contract No 5454 dated: 12.07.2024 and documents pertaining to import related to that contract i.e. Performa Invoice, Commercial Invoice cum Packing list, Phytosanitary, Fumigation, COO, B/L etc. Further at Q8 he was asked as to how did he receive all the documents pertaining to these 2 Brokers Contract to which he has answered that he had received all the documents through WhatsApp and email and submitted the copies of WhatsApp chats and emails to the officer.

12.1.11 Further at Q13 he was shown the email printouts recovered from the emails during the search at Paramount ceiling private limited after seeing which he had said that it appears that original B/L was replaced by Switch B/L and that the goods were shipped on board on 31.07.2024 on Vessel Ibn Al Waleed and not on Vessel Sunset-X. It is submitted that this statement of his that the goods have sailed in the Vessel Ibn Al Waleed and not on Vessel Sunset-X is purely based on assumption and presumption as he had received the Original Signed B/L for the Vessel Sunset-X and he was not present at the port of loading while the goods were loaded or while the goods have left. He was also not questioned that if he has known that goods have sailed on Vessel Ibn Waleed and not on Vessel Sunset – X then as to why he at Q3 has submitted the B/L for Vessel Sunset – X and where is the allegedly Original stamped B/L for Vessel Ibn Waleed as the only copy of B/L suggesting the goods having sailed in Ibn Waleed is a draft 'Verify Copy' of B/L.

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

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

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

themselves to explain as to why their ex-factory prices remain static. *It was not for the Tribunal to have guess work as to for what purposes the appellant wanted to cross-examine those dealers and what extraction the appellant wanted from them."* (Highlighting Supplied)

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

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

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

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

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

i. The goods were imported with due compliance of law and in compliance of the DGFT policy stating that the melon seeds are freely importable if Shipped on Board Date is before 30.06.2024.
ii. It is submitted that the goods so imported by the importer are neither in contravention to any Act within India nor are prohibited for import under Customs Act or any other Act. Hence, no provisions of 111(d) can be said to have been violated by the importer.
iii. It is submitted that there is not even allegation of the goods imported to be mis-declared in any form i.e. quantity, description, quality, etc. brought out in entire proceedings or in the SCN. Hence, no confiscation liability can be arrived at u/s 111(m) of the Customs Act.
iv. It is also submitted that the only condition of importing 'melon seeds' under free category was laid down in the DGFT Circular which stated that if the 'Ship on Board' date on the B/L is on or before 30.06.2024 then the import of 'Melon Seeds' is to be treated as free. The only documents including B/L found with the importer is the one which was submitted to the Customs Authorities and is dated as well as has 'Ship on Board' date prior to 30.06.2024. Hence there exists no reason to bring in confiscatory provision of Section 111(m) of Customs Act.
v. Therefore, there being no violation of any of the provisions of the Customs Act, 1962 there arises no reason to arrive at confiscation under any of the provisions of Section 111 as proposed in the SCN and the imported goods placed under seizure are liable to be released and allowed to be cleared from the Customs.

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

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

Reliance in this case is placed upon:

i. SRI KRISHNA SOUNDS AND LIGHTINGS 2019 (370) E.L.T. 594 (Tri. - Chennai) where in the Hon'ble Tribunal has found and held:
*"**6.** The Ld. AR has submitted that the Commissioner (Appeals) has set aside the penalty under Section 114AA for the reason that penalty has been imposed by the adjudicating authority under Section 112(a) and therefore there is no necessity of further penalty under Section 114AA. I find that this submission is incorrect for the reason that in the impugned order in paras 7 and 8, the Commissioner (Appeals) has discussed in detail the provision with regard to Section 114AA. It is seen stated that **as per the Taxation Laws (Amendment) Bill, 2005, introduced in Lok Sabha on 12-5-2005, the Standing Committee has examined the necessity for introducing a new Section 114AA**. **The said Section was proposed to be introduced consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border.** The said Section envisages enhanced penalty of five times of the value of the goods. The Commissioner (Appeals) has analyzed the object and the purpose of this Section and has held that in view of the rationale behind the introduction of Section 114AA of the Customs Act and the fact that penalty has already been imposed under Section 112(a), the appellate authority has found that the penalty under Section 114AA is excessive and requires to be set aside. Thus, the penalty under Section 114AA is not set aside merely for the reason that penalty under Section 112(a) is imposed. After considering the ingredients of Section 114AA and the rationale behind the introduction of Section 114AA, the Commissioner (Appeals) has set aside the penalty under Section 114AA.*
***7. On appreciating the evidence as well as the facts** presented and after hearing the submissions made by both sides, **I am of the view that the Commissioner (Appeals) has rightly set aside the penalty under Section 114AA since the present case involves importation of goods and is not a situation of paper transaction.** I do not find any merit in the appeal filed by the*

