

	<p>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</p>	
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A	FILE NO.	F. No. GEN/ADJ/ADC/1106/2022-Adjn-O/o Pr Commr-Cus-Mundra
B	OIO NO.	MCH/ADC/AK/98/2024-25
C	PASSED BY	ARUN KUMAR ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA.
D	DATE OF ORDER	20.07.2024
E	DATE OF ISSUE	22.07.2024
F	SCN NUMBER & DATE	S/16-36/Enq-Rina Brothers/SIIB/CHM/2021-22 dated 30.11.2022
G	NOTICEE/ PARTY/ IMPORTER	M/s. Rina Brothers
H	DIN NUMBER	20240771MO0000777BEC

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

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

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

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

“सीमाशुल्क आयुक्त (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. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके

साथ निम्नलिखित अवश्य संलग्न किया जाए-

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

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

6. अपील प्रस्तुत करते समय, 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.

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BRIEF FACT OF THE CASE:

M/s. Rina Brothers), Sardar Chowk, Unjha, Mehsana, Gujarat-384170 holding IEC No.0808014391 (herein after referred to as “the importer” filed Bill of Entry No.4299516 dated 12.06.2021 (herein after referred to as “said Bill of entry”) through their CHA-M/s Meenu Rathore (AERPD3810JCH007) for import of “Watermelon Seeds for Consumption Purpose” under CTH 12077090.

2. An intelligence vide letter dated 02.07.2021 was disseminated by the DRI, Ahmedabad Zonal Unit to this office that "Melon Seeds: Others" falling under CTH 12077090 are being imported from Sudan even after restriction imposed by the Directorate General of Foreign Trade (DGFT) vide Notification No.03/2015- 2020 dated 26.04.2021. Importer has furnished Bill of Lading by mentioning date of lading prior to the date of the above said DGFT notification whereas intelligence reveals that the containers mentioned in the said Bill of Lading were loaded on ship at Load

Port after the date of DGFT notification. Hence, it appears that importer has furnished manipulated bill of lading with intention to clear the restricted goods without following the condition imposed by the above said DGFT notification.

3. Intelligence indicated that Bill of Lading No.208805317 dated 15.04.2021 was furnished by importer namely M/s Rina Brothers (IC: - 0808014391), Sardar Chowk, Station Road, Unjha, Mehsana, Gujarat-384170 for import of "Watermelon Seeds for consumption purpose" under CTH 12077090 vide Bill of Entry No.4299516 dated 12.06.2021 at port of import i.e. Mundra. Intelligence indicated that as per Container Tracking on web portal, 05 containers were covered in the above Bill of Lading and containers were loaded on ship on 04.05.2021, 10.05.2021 and 11.05.2021 at port of export. i.e. "Port Sudan" whereas date of bill of lading furnished is 15.04.2021 (i.e. before loading of containers on ship).

3.1 During the course of investigation, statements of the following persons were recorded: (i). Statement dated 08.07.2021 of Mrs. Mariamma Kurian, Manager of M/s Meenu Rathore, Gandhidham (ii). Statement dated 08.08.2021 of Shri Shantilal Hariram Gajra, Proprietor of M/s Vansh Logistics, Gandhidham (iii). Statement dated 14.07.2021 and 23.07.2021 of Shri Malav Rajendrabhai Shah, General Manager cum Authorized Person of M/s. Rina Brothers, Sardar Chowk, Unjha, Mehsana, Gujarat-384170.

3.2 During the course of investigation, the importer, M/s Rina Brothers vide letter dated 28.07.2021 requested to release the containers as per Section 49 of the Customs Act, 1962 and the Deputy Commissioner (SIIB) granted the permission for the same. Further, as the imported goods i.e. Watermelon Seeds were of perishable nature, the same were provisionally released on execution of Bond of 100% value and Bank Guarantee of Rs.5,00,000/- and subject Bill of Entry No.4299516 dated 12.06.2021 was assessed provisionally on 07.01.2022.

