



कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,
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**DIN: 20241171MO000000A592**

Date: 29.11.2024

SHOW CAUSE NOTICE

The present case pertains to the evasion of export duty by **M/s Rameshwar Lal Foods Private Limited**, (IEC No. 0605003301) having registered office -at Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801, Branch Office - at 1730, 2nd Floor, Nai Basti, Naya Bazar, New Delhi-110006, (hereinafter referred to as 'the exporter' for sake of brevity), who were found to have indulged in short payment of export duty by resorting to undervaluation by claiming abatement of duty from the assessable value. Thus, export duty was not being paid on the transaction value of the export goods (i.e. FOB Value) as provided u/s 14 of the Customs Act, 1962, instead the same was being paid on a reduced value by wrongly declaring the same as FOB Value thus causing short-payment of the appropriate duty of Customs.

2. Intelligence was gathered by the officers of the Directorate of Revenue Intelligence (Hqrs.), 7th Floor, Drum Shaped Building, I. P. Bhawan, I. P. Estate, New Delhi (hereinafter referred to as 'DRI') which indicated undervaluation in the export of rice. The intelligence further indicated that after imposition of duty on export of rice with effect from 09.09.2022, several exporters, including **M/s Rameshwar Lal Foods Private Limited**, having registered office -at Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801, Branch Office - at 1730, 2nd Floor, Nai Basti, Naya Bazar, New Delhi-110006, having IEC No. 0605003301 were found to be indulging in evasion of duty.

2.1 Preliminary analysis of the Intelligence revealed that export duty at the rate of 20% ad valorem was imposed on export of rice vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022.

2.2 Scrutiny of the export data pertaining to the said exporter revealed that they were evading duty on export of rice by adopting three different methods i.e. (i) by claiming wrongful deduction of export duty (either full or partial duty amount) and/or in some cases by claiming wrongful deduction of packaging charges and profit margins (in addition to the export duty amount) from the transaction value, (ii) by covertly taking reimbursement of export duty from the overseas buyer (against debit notes/separate invoices raised to the overseas buyer) without even claiming the same as deduction in the shipping bills (iii) by declaring excess freight amounts.

2.3 The exporter used to negotiate a specific price for sale of their export consignment which was received by them from the overseas buyer as '**consideration**' for sale of rice. Thus the '**consideration/negotiated price**' was '**the actual transaction value**' for their export consignment on which the exporter ought to have paid the 20% export duty. However, to evade duty, the exporter had artificially bifurcated the afore-said negotiated price/total consideration, in two parts i.e. (i) '**price of goods**' and (ii) '**export duty**

amount/export duty amount and packing charges and/or profit margin'. The exporter had declared the reduced value '**price of goods**' as their transaction value and the other part of the consideration which was equal to the '**export duty amount /export duty amount and packing charges and/or profit margin**' was not included by them in their '**transaction value**'. Instead, the same was claimed as 'deduction' which was recovered separately from the buyer and in some case the same was declared in the Shipping Bills under the Head "**Deduct/Deduction**". Thus, a part of consideration, equal to the **export duty amount /export duty amount and packing charges and/or profit margin**', was not included in the transaction value for payment of export duty causing short payment of duty.

2.4 In some cases, the exporter had recovered 'the export duty amount' separately from the overseas buyer without even declaring the same in their export invoice and without claiming the same as '**deduction**'. The amounts so recovered from the overseas buyer were also part of their consideration for sale. Thus, a part of consideration, was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.5 In several other cases of export of rice on CIF/CF incoterm basis, investigation revealed that the exporter had declared excess freight amounts than the actual freight amounts paid by them to the shipping lines/freight forwarders. In such shipments, FOB price is deduced from the CIF/CF prices by deducting the actual freight amounts paid by the exporter. By claiming excess freight amounts in the shipping bills, the exporter had wrongly deducted a part of the consideration/transaction value which is equal to the excess freight amounts claimed by them. Thus, a part of consideration, was not included in the transaction value for the payment of export duty in all such export shipments causing short payment of duty.

2.6 From the preliminary scrutiny of the export data, discussed in above paras, it appeared that the exporter had treated the actual transaction value (i.e. actual FOB Value) of their export goods as cum-duty FOB Value and they have declared the lesser transaction value by wrongly claiming abatement of duty and packing charges/profit margin (in some cases) from the actual transaction value and by claiming excess freight amounts in the shipping bills. By adopting the above-mentioned modus operandi, the exporter had been evading the payment of duty on the differential value between the actual transaction value of the export goods (i.e. FOB Value) and their declared reduced FOB value.

2.7 Valuation of the goods is covered by Section 14 of the Customs Act, 1962 which provides that 'the value of the ... export goods shall be **the transaction value** of such goods, that is to say, the price actually paid or payable for the goods when sold ... for export from India **for delivery at the time and place of exportation**. Further, Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR, 2007) notified vide [M.F. (D.R.) Notification No. 95/2007-Cus (N.T.), dated-13-09-2007] also provide that value of the export goods shall be its transaction value. Rule 2 (1) (b) of the CVR, 2007 defines the term 'transaction value' as the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962. Further rule 3(1) of CVR, 2007 also stipulates that subject to rule 8 (providing for rejection of the declared value), the value of export goods shall be the transaction value. CVR, 2007 came into effect from 10.10.2007.

2.8 This practice of payment of export duty on cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard stipulated that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

3. Initiation of investigation:

3.1 Pursuant to the afore-said intelligence and apparent undervaluation of the export goods, investigation was initiated against various exporters of the said commodity including **M/s Rameshwar Lal Foods Private Limited**, registered at Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801 (bearing **Importer Exporter Code No. 0605003301**), by issuance of summons under the provisions of section 108 of the Customs Act, 1962.

3.2 Vide summons dated 27.10.2023 & 17.11.2023, documents related to the investigation were requested from the Director of export firm. In pursuance of the summons issued to M/s Rameshwar Lal Foods Private Limited, Sh. Shrawan Kumar Agarwal, Director of M/s Rameshwar Lal Foods Private Limited appeared in the DRI office and vide letter dated 30.11.2023 (**RUD-1**) submitted documents in respect of Export of Rice made by them during the year 2023-24.

3.3 **M/s Rameshwar Lal Foods Private Limited, vide their letter dated 21.12.2023 (RUD-2) made an advance voluntary deposit of Rs. 1,64,38,554 through the following 04 Demand Drafts towards part payment of their differential duty liability on account of wrongful claim of deduction amounts in the shipping bills which were on account of reimbursement of export duty, packing charges and profit margin on export of rice.**

- i.** 240335 dated 20.12.2023 for Rs. 19,04,267/- in favour of RBI A/c Commissioner of Customs Nhava Sheva, payable at Nhava Sheva port
- ii.** 240336 dated 20.12.2023 for Rs. 1,15,32,080/- in favour of Commissioner of Customs, payable at Mundra port
- iii.** 240337 dated 20.12.2023 for Rs. 11,69,558/- in favour of The Commissioner of Customs A/c Shree Rameshwar Lal Foods Pvt. Ltd., payable at Chennai port
- iv.** 240338 dated 20.12.2023 for Rs. 18,32,649/- in favour of RBI A/c Commissioner of Customs Port, payable at Kolkata Port

3.4. The aforesaid 04 demand drafts voluntarily deposited by M/s Rameshwar Lal Foods Private Limited were deposited in the Govt. account vide Challan No. HC-11 dated 02.01.2024 at Nhava Sheva Port (**RUD-3**), TR 6 Challan no. MCM-281246023 dated 28.12.2023 at Chennai Port (**RUD-4**), GAR 6 receipt no 29 dated 28.12.2023 at Kolkata Port (**RUD-5**) and Challan dated 25.01.2024 at Mundra port (**RUD-6**).

3.5 Subsequently, DRI vide email dated 04.07.2024 and 23.07.2024 (**RUD-7**) sought details of total payment received by M/s Rameshwar Lal Foods Private Limited, in respect of each shipping bill along with details of expenses made by them towards payment of ocean freight and insurance charges in respect of the shipments exported by them. In response, vide email dated 20.08.2024 (**RUD-8a**), M/s Rameshwar Lal Foods Private Limited submitted details of total payments received from the overseas buyers (in Foreign Currency) through BRC, through reimbursement of taxes or in any other manner such as debit

note/credit note etc. and details of expenses made towards payment of ocean freight charges in respect of consignments exported on CF/ CI/ CIF Inco Term basis. Vide Emails dated 26.11.2024 (**RUD-8b**), M/s Rameshwar Lal Foods Private Limited had submitted the details of the actual freight amounts paid by them to the Freight forwarders / Shipping line

4.1 During investigation, statement of Sh. Shubham Agarwal, Employee of M/s Rameshwar Lal Foods Private Limited was recorded u/s 108 of the Customs Act, 1962 on 17-11-2023 (RUD-9) & 14.11.2024 (RUD-10). In furtherance of investigation, statement of Sh. Shrawan Kumar Agarwal, Director of M/s Rameshwar Lal Foods Private Limited was also recorded on 30.11.2023 (RUD-11) u/s 108 of the Customs Act, 1962.

4.2 In his statement recorded u/s 108 of the Customs Act, 1962 on 17.11.2023, Sh. Shubham Agarwal, Employee of M/s Rameshwar Lal Foods Private Limited stated that he joined M/s Shree Rameshwar Foods Private Limited as employee in 2017; that initially, he looked after sale/ purchase work in their Mill/ factory; that thereafter, he moved to Delhi and started looking after sale/ purchase of rice, arranging buyers for export and other export related work in their company; that M/s Shree Rameshwar Foods Private Limited was started by his grandfather Sh. Shambhoo Nath Agrawal as a proprietorship concern about 25 years ago; that currently there were five directors of the said company who are mainly his family members as given below:

- i. Sh. Shambhoo Nath Agarwal, his grandfather
- ii. Sh. Shrawan Kumar Agarwal, his father
- iii. Sh. Pawan Kumar Agarwal, his uncle
- iv. Sh. Sumit Agarwal, his uncle
- v. Sh. Amit Agarwal, his uncle

4.3 He further stated that, M/s Shree Rameshwar Foods Private Limited is engaged in the business of production/milling, trading and export of Rice and pulses; that Export and sales related work was handled by he himself, his father Sh. Shrawan Kumar Agarwal and Sh. Amit Agrawal; that their manufacturing unit was situated at Bahraich UP and the same was looked after by his uncles Sh. Pawan Agrawal, Sh. Sumit Agrawal and Sh. Amit Agrawal; that his grandfather Sh. Shambhoo Nath Agrawal is 90 years old; that he is not involved with the day to day business of the company; that he is a namesake director of the company; that due to his older age, he has authorized him to appear in DRI office on 17.11.2023, as all the work related to the exports of Rice was mainly handled by he himself, his father Sh. Shrawan Kumar Agarwal and his uncle Sh. Amit Agrawal. He further stated that they were in the process of collating the documents requested by DRI and undertook to submit the same.

5.1 In his statement recorded u/s 108 of the Customs Act, 1962 on 30.11.2023, Sh. Shrawan Kumar Agarwal, Director, M/s Shree Rameshwar Lal Foods Private Limited inter alia stated that M/s Shree Rameshwar Lal Industries was started by his father Sh. Shambhoo Nath Agrawal as a proprietorship concern in 1998; that in 2010 a separate company namely M/s Shree Rameshwar Lal Foods Private Limited was founded with six directors as given below:

- i. Sh. Shambhoo Nath Agarwal, his father
- ii. Sh. Shrawan Kumar Agarwal, himself

- iii. Sh. Pawan Kumar Agarwal, his elder brother
- iv. Sh. Sunil Kumar Agarwal, his younger brother
- v. Sh. Sumit Agarwal, his younger brother
- vi. Sh. Amit Agarwal, his younger brother

5.2 He further stated that his younger brother, Sh. Sunil Kumar Agarwal, passed away in December 2022; that currently there are only five directors in the said firm; that M/s Shree Rameshwar Lal Foods Private Limited is engaged in the business of manufacturing, trading and export of Rice; that Export and sales work was handled by he himself, his son Sh. Shubham Agarwal and Sh. Amit Agrawal; that their manufacturing unit was situated at Bahraich UP and was managed by his brothers Sh. Pawan Agrawal, Sh. Sumit Agrawal and Sh. Amit Agrawal.