department and the same is dismissed. The cross-objection filed by respondent also stands dismissed."(Highlighting Supplied)

ii. Arun Kumar Kuwar Versus Principal Commissioner of Customs, New Delhi (2024) 20 Centax 123 (Tri.-Del) (Principal Bench) where in it was held:

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

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

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

> ***that penalty even under 114AA has wrongly been imposed upon the appellant-CHA, same is liable to be set aside."*** (Highlighting Suplied)

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

12.2 Pursuant to the remand, **M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of M/s. Nishi Overseas and the other similarly placed noticees, vide letter dated 17.07.2026,** has, inter alia, submitted as under:-

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

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

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

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

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

PERSONAL HEARING

13. M /s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of the Importer i.e. M/s. Nishi Overseas, vide the very same letter dated 17.07.2026, has categorically stated that they "***do not want any personal hearing and issues may be decided on merit,*** *on urgent basis to avoid further delay and loss to impugned importers given the nature of the goods and the mounting daily losses*." Accordingly, the noticees have expressly waived their right to personal hearing in the de novo proceedings.

DISCUSSION AND FINDINGS

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

14.1 I have gone through the letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 issued by the Office of the Commissioner of Customs (Appeals), Ahmedabad, whereby, in response to this office's letter F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 seeking clarification on the scope of the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026, it has been clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal dated 07.07.2026 and the issues arising from their respective appeals. Since M/s. Nishi Overseas is one of the appellants specifically named in the said Table-I, the impugned Order-in-Original stands set aside only in respect of M/s. Nishi Overseas and not in respect of any other noticee covered under the said Order-in-Original No. MCH/ADC/ZDC/446/2025-26 dated 19.12.2025. Accordingly, the matter is required to be adjudicated de-novo only qua M/s. Nishi Overseas, in accordance with the directions of the Hon'ble Appellate Authority.

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

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

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

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

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

15.1 I find that M/s. Nishi Overseas (Importer) imported Watermelon seed in eleven containers vide Bill of Entry no. 5506498 dated 09.09.2024 under Bill of lading no. OSLSBL-980/24 dated 26/06/2024 and five containers vide Bill of Entry no. 5798005 dated 25.09.2024 under Bill of Lading no. OSLSBL-970/24 dated 26/06/2024. Based on intelligence gathered by DRI, Gandhidham that importer is indulged into illegal import of Watermelon Seeds (Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade. The proceedings of the examination were recorded under panchnama dated 04.11.2024 drawn at M/s. Mundhra CFS Pvt Ltd, APSEZ, Mundra.

15.2.1 I found that during the course of investigation, four different bills of lading were found. The details are as under:-

<u>Table-A</u>

Bill of lading No.	**OSLSBL-980/24**	**OSLPZUMUN3086824**	**OSLSBL-970/24**	**OSLPZUMUN3079424**
Vessel Name	SUNSET X	SIDHRA AHLAM	SUNSET X	IBN AL WALEED
Voyage No.	2423	2406	2423	24905
B/L issue date	26.06.2024	31.07.2024	26.06.2024	26.06.2024
Ship on board Date	26.06.2024	15.07.2024	26.06.2024	31.07.2024
Total no. of containers	11	11	05	05
B/L Issued by	Gulf Gate Shipping Company limited	Eastern Shipping Company	Gulf Gate Shipping Company limited	Eastern Shipping Company

15.2.2 I observed that during the search at the premises of M/s. Paramount Sealink Pvt. Ltd. on dated 12.09.2024, above mentioned four different Bills of Lading bearing nos. OSLSBL-980/24 dated 26.06.2024 and OSLPZUMUN3086824 dated 31.07.2024 in respect of 11 container of B/E no. 5506498 dated 09.09.2024 and OSLSBL-970/24 dated 26.06.2024 and OSLPZUMUN3079424 dated

26.06.2024 in respect of 05 container of B/E no. 5798005 dated 25.09.2024 were found.