4. **Outcome of the investigation**

4.1 It is evident from above that importer M/s Rina Brothers filed Bill of Entry No.4299516 dated 12.06.2021 through their CHA-M/s Meenu Rathore (AERPD3810JCH007) for import of "Watermelon Seeds for Consumption Purpose" under CTH 12077090 by deliberately mis-declaring the Bills of Lading dated 15.04.2021, though, the actual date of Bill of

Lading was 30.05.2021 to import the restricted goods even after restriction imposed by DGFT vide Notification No.3/2015-20 dated 26.04.2021 and without following the Policy Condition of "Section-II, Vegetable Products" of Schedule-I (Import Policy) in respect of import of "Melon Seeds – Other".

4.2 It is also evident from the documents available on record that the goods were loaded/boarded on the vessel at Sudan Port after 26.04.2021, i.e. after the date of issuance of Notification No.3/2015-20 dated 26.04.2021 which imposed restriction of import of Melon Seeds after 26.04.2021. The importer, M/s Rina Brothers also in their statement agreed with fact that the date of shipment was after the date of imposition of restriction of import of Melon Seeds on 26.04.2021. Further, the claim of the importer that they have already initiated the partial payment during January-2021; that the date of Health Quarantine Certificate of Sudan Port is of 14.04.2021 and containers were handed over to the shipping line on 15.04.2021, before 26.04.2021, does not make any point for import of goods after restriction imposed by DGFT vide Notification No.3/2015-20 dated 26.04.2021, because, as discussed above, the date of reckoning of import as per Handbook of Procedure 2015-20, is the date of Bill of Lading and not the date of payment, date of Health Quarantine Certificate or date of handing over the containers to the shipping line.

4.3 The importation of impugned goods is restricted as per import policy issued by DGFT. Section 3(3) of Foreign Trade (Development and Regulation) Act, 1992 (hereinafter referred to as FT (D&R) Act, 1992) states that all goods which are prohibited, restricted or regulated (subject to exception, if any) for import or export, by an order issued under Section 3(2) of FT (D&R) Act, 1992 shall be deemed to be prohibited under Section 11 of the Customs Act, 1962. Thus, if goods are restricted or regulated for import or export, they are prohibited goods even if there is no complete prohibition and in the instant case the imported goods are restricted as per import policy and imported without any licence issued by DGFT, thus, are "prohibited goods". Being the prohibited goods the same appears to be liable for confiscation under Section 111(d) of the Customs Act, 1962. As, there were reason to believe as stated above that the said goods were liable for confiscation under section 111(d) of the Customs Act, 1962, therefore, the impugned goods imported vide Bill of Entry No.4299516 dated 12.06.2021 were seized under Seizure Memo dated 14.07.2021 handed over to the representative of Landmark CFS, Mundra for safe custody

under Supratnama dated 14.07.2021. Further, as the goods are liable for confiscation the importer is also liable for Penalty under Section 112 of the Customs Act, 1962 and 114AA of the Customs Act, 1962 as the importer attempted to import restricted goods even after having the knowledge of the same by mis-declaring the date of Bill of Lading as 15.04.2021 which was actually 30.05.2021 to show that the impugned goods were shipped before the date of imposition of restriction by DGFT Notification date 26.04.2021

5. Subsequently, the importer M/s. Rina Brothers, Sardar Chowk, Unjha, Mehsana, Gujarat-384170 holding IEC No.0808014391 was called upon to Show Cause vide SCN no. S/16-36/Enq-Rina Brothers/SIIB/CHM/2021-22 dated 30.11.2022 to the Additional Commissioner, Customs House Mundra, 5B, Port User Building, Mundra Port, Mundra (Gujarat) as to why:

- i. The impugned goods imported by them under Bill of Entry No.4299516 dated 12.06.2021 valued at Rs.51,99,271/- (Rupees Fifty One lakh, Ninety Nine Thousand, Two Hundred and Seventy One only), should not be held liable for confiscation under Section 111(d) of the Customs Act, 1962 read with the provisions of FT(D&R) Act, 1992, Foreign Trade Policy, 2015-20 and Hand Book Procedure, 2015-20;
- ii. Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962;
- iii. Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962;

6. The Show Cause Notice vide SCN no. -S/16-36/Enq-Rina Brothers/SIIB/CHM/2021-22 dated 30.11.2022 was adjudicated by Additional Commissioner of Customs, Mundra vide Order In Original No. MCH/ADC/MK/36/2023-24 dated 04.05.2023 wherein he has:

- i. Confiscated the impugned goods imported by the importer M/s. Rina Brothers, under Bill of Entry No.4299516 dated 12.06.2021 valued at Rs.51,99,271/- (Rupees Fifty One lakh, Ninety Nine Thousand, Two Hundred and Seventy One only), which were affected by the conditions of Import restriction in the case of Watermelon Seeds as per DGFT Notification No.03/2015-2020 dated 26.04.2021 under the provisions of Section 111(d) of the Customs Act, 1962 read with the

provisions of FT(D&R) Act, 1992, Foreign Trade Policy, 2015-20 and Hand Book Procedure, 2015-20,

- ii. Imposed a Redemption Fine of Rs. 5,00,000/- Rupees Five Lakh Only) on M/s. Rina Brothers.
- iii. Imposed a penalty of Rs. 3,00,000/- (Rupees Three Lakh only) under Section 112(a) (i) of the Customs Act, 1962 on M/s. Rina Brothers.
- iv. Imposed a penalty of Rs. 15,00,000/- (Rupees Fifteen Lakh only) under Section 114AA of the Customs Act, 1962 on M/s. Rina Brothers.

7. Importer M/s. Rina Brothers have filed appeal in terms of Section 128 of the Customs Act, 1962 against the Order In Original No. MCH/ADC/MK/36/2023-24 dated 04.05.2023 passed by Additional Commissioner of Customs, Mundra before Commissioner (Appeals) who vide Order In Appeal No. MUN-CUSTOM-000-APP-260-23-24 Dated 28.02.2024 remitted the matter pertaining to the subject appeal to the adjudicating authority, who shall examine available facts, documents, submissions made by appellant including those in present appeal and accordingly, issue appropriate order afresh, after following the principles of natural justice and adhering to the legal provisions.

WRITTEN SUBMISSION

8. **Submissions made by Shri V. K. Suman, authorized representative of M/s. Rina Brothers vide their letter dated 31.05.2024:**

They have submitted the following documents in support of our contention that the goods have been shipped much prior to the restriction imposed for import.

A. In this connection it is submitted that this case is entirely covered matter in the case of M/s. Rina Brothers order passed by Hon'ble Tribunal of Ahmedabad Bench on dated 02.01.2024 vide CUSTOM APPEAL No. 10647/2023-DB.

In addition to above there is a several documentary evidence that shows the Shipment has taken place much prior to the restriction imposed by DGFT on dated 26.04.2021. such as –

B. Sale Contract - as per invoice No, 5/21 dated 25.01.2021 between shipper M/s Fobica Limited Co. and M/s Rina Brothers for supply of Watermelon Seeds weighing 90MT which is duly stamped and signed with Rubber Stamp by both the parties. It can be seen that the goods were ordered on 25.01.2021 which is much prior to the date of said Notification.

As per Sales Contract, 20% of total contract price of AED 2,57,634.00/-i.e., AED 51,526.80/- was to be paid in advance and balance was to be paid against copy of original documents such as Certificates, LDC, Phytosanitary, Health export, Bill of Lading, Invoice.

C. On 28.01.2021 M/s Rina Brothers requested their banker's M/s Karur Vysya Bank for making above mentioned 20% advance remittance.

D. On 29.01.2021 said agreed remittance amount @ 20% was remitted to the supplier vide SWIFT MT103 OUTWARD amounting to ADE 51,526.80/- to Beneficiary M/s Fobica Limited Co.

E. The B/L No. MAEU 208805317 dated 30.05.2021, shipped on Board dated 15.04.2021, which clearly shows that goods were handed over to the MAERSK by our supplier M/s Fobic Investment Company LTD. Khartoum-Sudan - Ebaid - Khatim on behalf of Fobica limited Dubai UAE on dated 15.04.202. well before Notification date and containers were Shipped on Board on 15.04.2021.

F. Plant Quarantine Form No. 1: This plant quarantine certificate (Phytosanitary Certificate) was issued by Republic of Sudan, Ministry of Agriculture and Forest Tree, Plant Protection Directorate, Plant Quarantine Service on 20.04.2021. This indicates that shipment has been effected prior to the restriction.