5.3 He stated that vide his letter dated 30.11.2023, he has submitted all the documents such as Commercial Invoice, Packing List, Shipping Bill, Proforma Invoice, Bill of Lading, Expense Invoices in respect of each 70 shipments of Financial Year 2023-24 of Indian White Rice Non-basmati as per Annexure to his letter dated 30.11.2023; and undertook to submit the remaining documents.

5.4 On being shown statement dated 17.11.2023 of Sh. Shubham Agarwal, Employee of M/s Shree Rameshwar Lal Foods Private Limited and asked to comment on the same he stated that he has read the statement dated 17.11.2023 of Sh. Shubham Agarwal; that **Sh. Shubham Agarwal** is his son and he is actively involved with him in the business of M/s Shree Rameshwar Lal Foods Private Limited and re-iterated and confirmed the contents of the statement dated 17.11.2023 of Sh. Shubham Agarwal.

5.5 On being shown the documents submitted by him vide his letter dated 30.11.2023 (page no 1 to 18) and on being asked to explain the contents of the same he stated that while filing the Shipping bill a deduction amount was claimed by them on the said shipment; that this deduction was on account of export duty paid by them on export of rice through said shipment i.e. the actual FOB was USD 82464 [USD 84864 (CFR) – USD 2400(Freight)], however, they have declared the FOB as USD 64064 after claiming a deduction of USD 18400; that the duty paid by them was equivalent to 20% of the amount USD 64064 i.e. equivalent to USD 12812.8 instead of 20% of the USD 82464 i.e. USD 16492.8; that the short payment of duty was equivalent to USD 3680 (20% of USD 18400) in said export shipment.

5.6 On being shown the print out of Section 14 and CBIC Circular No. 18/2008-cus dated 10.11.2008 and print out of incoterms from wikipedia and on being asked to give his comments on the same, he stated that he has understood that for payment of export duty, transaction value of the goods has to be arrived at and the transaction value of the export goods is FOB value thereof i.e. the price of the goods inclusive of all expenses and costs up to the loading of the goods in the vessel after clearance by the customs authority; and **admitted that they have paid the duty on cum duty FOB value instead of the actual FOB value of the export goods causing short payment of duty on export of rice;** that they have adopted the said practice for exports following other exporters of rice; that it was done by them on being advised by some other exporters of rice and CHA; that he was unable to recall the name of such persons now; that the CBIC circular also provided that the value for charging export duty

shall be the FOB value of the export goods and the practice of calculation of the FOB value as cum-duty price had been discontinued by the CBIC with effect from 01.01.2009; that incoterms also indicated that in FOB terms of invoicing, all costs and expenses till loading of the export goods into the vessel for export should be borne by the buyer; that FOB meant Free on Board i.e. all charges upto loading of the export goods in the vessel should be included for calculation of the FOB value.

5.7 Further he accepted their mistake and stated that he was willing to pay the differential duty on all such export wherein export duty had been paid by considering the FOB Value as cum duty price instead on actual FOB value of the export goods by their company. He undertook to submit the remaining documents along with a duty calculation chart indicating the differential duty payable on export of rice by them as soon as possible and undertook to deposit the differential duty at the earliest.

6. Vide his letter dated 21.12.2023 M/s Rameshwar Lal Foods Private Limited made a voluntary advance deposit of **Rs. 1,64,38,554/-** toward part payment of his differential duty liability which were deposited in the Govt. account at respective port of export.

7.1 During the investigation, statement of Sh. Shubham Agarwal, Employee, M/s Shree Rameshwar Lal Foods Private Limited was recorded on 14.11.2024 u/s 108 of the Customs Act, 1962

7.2 On being asked about the deduction claimed by M/s Rameshwar Lal Foods Private Limited in respect of SB no. 9020492 dated 01.04.2023, he stated that they have claimed a total deduction of USD 18400 in the said shipping bill which included the export duty paid amount of USD 12819 as well as packaging charges & profit margin of USD 5581. He also stated that in respect of 39 other shipping bills also, they have claimed deduction amount equal to the export duty paid along with the packaging charges & profit margin and the total deduction amount claimed in respect of such 40 S/Bs was Rs. 6.73 Cr. (approx).

On being asked about the documents used for reimbursement of deduction amounts, he stated that for receipt of deduction claimed amounts of Rs. 6.73 Cr. from the overseas buyer, they had only submitted the export invoice to the buyer wherein the deduction claim amount was specifically mentioned. He further stated that they had submitted the same invoices (wherein deduction amount was explicitly mentioned) to the Customs authorities and the banks had also processed the said payment on the basis of same export invoices.

On being asked about the difference in the deduction claimed and reimbursement received, he stated that in respect of 40 S/Bs, they had claimed deduction of Rs. 6,73,63,451/- and had received Rs. 6,71,46,226/- as reimbursement of taxes. He also stated that an amount of Rs. 2,17,225/- was not paid to them by the buyer on account of quality issues and the said amount was not payable and had been written off by them in their books of accounts.

On being asked about 27 S/Bs wherein the deduction claimed amount was less than the duty paid amounts, he stated that the deduction claimed amount in respect of the said 27 S/Bs was on account of packing charges and our profit margin only. He also stated that the reimbursement of export duty paid amounts in respect of the said shipping bills was not included in the deduction claimed amounts mentioned in the shipping bills and the said amount had been

separately recovered from the overseas buyer which were over and above the deductions claimed amounts.

On being asked about receipt of deduction claimed amounts in said 27 S/Bs, he stated that for receipt of the deduction claimed amounts from the overseas buyer, they had only submitted the export invoice to the buyer wherein the deduction claim amount was specifically mentioned. He also stated that the banks had also processed the said payment on the basis of the same export invoices and the receipt of these amounts was not reflected in the Bank Realization Certificates prepared by the banks as the same were processed under different RBI accounting code meant for receipt of taxes (P1306).

On being asked about the manner of receipt of payments from the overseas buyer, he stated that in respect of 61 S/Bs the payment had only been received through reimbursement of taxes and no other amount has been received in any other manner; that in respect of 41 S/Bs, the payment from overseas buyer had been received through BRC and in another manner such as Debit Note/ Credit Note etc.; that in respect of 59 S/Bs the payment from overseas buyer had been received through BRC and through reimbursement of taxes; that in respect of 26 SBs the payment from overseas buyer had been received through BRC and through reimbursement of taxes as well as in other manners such as Debit Note/ Credit Note etc.

On being shown the actual freight paid amounts in respect of shipping bill no. 9020492 dated 01.04.2023 submitted by them through email dated 20.08.2024 and copy of freight invoice No. CSS/23240319 dated 18.04.2023 submitted by them vide letter dated 30.11.2023, he stated that as per the data submitted through email dated 20.08.2024, the freight paid amount for SB No. 9020492 dated 01.04.2023 was Rs. 1,96,680/- whereas as per the invoice CSS/23240319 dated 18.04.2023 the freight paid was Rs. 60,454/-. With regard to the said difference in freight amount, he stated that the details submitted vide email dated 20.08.2024 had been prepared by their accountant and he would recheck and resubmit the actual freight amounts.

8. The export documents and details submitted by the exporter during investigation were analysed and it was revealed that M/s Rameshwar Lal Foods Private Limited had exported 188 shipment of rice having description as 'Indian Brown Rice/ Indian IR 64 Raw Rice/ Indian Parboiled Rice/ Indian Raw White Rice/ Indian Short Grain 5% Broken Rice/ Indian Swarna Raw White Rice/ Indian White Rice/ Rice Common' etc. by classifying the same under CTH 10062000, 10063010 & 10063090 which were liable to export duty @ 20% *ad valorem* vide CBIC Notification No. 49/2022-Cus. dated 08.09.2022 and 49/2023-Customs dated the 25th August, 2023. In their export documents (Shipping Bills), they have declared the following three values (i) **Total Value, (ii) **Invoice Value** and (iii) **FOB Value**. The **Total Value** declared by them was inclusive of export duty and indicated the total consideration received by them from the overseas buyer. **Invoice Value** was declared after deducting from the **Total Value**, an amounts equal to the export duty and other deductions such as packing charges & profit margin paid by them in respect of the export goods. **FOB Value** was declared after deduction of the ocean freight amounts from the afore-said **Invoice Value**. Thus, total amount of deductions of Rs. **7,99,27,450/-** were wrongly claimed by the exporter from the actual FOB Value in respect of their export shipments.**

8.1 Deduction amounts wrongly claimed in the Shipping Bills which were more than the export duty amounts:

Scrutiny of the export documents and details submitted by the exporter during investigation revealed that in respect of the below mentioned 40 shipping bills, the exporter had at the time of filing of shipping bills claimed the deduction of total amounts of Rs. **6,73,63,451/-**. The export duty paid by them in respect of these 40 S/Bs was Rs. **4,07,12,774/-**. Thus, in addition to the claim of deduction of duty amount of Rs. **4,07,12,774/-**, the exporter had claimed deduction of an additional amount of Rs. **2,66,50,677/-** in these 40 S/Bs. (Rs. 6,73,63,451- Rs. 4,07,12,774= Rs. **2,66,50,677/-**).