Shipped on board date in the Bills of Lading OSLSBL-980/24 dated 26.06.2024 and OSLPZUMUN3086824 dated 31.07.2024 was declared as 26.06.2024 and 15.07.2024 respectively for B/E no. 5506498 dated 09.09.2024.

Shipped on board date in the Bills of Lading OSLSBL-970/24 dated 26.06.2024 and OSLPZUMUN3079424 dated 26.06.2024 was declared as 26.06.2024 and 31.07.2024 respectively for B/E no. 5798005 dated 25.09.2024.

15.2.3 I observed that cargo Manifest for BL No. OSLSBL-957/24, OSLSBL-958/24, OSLSBL-960/24 and OSLSBL-961/24, found during the search at M/s. Paramount sealink Pvt. Ltd. premises on dated 12.09.2024 in which the Port of Loading is mentioned as PORT SUDAN and the date of sailing is mentioned as 14.07.2024 with Vessel name as SUNSET X and Voyage 2423.

Further, I have also observed that the BL having NO. OSLSBL-980/24 dated 26.06.2024 and OSLSBL-970/24 dated 26.06.2024 with the details as vessel name as SUNSET X and voyage No. 2423 submitted for filing of Bill of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024 respectively by M/s. Nishi Overseas for goods namely Watermelon Seeds, the ship on Board date was mentioned as 26.06.2024 for both Bills of Lading.

15.2.4 From the above, it is evident that cargo Manifest for BL No. OSLSBL-957/24, OSLSBL-958/24, OSLSBL-960/24 and OSLSBL-961/24 are shipped from Sudan from with Vessel name as SUNSET X and Voyage 2423 on 14.07.2024. Hence, it is confirmed that OSLSBL-980/24 dated 26.06.2024 and BL No. OSLSBL-970/24 dated 26.06.2024 with Vessel name as SUNSET X and Voyage 2423 used for filing of Bill of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024 respectively must be shipped on or after 14.07.2024 as both naming same vessel as SUNSET X and Voyage no. 2423.

Further, the original Bills of Lading nos. OSLPZUMUN3086824 dated 31.07.2024 and OSLPZUMUN3079424 dated 26.06.2024 earlier forwarded vide emails dated 31.07.2024 and 08.08.2024 for filing of Bill of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024 having shipped on board date as 15.07.2024 and 31.07.2024 respectively after the due date of 30.06.2024 as per provisions of the notification no. 05/2023 dated 05.04.2024 issued by DGFT.

It established that said BLs having NO. OSLSBL-980/24 dated 26.06.2024 and OSLSBL-970/24 dated 26.06.2024 were manipulated/forged by falsely indicating a 'Shipped On Board' date prior to June 30, 2024 in order to facilitate the clearance of 'Restricted' goods.

15.3 E-mail conversation:-

15.3.1 The e-mail conversation recovered during search conducted at the office Premise of M/s. Paramount Sealink Pvt. Ltd. under Panchnama dated 12.09.2024 indicated that various communications were made between officials of M/s Eastern Shipping Co. Ltd. and M/s. Paramount Sealink Pvt. Ltd. (Delivery Agent working in India on behalf of M/s Oceanic Star Line) to manipulate the Bill of Lading for clearance of subject goods covered under Bill of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024.

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

- 31.07.2024 : Dear Paramount Team (Mundra Team) POD: MUNDRA, Please find attached of Cargo Manifest, TDR and 7 DBL No. OSLPZUMUN3086824 (11x20),.. with Remark, Dear Paramount Team (Mundra Team) Please note I will send to you the final Cargo Manifest and DBL ASAP, Please wait.
- 31.07.2024:- Dear Tagwa,Pre-alert Noted, Kindly confirm second leg connecting vessel and ETA at Mundra.
- 31.07.2024:- Dear Ahmed Zunoon, Please Advise on below.
- 01.08.2024:- Dear @Tagwa Badri, Once the connecting details finalized will update the same.
- 14.08.2024 :- Dear Parmount Team (Mundra Team),Please find final attached of 7 Switch BL No. : … **BL No. OSLPZUMUN3086824 replaced by Switch BL No.: OSLSBL-980/24**