G. Fumigation Certificate issued by Republic of Sudan, Ministry of Agriculture and Forest Tree, Plant Protection Directorate, Plant Quarantine Service on 20.04.2021. This is evident that the goods were shipped before imposition of Import Restrictions.

H. Health Quarantine Certificate issued by National Ministry of Health, Directorate General of Public Health and Emergency, National Directorate of Health Quarantine, Port Sudan was issued on 14.04.2021.

I. Draft B/L: This is normally prepared by exporter and given to Shipping Line for issuing final B/L. In this case said draft BL was prepared and submitted to Shipping Line on 10.03.2021.

It may please be brought to the notice of your honor that in terms of Para 1.05 (b) of FTP Policy, i.e., Transitional Arrangement, consignment can be shipped after the date of Notification if confirmed contract with acceptance of both parties supported by Letter of Credit i.e., remittance. However, in this case remittance @ 20% was made well before the notification date as per the terms of the contract which is more than LC.

It is also submitted that certain documents such as Fumigation Certificate, Health Quarantine Certificate, Plant Quarantine Certificates are being issued by Government Authority of the Exporting County and these documents cannot be issued before receipt of goods at Load Port.

In view of the above your honor is requested to drop the subject SCN and cancel the Bond and executed Bank Guarantee.

PERSONAL HEARING

9. Following the principles of natural justice, opportunity of personal hearing was given to the M/s. Rina Brothers on 31.05.2024 in the subject case and Shri V. K. Suman, Authorized Representative of M/s. Rina Brothers appeared for personal hearing. Sh. Suman reiterated the submissions made vide written reply dated 31.05.2024. Sh. Suman submitted order of Hon'ble Tribunal dated 02.01.2024 in their own case to substantiate their claim for import.

DISCUSSION & FINDING

10. The facts of the case, in brief, are that the appellant had filed Bill of Entry No. 4299516, dated 12.06.2021 for import of goods declared as "Watermelon Seeds for Consumption Purpose" classifying the same under CTH 12077090. Intelligence was disseminated by the Directorate of Revenue Intelligence (DGRI). Ahmedabad Zonal Unit which indicated that "Melon Seeds: Others" falling under CTH 12077090 were being imported from Sudan even after restriction was imposed by the Directorate General of Foreign Trade (DGFT) vide Notification No. 03/2015 - 2020. Dated 26.04.2021. The relevant para of the Notification No. 03/2015 - 2020, dated 26.04.2021 is reproduced as under:

"S.O.(E): In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015- 2020, as amended from time to time, the Central Government hereby amends the import policy of Melon Seeds under EXIM Code 12077090 of chapter 12 of ITC (HS), 2017, Schedule I (Import Policy).

<i>HS Code</i>	<i>Description</i>	<i>Existing Import Policy</i>	<i>Revised import policy</i>	<i>Existing Policy Condition</i>	<i>Revised Policy Condition</i>
12077090	Melon Seeds - Other	Free	Restricted	---	Imports subject to Policy Condition (4) of the Chapter.

2. Effect of the Notification: Import policy of Melon Seeds falling under HS Code 12077090 has been revised from 'Free' to 'Restricted' subject to the revised policy condition."

The Condition (4) of the Chapter 12 reads as under:

"(4) Import permitted for sowing without a licence subject to the new policy on Seed Development, 1998 and in accordance with import permit granted under Plant Quarantine (Regulation of Imports into India) Order, 2003."