Table A

S. No.	SB number	SB Date	FOB Value (INR)	Duty Paid (INR)	BRC Amount in INR	Deduction claimed in SB (INR)	Amount received in other manner such as Debit Note/ Credit Note etc. INR
1.	5572142	19-11-2022	52,58,500	10,51,700	57,05,068	15,51,662	15,42,763
2.	5802125	29-11-2022	53,84,704	10,76,941	57,50,372	15,06,358	14,96,974
3.	5840529	30-11-2022	84,55,668	16,91,134	90,62,418	23,59,044	23,51,925
4.	5845808	01-12-2022	25,87,182	5,17,436	28,04,318	8,17,899	8,16,443
5.	5948034	05-12-2022	15,97,167	3,19,433	17,24,041	4,30,729	4,28,963
6.	6146380	14-12-2022	62,02,356	12,40,471	73,50,646	19,30,894	19,29,127
7.	6183575	15-12-2022	54,78,548	10,95,710	65,22,448	17,55,358	17,55,358
8.	6481949	27-12-2022	86,62,865	17,32,573	97,67,165	26,68,725	26,68,725
9.	6513202	28-12-2022	29,59,524	5,91,905	30,00,424	10,85,486	10,83,748
10.	6559917	30-12-2022	59,55,040	11,91,008	70,59,340	19,37,024	19,27,235
11.	6568306	30-12-2022	59,19,048	11,83,810	63,70,584	17,57,064	17,48,680
12.	6657379	03-01-2023	61,03,916	12,20,783	68,40,116	19,01,032	19,01,032
13.	6657428	03-01-2023	61,03,916	12,20,783	68,40,116	19,01,032	19,01,032
14.	6658599	03-01-2023	85,49,736	17,09,947	91,63,236	28,00,014	27,88,071
15.	6741329	06-01-2023	62,39,673	12,47,935	66,93,676	13,38,244	13,32,015
16.	6832222	09-01-2023	59,29,902	11,85,980	63,83,905	16,48,015	16,41,786
17.	6874654	11-01-2023	62,39,673	12,47,935	66,93,676	13,38,244	13,32,015
18.	6912542	12-01-2023	22,48,052	4,49,610	24,29,654	7,83,114	7,76,886
19.	6915463	12-01-2023	53,32,487	10,66,497	57,86,490	18,91,406	18,88,784
20.	6915933	12-01-2023	32,65,871	6,53,174	35,36,061	10,81,740	10,79,118
21.	6945934	13-01-2023	59,29,902	11,85,980	63,79,889	18,04,539	17,98,516
22.	6953717	13-01-2023	70,02,464	14,00,493	78,87,524	26,21,089	26,21,089
23.	7000154	16-01-2023	21,77,248	4,35,450	23,58,849	7,21,160	7,18,538
24.	7219136	24-01-2023	23,31,439	4,66,288	26,06,598	5,51,284	5,45,162
25.	7227264	24-01-2023	34,97,159	6,99,432	39,09,897	8,26,926	8,20,805
26.	7682438	10-02-2023	58,64,778	11,72,956	63,13,795	28,11,625	28,05,667
27.	7840942	16-02-2023	58,64,778	11,72,956	63,77,095	27,45,974	27,40,017
28.	8027436	24-02-2023	85,60,188	17,12,038	96,01,956	37,46,925	37,35,422
29.	8436852	13-03-2023	59,51,400	11,90,280	63,60,150	25,24,440	25,14,221
30.	8469024	14-03-2023	29,75,700	5,95,140	30,94,238	13,43,970	13,34,160
31.	8640652	21-03-2023	61,95,420	12,39,084	64,85,523	27,85,481	27,77,081
32.	8672141	22-03-2023	29,82,980	5,96,596	31,05,905	13,25,951	13,25,951
33.	9020492	01-04-2023	52,50,045	10,50,009	54,46,725	15,07,880	14,97,636
34.	9064969	04-04-2023	78,75,067	15,75,013	81,67,629	22,61,820	22,50,347
35.	9064970	04-04-2023	29,82,980	5,96,596	31,05,905	13,25,951	13,25,951
36.	9064973	04-04-2023	32,91,932	6,58,386	34,14,857	9,53,079	9,47,342
37.	9087071	05-04-2023	32,81,278	6,56,256	33,98,467	9,63,732	9,63,732
38.	9106185	06-04-2023	32,38,664	6,47,733	33,61,589	11,23,535	11,17,798
39.	9175474	10-04-2023	65,78,832	13,15,766	68,22,132	19,91,816	19,80,462
40.	9194305	10-04-2023	32,57,787	6,51,557	33,77,004	9,43,193	9,35,651
	Grand Total		20,35,63,868	4,07,12,774	22,10,59,477	6,73,63,451	6,71,46,226

The exporter had stated that these excess deduction amounts were in respect of the **Packing Charges** paid by them for packing of the export goods and their profit margin on the sale of the goods, which were claimed by them from the foreign buyer. Investigation has revealed that all these packing charges, profit margin and export duty amounts (claimed as deduction amounts in the shipping bills) were also recovered by the exporter from the overseas buyer in their bank accounts, hence, these amounts were part of consideration received by the exporter for sale of their goods.


The exporter had received the entire C&F amounts, Export Duty, Packaging Charges as well as Profit Margin in their bank accounts and thereupon they have wrongly claimed deduction of Export Duty, Packaging Charges and Profit Margin and have declared lower FOB Value for the purpose of payment of lesser export duty. Thus, all these deduction amounts claimed by the exporter also appears to be liable to be included in the actual transaction value (i.e. FOB Value) of these shipments.

Further, scrutiny of the invoices in respect of these 40 shipments, submitted by the exporter revealed that in the Invoice raised by the exporter to the buyer in respect of these 40 shipments also, the full deduction amount of Rs. **6,73,63,451/-** has been claimed from the buyer. The exporter has submitted that they have received only Rs. **6,71,46,226/-** from the buyer towards packaging charges and profit margin, therefore, it appears that the balance amount of **Rs. 2,17,225/-** though have not been paid by the overseas buyer to the exporter, is still payable to the exporter in respect of these 40 shipments. Thus, all these deduction amounts claimed by the exporter also appears to be liable to be included in the actual transaction value (i.e. FOB Value) of these shipments.

8.1.1 For ease of reference, photo of SB number 9020492 dated 01-04-2023 is pasted below which clearly indicate that **the deduction claimed in the Shipping Bill is more than the cess amount (i.e. Export Duty)**. The exporter has also confirmed this fact and submitted that the entire **deduction amount, which is more than the export duty amount, has been recovered by them from the overseas buyer of the export goods as reimbursement of taxes, packaging charges and profit margin**. The screenshot of the Bank Realization Certificate (BRC) & corresponding Commercial Invoice submitted by the exporter is also pasted below for reference.

From the export documents submitted by the exporter in respect of the afore-said consignment, it is also evident that the total amount of USD 84864 CNF (408/MT) is mentioned in export invoice along with the value of each component (i.e. FOB Value of USD 64064 + Freight amount of USD 2400 + Other Charge of USD 18400, thus total CNF Value of USD 84864). In respect of the said shipment, the invoice amount in the shipping bill has been declared to be at USD 66464 only (which is lesser by USD 18400 from the total invoice value of USD 84864) and the said differential amount of USD 18400 has been mentioned in the shipping bill under the heading '**deduct**' as shown below. This deduction/deduct amount is equal to **the export duty paid amount of 12812.8 USD (Cess amount in Rs. 105009, exchange rate is Rs. 81.95/USD) and packaging charges & profit margin of 5,587.2 USD** which has been deducted by the exporter from the actual FOB Value and export duty has not been paid on the said differential value of USD 18400 (USD 12812.8+USD 5587.2) which is though part of the consideration received by the exporter from the overseas buyer for sale of the consignment. Receipt of **USD 66464** are reflected in the BRC and remaining amount of **USD 18275** has been received separately in their bank accounts as shown below in the details submitted by the exporter.

Photo of shipping bill

	INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code		SB No		SB Date				
			INMUN1		9020492		01-APR-23				
			IEC/Br		0605003301		0				
			GSTIN/TYPE		09AANCS3697P1Z5 GSN						
			CB CODE		AARFD5233DCH002						
			TYPE		INV		ITEM		CONT		
			Nos		1		1		8		
			PKG		4160		G.WT		MTS 208.499		
									*SB22100420231758		
MUNDRA SEZ PORT, MUNDRA, GUJARAT											
PART - I - SHIPPING BILL SUMMARY											
A STATUS	1.MODE	2.ASSESS	3.EXMN	4.JOBING	5.MEIS	6.DBK	7.RODTP	8.DFEC/DFIA	9.DFERC	10.RE-EXP	11.LUT
	SEA	Y	Y	N	Y	N	N	N	N	N	Y
B DECLARANT DETAILS	12.PORT OF LOADING INMUN1 (Mundra)					13.COUNTRY OF FINAL DESTINATION VIETNAM, DEMOCRATIC REP. C					
	14.STATE OF ORIGIN UTTAR PRADESH					15.PORT OF FINAL DESTINATION VN SGN (Ho Chi Minh City)					
	16.PORT OF DISCHARGE VN SGN (Ho Chi Minh City)					17.COUNTRY OF DISCHARGE VIETNAM, DEMOCRATIC REP. C					
	1.EXPORTER'S NAME & ADDRESS					7.CONSIGNEE NAME & ADDRESS					
	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED					DUNG ANH-GGP VN INTERNATIONAL					
	NEAR RESHAM FARM, BHINGA ROAD					AGRICULTURE COMPANY LIMITED					
	KALPIPARA					100 VILLAGE 1, EA TIEU COMMUNE, CU KUIN DISTRICT, DAK LAK P					
	BAHRAICH					VN					
	2.Type: Private										
	3.AD CODE: 02600D7					8.GSTIN/TYPE 09AANCS3697P1Z5 GSN					
C VALU SUMMA	1.FOB VALUE		2.FREIGHT		3.INSURANCE		4.DISCOUNT		5.COM		
	8250044.8		196680		0		0		85228		
	6.DEDUCTIONS		7.P/C		8.DUTY		9.CESS		1050009		
D EX PR INVOICE INMUN1	1.MAWB NO		2.MAWB DT		3.HAWB NO		4.HAWB DT		5.N.G.C		
	23PCEG0410692363900		10-APR-23		INMUN1						
	4.CIN NO		5.CIN DT		6.CIN SITE ID						
E INVOICE SUMMA	1.DBK CLAIM		2.IGST AMT		3.CESS AMT						
	0				1050009						
	4.IGST VALUE		5.RODTP AMT		6.RODTP AMT						
	0		0		0						
F INVOICE SUMMA	1.SNO		2.INV NO		3.INV AMT		4.CURRENC				
	1		SRF/23-24/E-0001		66464		USD				

PART - II - INVOICE DETAILS											
A REF	1.S.No	2.INVOICE No. & Dt	3.P.O.No. & Dt	4.LoC No. & Dt	5.Contract No.&Dt	6.AD code	7.INV TERM				
	1	SRF/23-24/E-0001 01/04/2023				02600D7	CF				
B TRANSACTION PARTIES	1.EXPORTER'S NAME & ADDRESS					2.BUYER'S NAME & ADDRESS					
	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED					SAME AS CONSIGNEE					
	NEAR RESHAM FARM, BHINGA ROAD										
	KALPIPARA										
C VAL DTLS	3.THIRD PARTY NAME & ADDRESS					4.BUYER AEO STATUS					
D INVOICE SUMMA	1.INVOICE VALUE	2.FOB VALUE	3.FREIGHT	4.INSURANCE	5.DISCOUNT	6.COMMISON	7.DEDUCT	8.P/C	9.EXCHANGE RATE		
	66464	64084	2400	0	0	1040	18400		1 USD INR 81.95		
	USD	USD	USD		USD	USD	USD				
E INVOICE SUMMA	1.Item SNo	2.HS CD	3.DESCRPTION			4.QUANTITY	5.UQC	6.RATE	7.VALUE (F/C)		
	1	10063090	INDIAN WHITE RICE (NON BASMATI) 4160 NEW			208	MTS	408	84864		
	WHITE PP BAGS OF 50KG NET										

Photo of BRC (Invoice Value USD 66464 = USD 62220.8 + USD 4243.2)


DIRECTORATE GENERAL OF FOREIGN TRADE		
STATEMENT OF BANK REALISATION		
1	Firm's Name	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED
2	Address	NEAR RESHAM FARM, BHINGA ROADKALPIPARABAHRAICH BAHRAICH UTTAR PRADESH
3	IEC	0605003301
4	Shipping Bill No	9020492
5	Shipping Bill Date	2023-04-01
6	Shipping Bill Port	INMUN1
7	Bank's Name	INDIAN BANK
8	Bank's File no and Uploaded Date	IDIB000000090520230012023-05-11 16:09:07
9	Bill ID no	0119823SC0010609
10	Bank Realisation Certificate No	IDIB0000014000618282 Dated 2023-05-06
11	Date of realisation of money by bank	2023-05-04
12	Realised value in Foreign Currency	62220.800
13	Currency of realisation	USD
14	Date &time of printing	2023-11-06 11:58:14 AM