- **08.08.2024:-** Dear Nhava Sheva/ Mundra Team,Please find attached of Cargo Manifest, TDR and DBL No. OSLPZUMUN3079424 (05x20)-----
- **08.**08.2024 :- Dear Nazik,Pre-alert Noted,Kindly confirm second leg connecting vessel and ETA at Mundra.
- **20**.08.2024:- Dear Ahmed Zunoon/ Ashraf, Kindly confirm second leg connecting vessel and ETA at Mundra.
- **25**.08.2024 :- Dear Ahmed Zunoon/ Ashraf/ Mostafa, Please share second leg connecting vessel and ETA.
- **25**.08.2024 :- Dear Tagwa, will confirm once finalised.
- **27**.08.2024 :- Dear Tagwa, Nazik, Pls note we are going to file manifest as per attached BL if any changes then pls confirm us in 30 min otherwise we will not be responsible for any changes.
- **27**.08.2024 :- Dear Mohit, I will share the final DBLs by today , Please wait.
- **27**.08.2024 :- Dear Mohit/Nhava Sheva/Mundra Team,Please find attached of final cargo Manifest and 7 Switch BL No. : …**BL No. OSLPZUMUN3079424 replaced by Switch BL No.: OSLSBL-970/24**.

i) On perusal of the email communication dated 31.07.2024, sent by M/s Eastern Shipping Co. Ltd., Sudan to M/s Paramount Sealink Pvt. Ltd. under the subject “OSL PRE ALERT SIDRA AHLAM // 2406 PORT SUDAN – MUNDRA”, contained the Cargo Manifest and Draft BL details including BL No. OSLPZUMUN3086824(11*20). This establishes that the draft BLs relating to the consignment were first informed on 31.07.2024 and vide subsequent email dated 14.08.2024, the earlier BL no. OSLPZUMUN3086824 was switched by BL no. 980/24.

Further, the overseas shipping agent vide e-mail dated 14.08.2024 forwarded the switch BL No. OSLSBL-980/24, which shows the “shipped-on-board” date as 26.06.2024 on vessel SUNSET X (Voyage no. 2423). From the investigation carried out, I find that the cargo Manifest for BL No. OSLSBL-957/24, OSLSBL-958/24, OSLSBL-960/24 and OSLSBL-961/24 are shipped from Sudan from with Vessel name as SUNSET X and Voyage 2423 on 14.07.2024, therefore, BL No. OSLSBL-980/24 dated 26.06.2024 with Vessel name as SUNSET X and Voyage 2423 must be shipped on or after 14.07.2024 as both naming same vessel name as SUNSET X and same Voyage no. 2423. Accordingly, I find that the switch BL was generated and shared on 14.08.2024 and shipped on board on switch BL was mentioned as 26.06.2024. The switch BL was shared after more than 45 days from shipped on board date 26.06.2024. Hence, it is impossible for the SOB date of 26.06.2024 to be genuine.

Accordingly, I find that the goods covered under BL No. OSLPZUMUN3086824 was loaded as per SOB date 15.07.2024 and BL no. OSLSBL-980/24 dated 26.06.2024 was loaded on vessel SUNSET X, Voyage 2423 on or after 14.07.2024.

ii) Further, on perusal of the email communication dated 08.08.2024, sent by M/s Eastern Shipping Co. Ltd., Sudan to M/s Paramount Sealink Pvt. Ltd. under the subject “OSL PRE ALERT IBN AL WALEED // 24905 PORT SUDAN – MUNDRA//NHAVA SHEVA 07.08.2024”, contained the Cargo Manifest and Draft BL details including BL No. OSLPZUMUN3079424 (05*20). This establishes that the draft BLs relating to the consignment were first informed on 08.08.2024 and vide subsequent email dated 27.08.2024, the earlier BL no. OSLPZUMUN3079424 was switched by BL no. 970/24. .