11. Accordingly, an investigation was initiated against the consignment imported by the M/s. Rina Brothers. The investigation revealed that the M/s. Rina Brothers had imported "Watermelon Seeds for Consumption Purpose" under CTH 12077090 by deliberately mis-declaring the date of Bill of Lading as 15.04.2021, though, the actual date of Bill of Lading was 30.05.2021. This was done to import the restricted goods even after restriction imposed by DGFT vide Notification No. 3/2015-20, dated 26.04.2021 and without following the Policy Condition of "Section-II. Vegetable Products" of Schedule-I (Import Policy) in respect of import of "Melon Seeds - Other". It was also revealed that goods were loaded/boarded on the vessel at Sudan Port after 26.04.2021, i.e. after the date of issuance of Notification No. 3/2015-20, dated 26.04.2021 which imposed restriction of import of Melon Seeds after 26.04.2021. The authorized persons of the importer in statement dated 14.07.2021 recorded under Section 108 of the Customs Act, 1962 had agreed with fact that the date of shipment was after the date of imposition of restriction of import of Melon Seeds on 26.04.2021. It, therefore, appeared that the importation of impugned goods was restricted as per import policy issued by DGFT. Since the importer had imported the impugned goods without any license issued by DGFT, the goods appeared to be liable for confiscation under Section 111(d) of the Customs Act, 1962. Therefore, the impugned goods imported vide Bill of Entry No. 4299516, dated 12.06.2021 were seized under Seizure Memo dated 14.07.2021. The importer vide letter dated 28.07.2021 requested for release of the containers as per Section 49 of the Customs Act. 1962 and accordingly, the imported good. i.e. Watermelon Seeds being of perishable nature, were provisionally released on execution of Bond of 100% value and Bank Guarantee of Rs. 5,00,000/-. The subject Bill of Entry No. 4299516 dated 12.06.2021 was also assessed provisionally on 07.01.2022.

12. Subsequently, the importer was issued Show Cause Notice under F. No. S/16-36/Enq-Rina Brothers/SIIB/CHM/2021-22, dated 30.11.2022 which was decided by the adjudicating authority vide Order In Original No. MCH/ADC/MK/36/2023-24 dated 04.05.2023. Being aggrieved with the said order, the importer M/s. Rina Brothers have filed the appeal before Commissioner (Appeals) and Commissioner (Appeals) vide Order In Appeal No. MUN-CUSTM-000-APP-260-23-24 Dated 28.02.2024 remanded back the matter to adjudicating authority for fresh order.

13. It is observed that the importer M/s. Rina Brothers have contended the goods were deposited in custody of Shipping Line well before the subject Notification was issued. They also contended that as per the transitional arrangement under Para 1.05(b) of the FTP. the consignments can be shipped after the date of Notification If there is a confirmed contract between the parties supported by the Letter of Credit. Therefore. since in this case they had made 20% remittance on 29.01.2021 well before the issue of notification imposing restriction on the import of watermelon seeds, there is no case for confiscation and imposing penalties on them. In support of their contention, they have submitted a copy of decision of Hon'ble CESTAT. Ahmedabad dated 02.01.2024 in their own case and argued that their case is covered by the said judgment.

14. Further, the importer M/s. Rina Brothers have submitted a recent decision of Hon'ble Tribunal, Ahmedabad in their own case and contended that the issue in the present case is covered by the said decision of the Hon'ble Tribunal. I find that the said decision of Hon'ble Tribunal, Ahmedabad dated 02.01.2024 has been brought before the appellate authority for the first time and the adjudicating authority has had no occasion to consider it.

15. I find that in similar case Hon'ble Tribunal, Ahmedabad vide order dated 02.01.2024 pronounced that as the appellant had complied with the stipulation of Transitional Arrangement as per Foreign Trade Policy as the appellant M/s. Rina Brothers had paid entire amount of the consignment in question much prior to watermelon seeds being placed under restricted category from free category. Therefore, the appellant are eligible for consequential benefit of import qua FTP provisions.

16. I find that the instant case was made by the department on the basis that the restriction imposed on goods namely "Watermelon Seeds" at the time of filing of Bill of Entry and the clearances of the goods thereunder. In this peculiar situation when the goods are in transit and during intervening period the restriction was imposed, under the policy, a special provision was made under para 1.05 which reads as under:

1.05 Transitional Arrangements

"(a) Any License/ Authorisation/ Certificate/ Scrip/any instrument bestowing financial or fiscal benefit issued before commencement of ETP 2015-20 shall continue to be valid for the purpose and duration for which such License/ Authorisation/ Certificate/ Scrip/ any instrument bestowing financial or fiscal benefit Authorisation was issued, unless otherwise stipulated.

(b) In case an export or import that is permitted freely under FTP is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted, notwithstanding such restriction or regulation, unless otherwise stipulated. This is subject to the condition that the shipment of export or import is made within the original validity period of an irrevocable commercial letter of credit, established before the date of imposition of such restriction and it shall be restricted to the balance value and quantity available and time period of such irrevocable letter of credit. For operationalizing such irrevocable letter of credit, the applicant shall have to register the Letter of Credit with jurisdictional Regional Authority (RA) against computerized receipt, within 15 days of the imposition of any such restriction or regulation."