DIRECTORATE GENERAL OF FOREIGN TRADE		
STATEMENT OF BANK REALISATION		
1	Firm's Name	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED
2	Address	NEAR RESHAM FARM, BHINGA ROADKALPIPARABAHRAICH BAHRAICH UTTAR PRADESH
3	IEC	0605003301
4	Shipping Bill No	9020492
5	Shipping Bill Date	2023-04-01
6	Shipping Bill Port	INMUN1
7	Bank's Name	INDIAN BANK
8	Bank's File no and Uploaded Date	IDIB0000000240420230012023-04-25 11:06:38
9	Bill ID no	0119823SC0010609
10	Bank Realisation Certificate No	IDIB0000014000615511 Dated 2023-04-20
11	Date of realisation of money by bank	2023-03-29
12	Realised value in Foreign Currency	4243.200
13	Currency of realisation	USD
14	Date &time of printing	2023-11-06 11:59:31 AM

Details showing receipt of USD 18275 from overseas buyer over and above the BRC amount

S.No.	Name of the Exporter	IEC Code	Shipping Bill Number	Shipping Bill Date	Exchange Rate	Invoice Number	Invoice Date	Nature of Consign- ment	Actual freight amount paid	Actual insurance amount paid	Through BRC amount	Through Reimburse- ment of taxes	Any other amount such as Debit Note/Credit Note
122	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED	605003301	9020492	01-04-2023	81.95	SRE/23-24/E-6001	01-04-2023	CP	196680	0	66464	10	18275

Photo of commercial invoice

INVOICE CUM PACKING LIST						
Exporter SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED BHINGA ROAD, KALPIPARA BAHRAICH, UTTAR PRADESH INDIA		INVOICE No. & DATE SRF/23-24/E-0001 DATE: 01.04.2023 Contract No. & Date SRF/2023/RR/203 DATE 13.03.2023 PROFORMA INVOICE No & Date S/22-23/1114 DATE: 13.03.2023		Exporters Ref. IEC : 0605003301		
Consignee DUNG ANH-GGP VN INTERNATIONAL AGRICULTURE COMPANY LIMITED ADDRESS: 100 VILLAGE 1, BA TIEU COMMUNE, CU KINH DISTRICT, DAK LAK PROVINCE, VIETNAM Tax code: 0315907553		NOTIFY PARTY DUNG ANH-GGP VN INTERNATIONAL AGRICULTURE COMPANY LIMITED ADDRESS: 100 VILLAGE 1, BA TIEU COMMUNE, CU KINH DISTRICT, DAK LAK PROVINCE, VIETNAM Tax code: 0315907553				
Pre-carriage by BY TRUCK		Place of receipt by MUNDRA, INDIA		Terms of Delivery and Payment By TT 5% advance payment within 7 working days, 65% balance by DP. OFR, HO CHI MINH, VIETNAM		
Vessel/Flight No.		PORT OF LOADING MUNDRA, INDIA				
Port of Discharge		Final Destination				
HO CHI MINH, VIETNAM		HO CHI MINH, VIETNAM				
HSN CODE INDIA	Marks & NOS OF CONT 08x20'	Description of Goods		Quantity MT	Rate USD (PMT)	Amount USD
10063090		INDIAN WHITE RICE (NON BASMATI)		208.000	408.00 PER MT	84864.00
BROKER'S COMMISSION : USD 5 PER METRIC TON (TOTAL 208*5 = USD 1040)		4160 NEW WHITE PP BAGS OF 50KG NET			OFR, HO CHI MINH, VIETNAM	
HS CODE VIETNAM: 10063099		TOTAL NO. OF BAGS : 4160 BAGS PACKING : 50 KG NET TOTAL NET WEIGHT : 208.000 MT TOTAL GROSS WEIGHT : 208.499 MT				
		PARTICULARS		AMOUNT (USD)		
		FOB		64064.00		
		FREIGHT		2400.00		
		OTHER		18400.00		
		TOTAL		84864.00		
Amount Chargeable				TOTAL		84,864.00
(In words USD) EIGHTY FOUR THOUSAND EIGHT HUNDRED SIXTY FOUR U.S. DOLLARS						
WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN						
Bank Details for TT / Payable to INDIAN BANK Account Name: SHREE RAMESHWAR LAL FOODS PVT. LTD. SALARPUR BRANCH, BAHRAICH-INDIA A/C NO: 21215447187 IFSC : IDIB0005542 Swift Code: IDIBINBBMAS Nostro bank: CITIUS33						
Declaration We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct				For SHREE RAMESHWAR LAL FOODS PVT LTD  Authorized Signatory		

In respect of the aforesaid shipping bill, the price of goods as per invoice dated 01.04.2023 has been mentioned as USD 84864 (at the unit price of USD 408 per MT). The same amount has also been declared in the shipping bill as **Total Value (FC)** of USD 84864 and rate is also mentioned as USD 408 per MT C&F. However, in the shipping bill, the exporter had declared the **invoice value** as USD 66464 which is USD 18400 USD lower than the actual invoice value of 84864. Thus, the exporter had claimed deduction of USD 18400 in respect of the actual invoice value which is equal to the deduction of export duty amount of USD 12812.8 and packaging charges & profit margin of USD 5587.2. After deducting the freight amount of USD 2400 from the declared invoice value of USD 66464, the exporter had declared the FOB Value at USD 64064 in the shipping bill.

Thus, exporter had claimed deduction of USD 12812.8 for export duty amount and deduction of USD 5587.2 towards packaging charges& profit margin from the actual FOB Value. The total deduction wrongly claimed in respect of the afore-said shipping bill is USD 18400 which is not available to the exporter.

The ideal position in respect of the afore-said shipping bill should have been, that after deducting the freight amount of USD 2400, from the CNF Value of USD 84864, the resultant actual FOB Value in respect of the said consignment works out to be at USD 82464. The exporter should have declared the actual FOB Value of USD 82464 for payment of export duty. The same is shown in Tabular form as under –

Declaration Made by the exporter in the shipping bill-

Total Value (USD)	Deduction Claimed (USD)	Invoice Value (USD)	Freight Amount (USD)	FOB Amount (USD)	Export Amount (USD)	Duty Paid	Remarks
84864 @ 408 USD per MT for total quantity of 208 MTs	18400 (12812.8 + 5287.2) 12812.8 is equal to the 20% export duty paid by them on the declared FOB Value of USD 64064. 5287.2 is equal to the purported expenses for packing charges & profit margin	66464 @ USD 319.53 per MT for total quantity of USD 208 MTs	2400 @ 11.53 USD for total quantity of USD 208 MTs	64064 @ USD 308 per MT	12812.8		Actual FOB Value in respect of the said shipment, after deduction of Freight amount of USD 2400 from the total value of USD 84864, should have been USD 82464.
					The said amount has been calculated @ 20% of the declared FOB Value of USD 64064 (20% of 64064=12812.8)		

As shown in above table an amount of USD 18400 (equal to the deduction claimed amount) was excluded by the exporter from the actual transaction value of the export goods for payment of duty. These deduction amounts are liable to be included in the declared transaction value (FOB Value) of USD 64064 and the exporter is liable to pay duty on the actual transaction value of USD 82464 (64064 + 18400).

8.2 Deduction amounts wrongly claimed in the Shipping Bills which were on account of packaging charges and profit margin only, the export duty paid amount also claimed from the buyer by raising debit notes/separate invoices (thus export duty was not included in the deduction claimed amount):

In addition to the above, in respect of the below mentioned 27 shipping bills also, the exporter had at the time of filing of shipping bills claimed the deduction of total amounts of **Rs. 1,25,63,999/-**. The export duty paid by them in respect of these 27 S/Bs was **Rs. 2,68,93,218/-**. The exporter has stated that the deduction claimed in the said 27 Shipping Bills was on account of Packaging charges and Profit margin only. The investigation has revealed that out of these declared deduction amounts of **Rs. 1,25,63,999/-**, an amount of **Rs. 1,23,41,094/-** was recovered by the exporter from the overseas buyer in their bank accounts. Further, scrutiny of the invoices in respect of these 27 shipments, submitted by the exporter revealed that in the Invoice raised by the exporter to the buyer in respect of these 27 shipments also, the full deduction amount of **Rs. 1,25,63,999/-** has been claimed from the buyer. The exporter has submitted that they have received only **Rs. 1,23,41,094/-** from the buyer towards packaging charges and profit margin, therefore, it appears that the balance amount of **Rs. 2,22,905/-** though have not been paid by the overseas buyer to the exporter, is still payable to the exporter in respect of these 27 shipments.

The exporter has also stated that in respect of **these 27 Shipping Bills**, out of total duty paid amounts of **Rs. 2,68,93,218/-** an amount of **Rs. 2,62,60,969/-** was received from the overseas buyer as reimbursement of taxes by way of raising separate debit notes/invoices. Therefore, it appears that the balance duty amount of **Rs. 6,32,250/-** is still payable by the buyer to the exporter. Therefore, in respect of these 27 S/Bs, the total duty amount of **Rs. 2,68,93,218/-** claimed by the exporter from the buyer is liable to be included in their declared transaction value.

The details are given in table below -

Table B

SB No.	SB Date	Total Value INR	Invoice Value INR	Declared FOB Value INR	Export Duty Paid INR	BRC Amount in INR	Deduction claimed in SB INR	Amount received through Reimbursement of taxes in INR	Amount received in any other manner such as Debit Note / Credit Note etc. INR
1215902	23-05-2023	82,12,901	73,01,987	70,45,920	14,09,184	73,01,987	9,10,914	14,09,184	9,02,555
1394744	30-05-2023	78,45,110	69,96,990	67,84,960	13,56,992	69,96,990	8,48,120	13,56,992	8,41,188
1457504	01-06-2023	54,02,524	51,50,209	49,72,104	9,94,421	51,50,209	2,52,316	9,94,421	2,42,122
1691573	12-06-2023	39,93,496	35,04,930	33,98,720	6,79,744	35,04,930	4,88,566	6,79,744	4,79,538
1714702	13-06-2023	23,19,626	22,11,292	21,34,821	4,26,964	22,11,292	1,08,334	4,26,964	96,079
2091695	29-06-2023	37,12,001	35,95,670	34,89,915	6,97,983	35,95,670	1,16,331	6,59,993	1,16,331
2345810	10-07-2023	7,25,143	6,93,338	6,78,496	1,35,699	6,93,338	31,805	1,35,699	25,811
7532194	04-02-2023	38,24,750	33,32,371	29,71,293	5,94,259	33,32,371	4,92,379	-	4,86,247
9232365	12-04-2023	37,89,154	33,52,674	32,47,244	6,49,449	33,49,389	4,36,480	6,49,449	4,30,803
9543578	25-04-2023	38,20,102	34,07,404	32,80,420	6,56,084	34,07,404	4,12,698	6,56,084	4,07,407
9545112	25-04-2023	75,13,220	68,78,300	66,66,660	13,33,332	68,78,300	6,34,920	13,33,332	6,21,082
9553759	26-04-2023	1,16,50,782	1,02,22,212	98,41,260	19,68,252	1,02,19,851	14,28,570	19,68,252	14,22,587
9621639	28-04-2023	75,55,548	72,38,088	69,84,120	13,96,824	72,38,088	3,17,460	13,96,824	3,12,739
9621640	28-04-2023	39,04,758	35,13,224	33,86,240	6,77,248	35,13,224	3,91,534	6,77,248	3,84,208
9624190	28-04-2023	78,09,516	69,84,120	67,72,480	13,54,496	69,84,120	8,25,396	13,54,496	8,18,477
9685106	01-05-2023	78,94,172	72,38,088	69,84,120	13,96,824	72,38,088	6,56,084	13,96,824	6,51,200
9688855	01-05-2023	75,55,548	69,84,120	67,72,480	13,54,496	69,84,120	5,71,428	13,54,496	5,57,590
9713170	02-05-2023	78,94,172	72,38,088	69,84,120	13,96,824	72,38,088	6,56,084	13,96,824	6,46,723
9750759	04-05-2023	37,77,774	36,19,044	34,92,060	6,98,412	36,19,044	1,58,730	6,98,412	1,54,009
9846076	08-05-2023	78,40,833	71,89,182	69,36,930	13,87,386	71,89,182	6,51,651	13,87,386	6,43,485
9847260	08-05-2023	76,93,686	72,52,245	70,42,035	14,08,407	72,52,183	4,41,441	14,08,407	4,02,876
9897330	09-05-2023	73,78,371	71,47,140	69,36,930	13,87,386	71,47,140	2,31,231	13,87,386	2,24,359
9915090	10-05-2023	38,04,801	35,94,591	34,68,465	6,93,693	35,92,651	2,10,210	6,93,693	2,07,623
9971065	12-05-2023	38,04,801	35,94,591	34,68,465	6,93,693	35,92,327	2,10,210	6,93,693	2,00,912
9971066	12-05-2023	78,40,833	71,89,182	69,36,930	13,87,386	71,89,182	6,51,651	13,87,386	6,47,609
2245989	05-07-2023	73,33,232	6,61,131	6,35,750	1,27,150	6,61,131	72,101	1,27,150	66,121
9978513	12-05-2023	36,36,633	32,79,276	31,53,150	6,30,630	32,79,276	3,57,357	6,30,630	3,51,415
		15,19,33,486	13,93,69,487	13,44,66,088	2,68,93,218	13,93,59,576	1,25,63,999	2,62,60,969	1,23,41,094