Further, the overseas shipping agent vide e-mail dated 27.08.2024 forwarded the switch BL No. OSLSBL-970/24, which shows the “shipped-on-board” date as 26.06.2024 on vessel SUNSET X (Voyage no. 2423). From the investigation carried out, I find that the cargo Manifest for BL No. OSLSBL-957/24, OSLSBL-958/24, OSLSBL-960/24, OSLSBL-961/24 are shipped from Sudan from with Vessel name as SUNSET X and Voyage 2423 on 14.07.2024, therefore, BL No. OSLSBL-970/24 dated 26.06.2024 with Vessel name as SUNSET X and Voyage 2423 must be shipped on or after 14.07.2024 as both naming same vessel name as SUNSET X and same Voyage no. 2423. Accordingly, I find that the switch BL was generated and shared on 27.08.2024 and shipped on board on switch BL was mentioned as 26.06.2024. The switch BL was shared after more than 60 days from shipped on board date 26.06.2024. Hence, it is impossible for the SOB date of 26.06.2024 to be genuine.

Accordingly, I find that the goods covered under BL No. OSLPZUMUN3079424 was loaded as per SOB date 31.07.2024 and BL no. OSLSBL-970/24 dated 26.06.2024 was loaded on vessel SUNSET X, Voyage 2423 on or after 14.07.2024.

Ongoing through the entire documentary trail—including email correspondences, tracking data, and statements, I find that the BLs were manufactured subsequently to misrepresent the original shipping date and acted in concert to suppress the actual shipping details and present manipulated documents before Customs.

Accordingly, It is evident that details in Bills of lading have been manipulated/forged to facilitate the clearance of restricted goods by falsely claiming eligibility period as stipulated in Notification No. 05/2023 dated 05.04.2024 issued by DGFT and the goods covered under Bill of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024 were shipped beyond the time limit prescribed under DGFT Notification No. 05/2023.

15.4 I also find that during statement were recorded by DRI, the bills of lading Nos. OSLPZUMUN3086824, OSLSBL-980/24, OSLPZUMUN3079424 and OSLSBL-970/24 and e-mail conversations (as discussed above) were presented to (i) Shri Vankar bharatbhai (executive-Paramount) (ii) Shri Dinesh Jayantilal Tanna, authorized person of M/s Shree Tirupati Brokers, after analyzing they admitted in their statements that shipped on board date and Vessel details have been manipulated in Bills of Lading in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

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

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

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

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

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

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

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

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

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

(Statement of Panch-2)

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

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

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

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

(i) I find that M/s. Nishi Oversaes (Noticee no. 1) through their advocate, have requested for cross-examination of Shri Vankar Bharatbhai, Executive-M/s. Paramount Sealink.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15.9.2 I further relied upon a landmark ruling of the Supreme Court in case of "**Additional Director General Adjudication, Directorate of Revenue**

Intelligence v. Suresh Kumar and Co. Impex Pvt. Ltd. & Ors. (2025 INSC 1050) dated 20.08.2025":

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

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

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

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

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

15.10.3 I rely upon following judgments from various courts:-

The **Hon'ble Supreme Court in CC Madras V/s D Bhuramal – [1983 (13) ELT 1546 (SC)]** has held that "The department is not required to prove the case with mathematical precision but what is required is the establishment of such a degree of probability that a prudent man may on its basis believe in the existence of the facts in issue." Further in the case of **K.I. International Vs Commissioner of Customs, Chennai reported in 2012 (282) E.L.T. 67 (Tri. - Chennai)** the Hon'ble CESTAT, South Zonal Bench, Chennai has held as under: -
"Enactments like Customs Act, 1962, and Customs Tariff Act, 1975, are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives. Evidence Act not being applicable to quasi-judicial proceeding, preponderance of probability came to rescue of Revenue and Revenue was not required to prove its case by mathematical precision. Exposing entire modus operandi through allegations made in the show cause notice on the basis of evidence gathered by Revenue against the appellants was sufficient opportunity granted for rebuttal. Revenue discharged its onus of proof and burden of proof remained un-discharged by appellants. They failed to lead their evidence to rule out their role in the offence committed and prove their case with clean hands. No evidence gathered by Revenue were demolished by appellants by any means".

15.11 As per my detailed findings in para 15.2, 15.3 and 15.4 above, the impugned goods did not fulfill the condition outlined as per the provisions of notification no. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category. However, evidence established that the importer intentionally submitted manipulated/forged Bills of Lading in a deliberate attempt to facilitate the customs clearance of restricted goods unlawfully.