17. From the above para 1.05 (b) it is crystal clear that if the goods are imported which is freely importable under foreign trade policy and the same is subsequently subject to any restriction or regulation, the import shall be permitted notwithstanding such restriction subject to condition that the shipment of import is made within the original validity period of irrevocable commercial letter of credit established before the date of imposition of such restriction. The importer M/s. Rina Brothers have submitted the following documents:

a) Sale Contract - as per invoice No, 5/21 dated 25.01.2021 between shipper M/s Fobica Limited Co. and M/s Rina Brothers for supply of Watermelon Seeds weighing 90MT which is duly stamped and signed with Rubber Stamp by both the parties. It can be seen that the goods were ordered on 25.01.2021 which is much prior to the date of said Notification.

As per Sales Contract, 20% of total contract price of AED 2,57,634.00/- i.e., AED 51,526.80/- was to be paid in advance and balance was to be paid against copy of original documents such as Certificates, LDC, Phytosanitary, Health export, Bill of Lading, Invoice.

b) On 28.01.2021 M/s Rina Brothers requested their banker's M/s Karur Vysya Bank for making above mentioned 20% advance remittance.

c) On 29.01.2021 said agreed remittance amount @ 20% was remitted to the supplier vide SWIFT MT103 OUTWARD amounting to ADE 51,526.80/- to Beneficiary M/s Fobica Limited Co.

d) The B/L No. MAEU 208805317 dated 30.05.2021, shipped on Board dated 15.04.2021, which clearly shows that goods were handed over to the MAERSK by our supplier M/s Fobic Investment Company LTD. Khartoum- Sudan - Ebaid - Khatim on behalf of Fobica limited Dubai UAE on dated 15.04.202. well before Notification date and containers were Shipped on Board on 15.04.2021.

e) Plant Quarantine Form No. 1: This plant quarantine certificate (Phytosanitary Certificate) was issued by Republic of Sudan, Ministry of Agriculture and Forest Tree, Plant Protection Directorate, Plant Quarantine Service on 20.04.2021. This indicates that shipment has been effected prior to the restriction.

f) Fumigation Certificate issued by Republic of Sudan, Ministry of Agriculture and Forest Tree, Plant Protection Directorate, Plant Quarantine Service on 20.04.2021. This is evident that the goods were shipped before imposition of Import Restrictions.

g) Health Quarantine Certificate issued by National Ministry of Health, Directorate General of Public Health and Emergency, National Directorate of Health Quarantine, Port Sudan was issued on 14.04.2021.

h) Draft B/L: This is normally prepared by exporter and given to Shipping Line for issuing final B/L. In this case said draft BL was prepared and submitted to Shipping Line on 10.03.2021.

18. The aforesaid documents were admittedly issued before restriction imposed in import of "watermelon seeds" brought vide DGFT Notification No. 3/2015-20 dated 26.04.2021. From the above documents it is undisputed that the importer M/s. Rina Brothers had complied with the stipulation of Transitional Arrangement as per Foreign Trade Policy as the importer M/s. Rina Brothers had paid 20% amount of the consignment in advance much prior to watermelon seeds being placed under restricted category from free category. Therefore, I find that the importer M/s. Rina Brothers are eligible for consequential benefit of import qua FTP

provisions.

19. In view of foregoing discussion and findings, I pass the following order.

ORDER

I hereby order to drop the proceeding initiated against M/s. Rina Brothers, Sardar Chowk, Unjha, Mehsana, Gujarat-384170 vide Show Cause Notice No. S/16-36/Enq-Rina Brothers/SIIB/CHM/2021-22 dated 30.11.2022.

Additional Commissioner (Import),
Custom House, Mundra.

F. No. GEN/ADJ/ADC/1106/2022-Adjn-O/o Pr Commr-Cus-Mundra

Date: 20-07-2024

To,

M/s. Rina Brothers,
Sardar Chowk, Unjha,
Mehsana, Gujarat-384170.

Copy to:

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