Investigation has revealed that all these deduction amounts of **Rs. 1,23,41,094/-** (on account of packaging charges & profit margin) as well reimbursement of export duty paid amounts of **Rs. 2,62,60,969/-** which were recovered by the exporter from the overseas buyer in their bank accounts were part of consideration received by the exporter for sale of their goods. The balance amounts of **Rs. 8,55,155/- (2,22,905+6,32,250)** being the amount still payable by the overseas buyer to the exporter, also appear to be liable to be included in the FOB Value of the said shipment and the exporter appears to be liable to pay the export duty on the aforesaid total amounts of **Rs. 3,94,57,217/- (Rs. 1,23,41,094+2,62,60,969+ Rs. 8,55,155)** also.

8.2.1 For ease of reference, copy of Invoice No. SRF/23-24/E-0040 dated 02.05.2023 raised by the exporter to the overseas buyer in respect of the shipment exported vide SB No. 9750759 dated 04.05.2023 is pasted below, which indicate that out of the total invoice value of USD 46410, the exporter had claimed deduction of USD 1950 in the Invoice as well the Shipping Bill on account of packaging charges & profit margin. The details submitted by the exporter revealed that the exporter has recovered an amount of USD 1892 out of total deduction amount of USD 1950.

Apart from the receipt of the Invoice amount through BRC and the above-mentioned deduction amount from the overseas buyer, the exporter has submitted that they have also recovered an amount of USD 8580 as reimbursement of export duty paid amount in their bank account.

It is pertinent to mention here that in the invoice submitted to the Customs Authorities by the exporter the total invoice value has been mentioned as USD 46410 which indicate explicit mis-declaration on the part of the exporter. Thus

the total deduction claimed amount of USD 1950 as well as export duty paid amount of USD 8580 is liable to be included in the declared FOB Value of the said shipment for the purpose of calculation of the export duty in respect of the said shipment.

Copy of Invoice No. SRF/23-24/E-0040 dated 02.05.2023 submitted to Customs Authorities



INVOICE CUM PACKING LIST																		
Exporter SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED BHINGA ROAD, KALPIPARA BAHRAICH, UTTAR PRADESH INDIA		INVOICE No. & DATE SRF/23-24/E-0040 DATE: 02.05.2023 Contract No. & Date SRF/2023-2024/SV/102 DATE: 01/04/2023 PROFORMA INVOICE No & Date SRF/2023-2024/1002 DATE: 01/04/2023		Exporters Ref. IEC : 0605003301														
Consignee AN GIA EXPORT IMPORT JOINT STOCK COMPANY Add: No.16 Lane 91 Tran Duy Hung Street, Trung Hoa Ward, Cau Giay District, Hanoi, Vietnam Tax Code: 0105952020 NOTIFY PARTY-1 VIETNAM TRADING INVESTMENT PROMOTION JOINT STOCK COMPANY Add: No.22, Group 83, Khuong Trung Ward, Thanh Xuan District, Ha Noi, Vietnam Tax Code: 0106457244		NOTIFY PARTY-2 CONG TY CP XUC TIEN DAU TU THƯƠNG MẠI VIỆT NAM ADD: THON VUC, KA THANH LIET, HUYEN THANH TRI, THANH PHO HA NOI, VIETNAM BUYER AN GIA EXPORT IMPORT JOINT STOCK COMPANY Add: No.16 Lane 91 Tran Duy Hung Street, Trung Hoa Ward, Cau Giay District, Hanoi, Vietnam Tax Code: 0105952020																
Pre-carriage by BY TRUCK		Place of receipt by MUNDRA, INDIA		Terms of Delivery and Payment "advance by T/T 5499.00 USD and balance D/P against original document. In case the ship has arrived at the port, but the documents are delayed, loading to the storage of containers, the seller must be responsible for such costs. And Dem det cost will be directly deducted from the Invoice." CIF, HAI PHONG, VIETNAM														
Vessel/Flight No.		PORT OF LOADING MUNDRA, INDIA																
Port of Discharge		Final Destination																
HAI PHONG, VIETNAM		HAI PHONG, VIETNAM																
HSN CODE 10063090	Marks & NOS OF CONT 5x20'	Description of Goods INDIAN WHITE RICE (NON BASMATI) 2600 NEW WHITE PP BAGS OF 50KG NET TOTAL NO. OF BAGS : 2600 BAGS PACKING : 50 KG NET TOTAL NET WEIGHT : 130.000 MT TOTAL GROSS WEIGHT : 130.311 MT <table><tr><th>PARTICULARS</th><th>AMOUNT (USD)</th></tr><tr><td>FOB</td><td>42800.00</td></tr><tr><td>FREIGHT</td><td>1300.00</td></tr><tr><td>INSURANCE</td><td>260.00</td></tr><tr><td>OTHER</td><td>1950.00</td></tr><tr><td>TOTAL</td><td>46410.00</td></tr></table>		PARTICULARS	AMOUNT (USD)	FOB	42800.00	FREIGHT	1300.00	INSURANCE	260.00	OTHER	1950.00	TOTAL	46410.00	Quantity MT 130.000 CIF, HAI PHONG, VIETNAM	Rate USD (PMT) 357.00	Amount USD 46410.00
PARTICULARS	AMOUNT (USD)																	
FOB	42800.00																	
FREIGHT	1300.00																	
INSURANCE	260.00																	
OTHER	1950.00																	
TOTAL	46410.00																	
Amount Chargeable (In words USD) FORTY SIX THOUSAND FOUR HUNDRED TEN U.S. DOLLARS WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN		TOTAL 46,410.00																
Bank Details for TT / Payable to INDIAN BANK: Account Name: SHREE RAMESHWAR LAL FOODS PVT. LTD. STANDARD BRANCH, BAHRAICH, INDIA A/C NO: 21215447187 IFSC: IDIB000S542 Swift Code: IDIBINBEMAS Nostro bank: CITIUS33 Declaration Total receivable from buyer CIF + DUTY We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct		For SHREE RAMESHWAR LAL FOODS PVT LTD  Authorised Signatory																

Photo of SB No. 9750759 dated 04.05.2023

 <div>INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA</div>		Port Code		SB No		SB Date					
		INMUN1		9750759		04-MAY-23					
		IEC/B		0605003301		0					
		GSTIN/TYPE		09AANCS3697P1Z5 GSN							
		CB CODE		AARFD5233DCH002							
		TYPE		INV		ITEM		CONT			
		Nos		1		1		0			
		PKG		2600		G.WT		MTS 130.312			
								*SB22150520232048			
MUNDRA SEZ PORT, MUNDRA, GUJARAT											
PART - I - SHIPPING BILL SUMMARY											
A STATUS	1.MODE	2.ASSESS	3.EXMN	4.JOBING	5.MEIS	6.DBK	7.RODTP	8.DEECD/FIA	9.DPRC	10.RE-EXP	11.LUT
	SEA	Y	Y	N	Y	N	A	N	N	N	Y
B DECLARAN DETAILS	12.PORT OF LOADING INMUN1 (Mundra)					13.COUNTRY OF FINAL DESTINATION VIETNAM, DEMOCRATIC REP. O					
	14.STATE OF ORIGIN UTTAR PRADESH					15.PORT OF FINAL DESTINATION VNHPH (Haiphong)					
	16.PORT OF DISCHARGE VNHPH (Haiphong)					17.COUNTRY OF DISCHARGE VIETNAM, DEMOCRATIC REP. O					
	18.EXPORTER'S NAME & ADDRESS SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED NEAR RESHAM FARM, BHINGA ROAD KALPIPARA					19.CONSIGNEE NAME & ADDRESS AN GIA EXPORT IMPORT JOINT STOCK COMPANY Add: No.16 Lane 91 Tran Duy Hung St. reet, Trung Hoa Ward, Cau Giay D					
	20.SA RAICH 2.Type: Private					21.MN					
	22.3.AD CODE 02600D7					23.8. GSTIN/ TYPE 09AANCS3697P1Z5 GSN					
	24.4.RBI WAIVER NO. & DT					25.9.FOREX BANK A/C NO. 21XXXXXX187					
	26.5.CB NAME DAKSH SHIPPING AND LOGISTICS					27.10.DBK BANK A/C NO.					
	28.6.AEO					29.11.IFSC NO.					
	C.VALU SUMMA	1.FOB VALUE		2.FREIGHT		3.INSURANCE		4.DISCOUNT		5.COM	
3492060		105820		21164		0		0			
6.DEDUCTIONS		7.P/C		8.DUTY		9.CESS					
158730		0				698412					
E MANIFEST DETAILS	1.MAWB NO.		2.MAWB DT.		3.HAWB NO.		4.HAWB DT.		5.N.O.C.		
	4.CIN NO.		5.CIN DT.		6.CIN SITE ID						
	23PCEG0515767839200		15-MAY-23		INMUN1						
F INVOICE SUMMARY	1.SNO		2.INV NO.		3.INV AMT		4.CURRENC				
	1		SRF/23-24/E-0040		44460		USD				
	1.SR NO		2.CHALLAN NO		3.PAYMT DT		4.AMOUNT				
	1		124313		15-MAY-23		698412				

PART - II - INVOICE DETAILS										
A. REF	1.S.No	2.INVOICE No. & Dt	3.P.O.No. & Dt	4.LoC No. & Dt	5.Contract No.&Dt	6.AD code	7.INVTERM			
	1	SRF/23-24/E-0040 02/05/2023				02600D7	CIF			
B. TRANSACTION PARTIES	1.EXPORTER'S NAME & ADDRESS SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED NEAR RESHAM FARM, BHINGA ROAD KALPIPARA 271801				2.BUYER'S NAME & ADDRESS SAME AS CONSIGNEE					
	3.THIRD PARTY NAME & ADDRESS				4.BUYER AEO STATUS					
C.VAL DTLS	1.INVOICE VALUE		2.FOB VALUE		3.FREIGHT		4.INSURANCE		5.DISCOUNT	
	44460		42900		1300		260		0	
	USD		USD		USD		USD		USD	
	1.ItemSNo		2.HS CD		3.DESCRPTION		4.QUANTITY		5.UCC	
1		10083090		INDIAN WHITE RICE(NON BASMATI) 2600 NEW WHITE PP BAGS OF 50KG NET		130		MTS		
						357		46410		