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

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

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

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

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

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

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

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

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

In view of the facts and evidence discussed above, I find that Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import. All consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order. However, as established in the preceding paras, M/s. Nishi Overseas, illegally imported Watermelon Seeds under both Bill of Entry No. 5506498 dated 09.09.2024 and Bill of Entry No. 5798005 dated 25.09.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board beyond the permissible date of 30th June 2024 using forged Bills of Lading. Furthermore, from the investigation carried out, I find that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023 dated 05.04.2024, which rendered the subject goods prohibited, hence, contravened the provisions of Section 46 of the Customs Act, 1962. I find that Bills of lading provided were forged /manipulated to meet the requirement of notification no.

05/2023-Cus dated 05.04.2024. This deliberate manipulation confirms malafide intention of noticee's. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under both Bill of Entry No. 5506498 dated 09.09.2024 having quantity **200 MTS** (Assessable value of **Rs. 4,68,90,648/-**) and Bill of Entry No. 5798005 dated 25.09.2024 having quantity **85 MTS** (Assessable value of **Rs. 1,98,44,078/-**) and accordingly total quantity of **285 MTs** and declared assessable value of **Rs. 6,67,34,726/-** imported by M/s. Nishi Overseas are liable for confiscation. These acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111 (d), 111(m) and 111(o) of the Customs Act, 1962.

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

16.1 I find that vide the said OIO No. MCH/ADC/ZDC/446/2025-26 dated 19.12.2025, the impugned goods i.e. Watermelon Seeds imported by M/s. Nishi Overseas under both Bills of Entry No. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024, were ordered to be absolutely confiscated under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962, without extending any option of redemption under Section 125 of the Customs Act, 1962.

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

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

"3. Prima facie we are of the considered opinion that the said order runs contrary to the decision of the Punjab and Haryana High Court. The petitioners in their reply have categorically referred to the various decisions including the decision in the case of Shree Balaji Industries (supra) however, the respondent authorities have still proceeded with proceedings of confiscation of goods.

4. While passing the order dated 17.12.2025, a statement was made before this Court that the auction of the goods, which was scheduled to be held tomorrow i.e. on 18.12.2025, is postponed and the same will be held on 15.01.2026. The matter was thereafter listed on 08.01.2026. In the order dated 08.01.2026, a statement of learned Senior Standing Counsel was recorded that auction will be conducted till 30.01.2026. Thus, during pendency of the writ petition, the respondents have proceeded further by passing order of confiscating the goods, which appears to be prohibited and not restricted.

5. Hence, we direct that till further orders are passed by this Court, no auction proceedings shall be held. We also further direct the respondent to reconsider the matter in light of the judgement of the Punjab and Haryana High Court and pass appropriate orders and place the same on record by the next date of hearing."

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

"23. In the present case, the Watermelon seeds are restricted goods but they cannot be treated as prohibited goods and in the absence of any permission/authorization for DGFT, provisional release can be done as per the judgment of the Hon'ble Supreme Court passed in Commissioner of Customs's case (supra). Moreover, during the pendency of this writ petition, report from Plant and Quarantine Department has come in favour of the petitioner as regards Watermelon Seeds and in the case of Red Kidney Beans, they have been ordered to be released provisionally

subject to conditions as per order dated 23.02.2023 (Annexure P-1). The order with the same conditions can be passed in this case as well as the Watermelon Seeds do not fall under the "prohibited" category and they fall under the "restricted" category as per notifications dated 26.04.2021 and 21.06.2022. The provisional release can be ordered subject to final decision taken by the Adjudicating Authority under Section 105 of the Customs Act, 1962.

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

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

16.6 I find that the facts of the present case are similar to the case of M/s. Shreeshiv Agri Impex LLP. Accordingly, I allow the importer M/s. Nishi Overseas, to redeem the confiscated goods of both Bills of Entry No. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024, i.e. Watermelon Seeds, on payment of redemption fine under Section 125 of the Customs Act, 1962.

17. Penalties on M/s. Nishi Overseas:-

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

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

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

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

shall be liable, -

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

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

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

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

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

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the

declared value and the value thereof or five thousand rupees, whichever is the highest.

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

17.2 Role and culpability of M/s. Nishi Overseas:

M/s. Nishi Overseas was well aware of the Import policy and Notification No. 05/2023 dated 5th April, 2024 issued by the DGFT. M/s. Nishi Overseas had imported watermelon seeds covered under BL No. OSLSBL-980/24 dated 27.06.2024 in Bill of Entry no. 5506498 dated 09.09.2024 and vide BL no. OSLBSBL-970/24 dated 26.6.2024 in Bill of Entry no. 5798005 dated 25.09.2024, by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject both Bills of Entry is 285 MTs having Assessable value of Rs. 6,67,34,726/-. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. I find that the evidences clearly indicating malafide intention on their part in respect of the imported goods warranting imposition of penalty under Section 112 (a) (i) as the fact of non-compliance of conditioned outlined in the Notification No. 05/2023-Cus dated 05.04.2024 issued by DGFT. Result is that proposal to impose penalty under Section 112 (a)(i) is correct and sustainable in law.

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

I find that the SCN proposed imposition of penalty on the Importer under Section 114AA of the Customs Act, 1962. I find that in spite of well aware of import policy and conditioned outlined in the notification no. 05/2023-Cus dated 05.04.2024 issued by DGFT. Accordingly, I find that the importer M/s. Nishi Overseas has knowingly and wilfully filed the Bills of entry with forged Bills of Lading with the clear intention to import the restricted cargo in direct violation of established regulations. As it is the obligation of the firm to ensure that proper and correct documents are maintained and as forged Bill of Lading was created which constitutes the violation. By manipulating and forging Bills of Lading in collusion with their supplier and shipping line and filing import documents which were false and incorrect in material particulars. Accordingly, it is evident that M/s. Nishi Overseas **knowingly and intentionally made, signed, used and/or caused to be made, signed or used** import documents and related papers that were **false or incorrect in material particulars** for the purpose of illegally importing the subject goods. Therefore, I find that importer is also liable for **penal action under Section 114AA** of the Customs Act, 1962.

18. I find it pertinent to mention that the present de novo adjudication is confined to M/s. Nishi Overseas alone, since the appeal culminating in the OIA dated 07.07.2026 was filed by the importer, M/s. Nishi Overseas, against Order-in-Original No. MCH/ADC/ZDC/446/2025-26 dated 19.12.2025. The penalties imposed vide the said Order-in-Original on Shri Dinesh Jayantilal Tanna, M/s. Paramount Sealinks Pvt. Ltd., and Shri Bharat Himmatlal Parmar, Branch Manager of M/s. Paramount Sealink Pvt. Ltd., are not affected by the OIA.

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

<u>ORDER</u>

(i). I order to confiscate of impugned goods i.e. **285 MTS "Watermelon Seed"** imported vide Bills of Entry no. 5506498 dated 09.09.2024 and 5798005 dated 25.09.2024 having total value Rs. **6,67,34,726/- (Six Crore Sixty Seven Lakh Thirty Four Thousand Seven Hundred and Twenty Six only)** under Section 111 (d),111(m) & 111(o) of the Customs Act, 1962. However, I give an option to the importer, M/s. Nishi Overseas, to redeem the confiscated goods on payment of redemption fine of **Rs. 66,00,000/- (Rupees Sixty Lakh only)** under Section 125 of the Customs Act, 1962. In terms of Section 125(3) of the Customs Act, 1962, the option for redemption shall be exercised within a period of one hundred and twenty days from the date of receipt of this order, failing which the said option shall become void, unless an appeal against this order is pending.

(ii). I impose penalty of **Rs. 30,00,000/- (Rupees Thirty Lakh only)** on the importer M/s. Nishi Overseas under Section 112 (a)(i) of the Customs Act, 1962.

(iii). I refrain from imposing penalty on the importer M/s. Nishi Overseas under Section 112(b) of the Customs Act, 1962.

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

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

21. The Show Cause Notice bearing no. GEN/ADJ/ADC/476/2025-Adjn dated 20.02.2025 stands disposed in above terms qua M/s. Nishi Overseas.

Digitally signed by
Dipakbhai Zala
Date: 19-08-2026
17:59:12

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

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

List of Noticees

(1) M/s. Nishi Overseas, G-141, Madore Industrial Area, Jodhpur, Rajasthan-342007 (Proprietor: Ms. Nishi Lakhotia) (nishilakhotia16@gmail.com)

Copy to:

(1) The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).

(2) The Deputy Commissioner of Customs(RRA/TRC), Mundra Customs House.

(3) The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... *(with the direction to upload on the official website immediately).*