Copy of BRC and remittance details submitted by the exporter

DIRECTORATE GENERAL OF FOREIGN TRADE		
STATEMENT OF BANK REALISATION		
1	Firm's Name	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED
2	Address	NEAR RESHAM FARM, BHINGA ROADKALPIPARABAHRAICH BAHRAICH UTTAR PRADESH
3	IEC	0605003301
4	Shipping Bill No	9750759
5	Shipping Bill Date	2023-05-04
6	Shipping Bill Port	INMUN1
7	Bank's Name	INDIAN BANK
8	Bank's File no and Uploaded Date	IDIB0000000200620230012023-06-21 11:48:37
9	Bill ID no	0119823SC0014261
10	Bank Realisation Certificate No	IDIB000O014000625455 Dated 2023-06-17
11	Date of realisation of money by bank	2023-08-15
12	Realised value in Foreign Currency	36987.000
13	Currency of realisation	USD
14	Date &time of printing	2023-11-07 08:24:23 AM

DIRECTORATE GENERAL OF FOREIGN TRADE		
STATEMENT OF BANK REALISATION		
1	Firm's Name	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED
2	Address	NEAR RESHAM FARM, BHINGA ROADKALPIPARABAHRAICH BAHRAICH UTTAR PRADESH
3	IEC	0605003301
4	Shipping Bill No	9750759
5	Shipping Bill Date	2023-05-04
6	Shipping Bill Port	INMUN1
7	Bank's Name	INDIAN BANK
8	Bank's File no and Uploaded Date	IDIB0000000300520230012023-05-31 11:19:48
9	Bill ID no	0119823SC0014261
10	Bank Realisation Certificate No	IDIB000O014000622161 Dated 2023-05-26
11	Date of realisation of money by bank	2023-04-07
12	Realised value in Foreign Currency	5473.000
13	Currency of realisation	USD
14	Date &time of printing	2023-11-07 08:24:41 AM

S.No.	Name of the Exporter	IEC Code	Shipping Bill Number	Shipping Bill Date	Exchange Rate	Invoice Number	Invoice Date	Nature of Consignment	Actual freight amount paid	Actual Insurance amount paid	Through BRC	Through Reimbursement of taxes	Any other manner such as Debit Note / Credit Note etc.
94	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED	605003301	9250759	04-05-2023	81.40	SRF/23-24/E-0040	02-05-2023	CF	105820	21164	44460	8580	1892

8.3 Deductions amounts not claimed in Shipping Bills, however amounts equal to the export duty paid were received separately as reimbursement of taxes

In addition to above, in respect of the following 59 shipments of rice exported by M/s Shree Rameshwar Lal Foods Pvt. Ltd., the exporter had not claimed any deduction in the shipping bills filed by them, however, the exporter had stated that in respect of these shipments also, they have separately recovered the duty amount of Rs. 6,71,86,813/- from the overseas buyers of the export goods, out of the total duty paid amount of Rs. 7,03,44,710/- claimed by them from the exporter:

Table C								
S. No.	Port of Export	Shipping Bill Number	Shipping Bill Date	Final Declared FOB Value (INR)	Export duty Paid (INR)	Amount received through BRC (INR)	Deduction claimed in Shipping Bill (INR)	Amount received through Reimbursement of taxes in INR (Including duty & packing charges)
1.	INCCU1	9424966	20-04-2023	70,63,810	14,12,762	72,08,979	-	14,01,408
2.	INCCU1	9424973	20-04-2023	72,74,670	14,54,934	74,64,444	-	14,52,501
3.	INCCU1	9464594	21-04-2023	36,50,790	7,30,158	37,46,028	-	7,27,716
4.	INCCU1	9504158	24-04-2023	35,97,880	7,19,576	37,35,446	-	7,09,401
5.	INCCU1	9508576	24-04-2023	35,97,880	7,19,576	37,35,446	-	7,13,878
6.	INCCU1	9533142	25-04-2023	35,97,880	7,19,576	37,35,446	-	7,13,878
7.	INCCU1	9534266	25-04-2023	35,97,880	7,19,576	37,35,446	-	7,09,401
8.	INCCU1	9590803	27-04-2023	76,19,040	15,23,808	78,88,356	-	15,16,889
9.	INCCU1	9591567	27-04-2023	76,19,040	15,23,808	78,94,172	-	15,16,889
10.	INCCU1	9919494	10-05-2023	35,73,570	7,14,714	37,31,228	-	7,12,127
11.	INCCU1	9933599	10-05-2023	69,36,930	13,87,386	76,09,602	-	13,84,799
12.	INCCU1	9933609	10-05-2023	69,73,313	13,94,663	71,52,800	-	13,83,344
13.	INCCU1	1085830	17-05-2023	99,63,954	19,92,791	1,12,50,439	-	19,86,848
14.	INCCU1	1117428	18-05-2023	48,55,851	9,71,170	53,70,866	-	9,64,621
15.	INCCU1	1435068	31-05-2023	59,36,840	11,87,368	63,60,900	-	11,79,213
16.	INCCU1	1480370	02-06-2023	39,29,770	7,85,954	40,67,843	-	7,80,194
17.	INCCU1	1482879	02-06-2023	39,29,770	7,85,954	40,67,843	-	7,75,537
18.	INCCU1	1611523	08-06-2023	35,04,930	7,00,986	39,72,254	-	6,91,999
19.	INCCU1	1611536	08-06-2023	35,04,930	7,00,986	38,76,665	-	6,90,774
20.	INCCU1	1647791	09-06-2023	79,65,750	15,93,150	81,47,287	-	15,83,509
21.	INCCU1	1632272	09-06-2023	89,21,640	17,84,328	95,58,900	-	17,77,384
22.	INCCU1	1692874	12-06-2023	21,02,958	4,20,592	23,25,999	-	4,09,154
23.	INCCU1	1924141	22-06-2023	69,79,830	13,95,966	77,83,568	-	13,83,031
24.	INCCU1	2197525	03-07-2023	81,43,135	16,28,627	83,75,796	-	16,18,458
25.	INCCU1	2197379	03-07-2023	74,02,850	14,80,570	81,85,437	-	14,69,506
26.	INCCU1	2263635	06-07-2023	81,43,135	16,28,627	83,75,796	-	16,18,052
27.	INCCU1	2335700	10-07-2023	81,63,155	16,32,631	83,96,388	-	16,09,063
28.	INCCU1	2347276	10-07-2023	37,10,525	7,42,105	41,98,194	-	7,33,542
29.	INCCU1	2393940	12-07-2023	34,98,495	6,99,699	38,69,548	-	6,91,952
30.	INCCU1	2393949	12-07-2023	34,98,495	6,99,699	41,76,991	-	6,93,991
31.	INCCU1	2435563	13-07-2023	82,69,170	16,53,834	84,81,200	-	16,43,599
32.	INCCU1	2431131	13-07-2023	34,98,495	6,99,699	41,76,991	-	6,93,991
33.	INCCU1	2431141	13-07-2023	35,51,503	7,10,301	37,10,525	-	7,02,146
34.	INMUN1	2451879	14-07-2023	66,15,336	13,23,067	67,51,035	-	13,12,873
35.	INCCU1	2517335	17-07-2023	16,53,834	3,30,767	16,87,759	-	3,30,767
36.	INVTZ1	4714276	18-10-2023	41,97,375	8,39,475	47,12,253	-	8,36,462
37.	INVTZ1	4859115	25-10-2023	45,01,770	9,00,354	45,87,518	-	8,94,583
38.	INVTZ1	4859732	25-10-2023	45,01,770	9,00,354	45,87,518	-	8,92,027
39.	INVTZ1	4860324	25-10-2023	45,01,770	9,00,354	45,87,518	-	8,94,583
40.	INVTZ1	4868521	25-10-2023	70,74,210	14,14,842	73,74,328	-	14,09,483
41.	INVTZ1	4958267	28-10-2023	70,74,210	14,14,842	73,74,328	-	14,12,369
42.	INVTZ1	4958270	28-10-2023	70,74,210	14,14,842	73,74,328	-	14,08,493
43.	INVTZ1	4998187	30-10-2023	45,01,770	9,00,354	45,66,081	-	8,96,067
44.	INVTZ1	5116958	03-11-2023	44,99,040	8,99,808	45,63,312	-	8,95,606
45.	INVTZ1	5207112	07-11-2023	44,99,040	8,99,808	45,84,736	-	8,87,448
46.	INVTZ1	5255270	09-11-2023	81,41,120	16,28,224	85,03,350	-	4,47,762
47.	INVTZ1	5424811	18-11-2023	43,19,250	8,63,850	48,49,078	-	8,62,964

48.	INVTZ1	5553015	24-11-2023	88,85,565	17,77,113	90,14,031	-	17,70,937
49.	INVTZ1	5668263	29-11-2023	88,85,565	17,77,113	90,11,972	-	14,27,783
50.	INVTZ1	5733773	01-12-2023	86,71,455	17,34,291	88,61,684	-	10,86,526
51.	INVTZ1	6002854	13-12-2023	86,92,515	17,38,503	88,85,682	-	15,22,222
52.	INVTZ1	6772937	15-01-2024	81,51,000	16,30,200	84,54,600	-	16,20,713
53.	INVTZ1	6773034	15-01-2024	81,51,000	16,30,200	84,51,300	-	16,24,013
54.	INVTZ1	7104133	29-01-2024	87,78,510	17,55,702	89,49,798	-	17,08,351
55.	INVTZ1	7127493	30-01-2024	41,75,145	8,35,029	42,71,495	-	8,30,047
56.	INVTZ1	7375716	08-02-2024	85,48,800	17,09,760	86,98,404	-	17,07,952
57.	INVTZ1	7471268	12-02-2024	84,41,940	16,88,388	87,41,148	-	16,83,867
58.	INVTZ1	7472676	12-02-2024	84,41,940	16,88,388	87,41,148	-	16,86,744
59.	INVTZ1	7955150	29-02-2024	41,67,540	8,33,508	42,63,714	-	7,97,383
Grand Total				35,17,23,543	7,03,44,710	36,88,14,939	-	6,71,86,813


In respect of these shipments the exporter had not declared before the customs authorities at the port of export at the time of making exports, that they would recover or have recovered the higher amounts from the overseas buyers which are over and above the declared invoice value of these export shipments.

Out of these 59 SBs,

a) In respect of 1 Shipping Bill mentioned at serial no. 35 of table above (i.e. SB No. 2517335 dated 17-07-2023), the amounts received over and above the declared invoice value as reimbursement of taxes i.e. Rs. 3,30,767 are equal to the export duty amounts paid by the exporter. Therefore, in respect of the said S/B, the total duty amount of **Rs. 3,30,767/-** recovered by the exporter from the buyer is liable to be included in their declared transaction value.

b) In respect of remaining 58 SBs mentioned at **Table** above, the amounts received over and above the declared invoice value as reimbursement of taxes (**Rs. 6,68,56,046/-**) are lesser (by **Rs. 31,57,897/-**) than the export duty amounts (**Rs. 7,00,13,943/-**) actually paid by the exporter. The balance duty amount of **Rs. 31,57,897/-** is still payable by the buyer to the exporter. Therefore, in respect of these 58 S/Bs, the total duty amount of **Rs. 7,00,13,943/-** claimed by the exporter from the buyer is liable to be included in their declared transaction value.

8.3.1 As may be seen from the copy of the Shipping Bill Number 1480370 dated 02.06.2023 pasted below, the exporter had not claimed any deduction amount in the shipping bill however, as per the details submitted by the exporter, they have separately recovered an amount of Rs. 7,80,194/- (USD 9550) from the overseas buyer in the bank accounts which is less than the export duty amount of Rs. 7,85,954/-. The aforesaid amount of Rs. 7,80,194/- is over and above their declared invoice value of USD 49790 received by them from the overseas buyer, as reflected in the BRC of the said shipment. Therefore, the exporter had suppressed the amount received by them separately from the buyer as reimbursement of export duty. They have neither declared the full amount to be received by them from the overseas buyer in their export invoice nor in the shipping bill. Thus, they have mis-declared the actual FOB Value in respect of all such shipping bills.



INDIAN CUSTOMS EDI SYSTEM

CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

DEPARTMENT OF REVENUE - MINISTRY OF FINANCE

GOVERNMENT OF INDIA

Port Code

SB No

SB Date

INCCU1

1480370

02-JUN-23

IEC/B-

0605003301

0

GSTIN/TYPE

09AANCS3697P1Z5 GSN

CB CODE

AAICA4473ECH001

TYPE

INV

ITEM

CONT

Nos

1

1

5

15/1 STRAND ROAD, CUSTOM HOUSE, KOLKATA - 700001

PKG

2600

G.WT

MTS

130.312

*5B22030620231814

1.MODE

2.ASSESS

3.EXMN

4.JOBGING

5.MEIS

6.DBK

7.RODTP

8.DEFC/DFA

9.DFRC

10.RE-EXP

11.LUT

SEA

Y

Y

N

Y

N

N

N

N

N

12.PORT OF LOADING

INCCU1 (Calcutta)

13.COUNTRY OF FINAL DESTINATION

VIETNAM, DEMOCRATIC REP. C

14.STATE OF ORIGIN

Uttar Pradesh

15.PORT OF

AT DESTINATION

VNSGN (Ho Chi Minh City)

16.PORT OF DISCHARGE

VNSGN (Ho Chi Minh City)

17.COUNTRY OF DISCHARGE

VIETNAM, DEMOCRATIC REP. C

18.EXPORTER'S NAME & ADDRESS

SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED

NEAR RESHAM FARM, BHINGA ROAD

KALPIPARA

BAHRAICH

2.Type

Private

19.CONSIGNEE NAME & ADDRESS

21ST CENTURY B&R TRADE EXPERTISE A

ND INVESTMENT COMPANY LIMITED ADDRE

SS: NO. 49.2A STREET, BINH HUNG HOA B WARD, BINH TAN DISTRI

20.AEO

21.GSTIN/TYPE

09AANCS3697P1Z5 GSN

22.FOREX BANK A/C NO.

21XXXXXX187

23.DBK BANK A/C NO.

24.IFSC NO.

25.FOB VALUE

2.FREIGHT

3.INSURANCE

4.DISCOUNT

5.COM

3929770

138073

0

0

53105

6.DEDUCTIONS

7.P/C

8.DUTY

9.CESS

0

0

785954

10.DBK CLAIM

11.IGST AMT

3.CESS AMT

0

0

785954

12.SNO

2.INV NO

3.INV AMT

4.CURRENCY

1

SRF/23-24/E-0069

49790

USD

13.CIN NO

14.CIN DT

15.CIN SITE ID

23PCEG060333505200

03-JUN-23

INCCU1

16.CONTAINER

2.SEAL

3.DATE

4.S No

CSLU2328938

1

CSNU2024716

2

OOLU1965664

3

CSNU1037196

4

OOLU1505720

5

17.SR NO

2.CHALLAN NO

3.PAYMT DT


4.AMOUNT

1

126952

03-JUN-23

785954



INDIAN CUSTOMS EDI SYSTEM

CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

DEPARTMENT OF REVENUE - MINISTRY OF FINANCE

GOVERNMENT OF INDIA

Port Code

SB No

SB Date

INCCU1

1480370

02-JUN-23

IEC/B-

0605003301

0

GSTIN/TYPE

09AANCS3697P1Z5 GSN

CB CODE

AAICA4473ECH001

TYPE

INV

ITEM

CONT

Nos

1

1

5

15/1 STRAND ROAD, CUSTOM HOUSE, KOLKATA - 700001

PKG

2600

G.WT

MTS

130.312

*5B22030620231814

1.S.No

2.INVOICE No. & Dt

3.P.O.No. & Dt

4.Lc No. & Dt

5.Contract No.&Dt

6.AD code

7.INVTERM

SRF/23-24/E-0069 29/05/2023

02600D7

CF

18.EXPORTER'S NAME & ADDRESS

SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED

NEAR RESHAM FARM, BHINGA ROAD

KALPIPARA

271801

19.BUYER'S NAME & ADDRESS

21 ST CENTURY B&R TRADE EXPERTISE A

ND INVESTMENT COMPANY LIMITED ADDRE

SS: NO. 49.2A STREET, BINH HUNG HOA

B WARD, BINH TAN DISTRICT, HO CHI MI

20.THIRD PARTY NAME & ADDRESS

21.BUYER AEO STATUS

22.INVOICE VALUE

2.FOB VALUE

3.FREIGHT

4.INSURANCE

5.DISCOUNT

6.COMMISSION

7.DEDUCT

8.P/C

9.EXCHANGE RATE

49790

48100

1690

0

0

650

0

1 USD INR 81.7

10.ItemSNo

11.HS CD

12.DESCRPTION

13.QUANTITY

14.UQC

15.RATE

16.VALUE(F/C)

1

10063090

INDIAN SWARNA RAW WHITE RICE (NON-BASMAT


130

MTS

383

49790

Copy of Invoice No. SRF/23-24/E-0069 dated 29.05.2023 submitted to the customs:

INVOICE CUM PACKING LIST													
Exporter SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED BHINGA ROAD,,KALPIPARA BAHRAICH, UTTAR PRADESH INDIA		INVOICE No. & DATE SRF/23-24/E-0069 DATE:29.05.2023		Exporters Ref. IEC : 0605003301									
		Contract No. & Date SRF/2023-2024/SV/146 DATE:23.05.2023											
		PROFORMA INVOICE No & Date SRF/2023-2024/1048 DATE:23.05.2023											
Consignee 21 st Century B&R Trade expertise and investment company limited ADDRESS: NO.49,2A STREET, BINH HUNG HOA B WARD,BINH TAN DISTRICT,HO CHI MINH CITY,VIETNAM TAX ID: 0315283866		NOTIFY PARTY 21 st Century B&R Trade expertise and investment company limited ADDRESS: NO.49,2A STREET, BINH HUNG HOA B WARD,BINH TAN DISTRICT,HO CHI MINH CITY,VIETNAM TAX ID: 0315283866											
Pre-carriage by BY TRUCK		Place of receipt by KOLKATA,INDIA		Terms of Delivery and Payment by TT 5941 Advance as deposit within 3 working days. Remaining balance by DP. CFR,HO CHI MINH , VIETNAM									
Vessel/Flight No.		PORT OF LOADING KOLKATA,INDIA											
Port of Discharge		Final Destination											
HO CHI MINH,VIETNAM		HO CHI MINH,VIETNAM											
HSN CODE	Marks & NOS OF CONT	Description of Goods	Quantity MT	Rate USD (PMT)	Amount USD								
10063090	05x20'	INDIAN SWARNA RAW WHITE RICE	130.000	383.00 PER MT	49790.00								
BROKER'S COMMISSION : USD 5 PER METRIC TON (TOTAL 130*5 = USD 650)		2600 NEW WHITE PP BAGS OF 50KG NET		CFR, HO CHI MINH, VIETNAM									
		TOTAL NO. OF BAGS : 2600 BAGS PACKING : 50 KG NET TOTAL NET WEIGHT : 130.000 MT TOTAL GROSS WEIGHT : 130.312 MT											
		<table><tr><th>PARTICULARS</th><th>AMOUNT (USD)</th></tr><tr><td>FOR</td><td>48100.00</td></tr><tr><td>FREIGHT</td><td>1690.00</td></tr><tr><td>TOTAL</td><td>49790.00</td></tr></table>	PARTICULARS	AMOUNT (USD)	FOR	48100.00	FREIGHT	1690.00	TOTAL	49790.00			
PARTICULARS	AMOUNT (USD)												
FOR	48100.00												
FREIGHT	1690.00												
TOTAL	49790.00												
Amount Chargeable					TOTAL 49,790.00								
(In words: USD) FORTY NINE THOUSAND SEVEN HUNDRED NINTY U.S DOLLAR WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN													
Bank Details for TT /Payable to INDIAN BANK Account Name: SHREE RAMESHWAR LAL FOODS PVT. LTD. SALARPUR BRANCH, BAHRAICH-INDIA A/C NO: 21215447187 IFSC : IDIB000S542 Swift Code:IDIBINBBMAS Nostro bank:CITIUS33													
Declaration We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct													
<div>For SHREE RAMESHWAR LAL FOODS PVT LTD</div> <div></div> <div>Authorised Signatory</div>													

DIRECTORATE GENERAL OF FOREIGN TRADE

STATEMENT OF BANK REALISATION

1	Firm's Name	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED
2	Address	NEAR RESHAM FARM, BHINGA ROADKALPIPARABAHRAICH BAHRAICH UTTAR PRADESH
3	IEC	0605003301
4	Shipping Bill No	1480370
5	Shipping Bill Date	2023-06-02
6	Shipping Bill Port	INCCU1
7	Bank's Name	INDIAN BANK
8	Bank's File no and Uploaded Date	IDIB0000000300620230012023-07-01 16:16:01
9	Bill ID no	0119823SC0015672
10	Bank Realisation Certificate No	IDIB0000014000627089 Dated 2023-06-27
11	Date of realisation of money by bank	2023-06-26
12	Realised value in Foreign Currency	46820.000
13	Currency of realisation	USD
14	Date &time of printing	2023-11-07 09:07:01 AM

DIRECTORATE GENERAL OF FOREIGN TRADE

STATEMENT OF BANK REALISATION

1	Firm's Name	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED
2	Address	NEAR RESHAM FARM, BHINGA ROADKALPIPARABAHRAICH BAHRAICH UTTAR PRADESH
3	IEC	0605003301
4	Shipping Bill No	1480370
5	Shipping Bill Date	2023-06-02
6	Shipping Bill Port	INCCU1
7	Bank's Name	INDIAN BANK
8	Bank's File no and Uploaded Date	IDIB0000000140620230012023-06-15 12:46:13
9	Bill ID no	0119823SC0015672
10	Bank Realisation Certificate No	IDIB0000014000624405 Dated 2023-06-12
11	Date of realisation of money by bank	2023-06-01
12	Realised value in Foreign Currency	2970.000
13	Currency of realisation	USD
14	Date &time of printing	2023-11-07 09:07:18 AM

S.No.	Name of the Exporter	IEC Code	Shipping Bill Number	Shipping Bill Date	Exchange Rate	Invoice Number	Invoice Date	Nature of Consign- ment	Actual freight amount paid	Actual insurance amount paid	Through BRC	Through Reimburse- ment of taxes	Any other manner such as Debit Note / Credit Note etc.
77	SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED	605003301	1480370	02-06-2023	83.70	SRF/23-24/E-0069	29-05-2023	CF	138073	0	49790	9550	0

Separate Invoice No. SRF/23-24/E-0069 dated 29.05.2023 submitted to the overseas buyer

GSTIN : 07AANC3697P120

All Subject to Delhi Jurisdiction

Shree Rameshwar Lal Foods Pvt. Ltd.

MANUFACTURER OF PARBOILED, STEAM & RAW RICE

E-mail : sribahraich@gmail.com, Website : srifoods.com

1730, 2nd Floor, Room No.204

Nai Bazar, Naya Bazar, Delhi-9

H.Off : Bhinga Road, Kalpipara

Bahraich-271803 (U.P.)

GSTIN : 09AANC3697P125

Ref: Export Invoice No. 0069

Dated: 29.05.2023

COMMERCIAL INVOICE

Exporter

SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED

BHINGA ROAD, KALPIPARA

BAHRAICH, UTTAR PRADESH

INDIA

Consignee

21 st Century B&R Trade expertise and investment company limited

ADDRESS: NO.49,2A STREET, BINH HUNG HOA B WARD, BINH TAN DISTRICT, HO CHI MINH CITY, VIETNAM

TAX ID: 0315283866

Pre-carriage by

Place of receipt by

KOLKATA,INDIA

Vessel/Flight No.

PORT OF LOADING

KOLKATA,INDIA

Port of Discharge

Final Destination

HO CHI MINH,VIETNAM

INVOICE No. & DATE

SRF/23-24/E-0069 DATE:29.05.2023

Contract No. & Date

SRF/2023-2024/SW/145 DATE:23.05.2023

PROFORMA INVOICE No & Date

SRF/2023-2024/1048 DATE:23.05.2023

Exporters Ref.

EC : 0605003301

Terms of Delivery and Payment

by TT 2670.50USD Advance as deposit within 3 working days.

Remaining balance by DP.

OFF,HO CHI MINH ,VIETNAM

HSN CODE	Marks & NOS OF CONT	Description of Goods	Quantity MT	Rate USD (PMT)	Amount USD
10053090	05x20'	INDIAN SWARNA RAW WHITE RICE	130.000	457.00 PER MT	59410.00
		2600 NEW WHITE PP BAGS OF 50KG-NET			
		TOTAL NO. OF BAGS : 2600-BAGS			
		PACKING : 50 KG NET			
		TOTAL NET WEIGHT : 130.000-MT			
		TOTAL GROSS WEIGHT : 130.312-MT			
		PARTICULARS	AMOUNT (USD)		
		SHIPPING INVOICE VALUE	49790.00		
		CERTIFICATE AMOUNT	9620.00		
		TOTAL	59410.00		
				Less: Advance payment	2970.50
				TOTAL	56,439.50

Amount Chargeable

(In words USD) U.S. DOLLARS FIFTY SIX THOUSANDS AND FOUR HUNDRED THIRTY NINE & FIFTY CENTS

WE HEREBY CERTIFY THAT THE GOODS ARE OF INDIAN ORIGIN

Bank Details for TT /Payable to

INDIAN BANK

Account Name: SHREE RAMESHWAR LAL FOODS PVT. LTD.

SALARPUR BRANCH, BAHRAICH-INDIA

A/C NO: 21215447187

IFSC : IDIB0005542


Swift Code:IDIBINBBMAS

Nostro bank:CITIUS33

Declaration

We declare that this invoice shows the actual price of the goods described and that the particulars are true and correct.

For SHREE RAMESHWAR LAL FOODS PVT LTD



Authorized Signatory

8.4 For reimbursement of the export duty from the overseas buyer, the exporter had declared RBI Accounting Purpose code No. P1306 which is for refund of taxes, however, the following discussion indicate that the said purpose code is not meant for the receipt of export duty and export proceeds -

The exporter has claimed that the deduction/ deduct amount claimed by them in the shipping bill have been received by them from the overseas buyers in the form of reimbursement of taxes. They have further informed that the said transactions have been made under the purpose code P1306.

RBI purpose codes are unique identifiers assigned to various international transactions, enabling banks and financial institutions to classify and process remittances accurately. RBI has notified purpose codes for reporting forex transactions for Payment and Receipt purposes.

The Purpose codes for reporting forex transactions (for the purpose of Receipt of amounts) are further categorized into 16 different 'Purpose Group Name' which

includes Exports (of Goods), Transportation, Travel, Financial Services, Royalties & License Fees, Transfers among others.

The following purpose codes pertaining to Export (of Goods) refers to the receipt of forex in respect of exports made from India.

Gr. No.	Purpose Group Name	Purpose Code	Description
P01	Exports (of Goods)	P0101	Value of export bills negotiated / purchased/discounted etc. (covered under GR/PP/SOFTEX/EC copy of shipping bills etc.)
		P0102	Realisation of export bills (in respect of goods) sent on collection (full invoice value)
		P0103	Advance receipts against export contracts, which will be covered later by GR/PP/SOFTEX/SDF
		P0104	Receipts against export of goods not covered by the GR/PP/SOFTEX/EC copy of shipping bill etc.
		P0105	Export bills (in respect of goods) sent on collection.
		P0106	Conversion of overdue export bills from NPD to collection mode
		P0107	Realisation of NPD export bills (full value of bill to be reported)

Further, the purpose code P1306 referred by the exporter for reimbursement of taxes (i.e. export duty) falls under the group 'Transfer'.

Gr. No.	Purpose Group Name	Purpose Code	Description
13	Transfers	P1301	Inward remittance from Indian non-residents towards family maintenance and savings
		P1302	Personal gifts and donations
		P1303	Donations to religious and charitable institutions in India
		P1304	Grants and donations to governments and charitable institutions established by the governments
		P1306	Receipts / Refund of taxes

From the above, it is evident that the purpose codes under the group 'Transfer' pertains to forex transactions of personal nature such as personal gifts, family maintenance, donations etc. and the accounting purpose code P1306 falling under the said category is clearly not associated with the payments received in respect of exported goods. Thus, **the exporter had used wrong purpose for receipt of the export duty amounts from the buyers.** Thus, the exporter had mis-represented the facts before the bank authorities also to process the receipt of export duty amounts from the overseas buyer. These amounts are not reflected in the bank realisation certificates obtained by the exporter from the bank.

8.5 Excess ocean freight amounts wrongly declared in the Shipping Bills:

During the course of the investigation, the exporter was requested to provide the details of actual freight paid in respect of 172 consignments exported on CI/ CIF basis vide email dated 04.07.2024 and 23.07.2024. In response, the exporter vide email dated 20.08.2024 had provided the actual freight paid details of the exported goods. However, upon scrutiny of the documents, it was revealed that the details provided by the exporter were incorrect. Therefore, the exporter was again requested to provide the correct actual freight payment amounts in respect of each of their export shipments. In response, the exporter vide emails dated 26.11.2024 had provided the actual freight paid details in respect of 150 consignments out of the total 172 export consignments. The details in respect of remaining 22 export consignments were not provided by the exporter. These 22

shipments pertain to the goods exported by M/s Rameshwar Lal Foods Pvt. Ltd. from Mundra & Vishakhapatnam ports to the buyers based in Vietnam.

Further scrutiny of the data revealed that out of 150 consignments (for which actual freight details were provided), 69 shipments were exported by them from Mundra (46 shipments) & Vishakhapatnam (23 shipments) ports to the buyers based in Vietnam and actual freight amounts paid in respect of these 69 shipments were in the range of INR 207 to 720 per MT. Therefore, in respect of aforementioned 22 shipments also, the actual freight paid amounts have also been considered at INR 207 per MT.

In view of the above, in addition to the shipments discussed in para 8.2 to 8.6 above, in respect of the following **156** shipments of rice, the exporter had **declared higher amounts of ocean freight** in comparison to the actual freight amounts paid by them, thus causing short payment of duty on the differential ocean freight amount in respect of these 156 shipments also. The total amount of excess freight declared by the exporter in respect of these shipments stood at **Rs. 3,89,92,929/-**. Vide Emails dated 26.11.2024, M/s Rameshwar Lal Foods Private Limited had submitted the details of the actual freight amounts paid by them to the Freight forwarders / Shipping line, which clearly indicated that in these 156 shipments, they have declared excess freight amounts.

Table D

S No	Port of Export	Shipping Bill Number	Shipping Bill Date	Final Declared FOB Value (INR)	Export duty Paid (INR)	Sum of Total Freight	Sum of Actual Freight Paid	Sum of Difference in Freight
1.	INCCU1	1480370	02-06-2023	39,29,770	7,85,954	1,38,073	71,367	66,706
2.	INCCU1	1482879	02-06-2023	39,29,770	7,85,954	1,38,073	71,417	66,656
3.	INCCU1	1647791	09-06-2023	79,65,750	15,93,150	1,91,178	1,38,191	52,987
4.	INCCU1	2197525	03-07-2023	81,43,135	16,28,627	2,32,661	1,34,001	98,660
5.	INCCU1	2263635	06-07-2023	81,43,135	16,28,627	2,32,661	1,33,844	98,817
6.	INCCU1	2335700	10-07-2023	81,63,155	16,32,631	2,33,233	1,33,765	99,468
7.	INCCU1	2435563	13-07-2023	82,69,170	16,53,834	2,12,030	1,32,915	79,115
8.	INCCU1	2451879	14-07-2023	66,15,336	13,23,067	1,35,699	1,06,332	29,367
9.	INCCU1	2517335	17-07-2023	16,53,834	3,30,767	33,925	26,583	7,342
10.	INCCU1	4859115	25-10-2023	45,01,770	9,00,354	75,030	36,032	38,998
11.	INCCU1	4859732	25-10-2023	45,01,770	9,00,354	75,030	35,952	39,078
12.	INCCU1	4860324	25-10-2023	45,01,770	9,00,354	75,030	36,007	39,023
13.	INCCU1	4998187	30-10-2023	45,01,770	9,00,354	53,593	36,007	17,586
14.	INCCU1	5116958	03-11-2023	44,99,040	8,99,808	53,560	36,007	17,553
15.	INCCU1	5207112	07-11-2023	44,99,040	8,99,808	74,984	33,765	41,219
16.	INCCU1	5553015	24-11-2023	88,85,565	17,77,113	1,28,466	53,393	75,073
17.	INCCU1	5668263	29-11-2023	88,85,565	17,77,113	1,28,466	58,627	69,839
18.	INCCU1	5733773	01-12-2023	86,71,455	17,34,291	1,71,288	58,566	1,12,722
19.	INCCU1	5845808	01-12-2022	25,87,182	5,17,436	2,02,250	92,500	1,09,750
20.	INCCU1	6002854	13-12-2023	86,92,515	17,38,503	1,71,704	58,566	1,13,138
21.	INCCU1	6146380	14-12-2022	62,02,356	12,40,474	11,48,290	11,46,336	1,954
22.	INCCU1	6199441	21-12-2023	52,36,972	10,47,391	1,07,315	62,872	44,443
23.	INCCU1	6355180	28-12-2023	52,46,488	10,49,298	1,07,510	62,343	45,167
24.	INCCU1	6559917	30-12-2022	59,55,040	11,91,008	11,04,300	10,51,044	53,256
25.	INCCU1	6772937	15-01-2024	81,51,000	16,30,200	3,00,300	2,08,554	91,746
26.	INCCU1	6773034	15-01-2024	81,51,000	16,30,200	3,00,300	2,09,195	91,105
27.	INCCU1	6912542	12-01-2023	22,48,052	4,49,610	1,63,900	92,880	71,020
28.	INCCU1	6915463	12-01-2023	53,32,487	10,66,497	4,09,750	2,33,786	1,75,964
29.	INCCU1	6915933	12-01-2023	32,65,871	6,53,174	2,45,850	1,39,320	1,06,530
30.	INCCU1	7000154	16-01-2023	21,77,248	4,35,450	1,63,900	97,402	66,498
31.	INCCU1	7225747	24-01-2023	6,25,068	1,25,014	1,60,053	23,348	1,36,705
32.	INCCU1	7852396	17-02-2023	60,19,978	12,03,996	5,89,680	2,11,932	3,77,748
33.	INCCU1	7857459	17-02-2023	67,69,526	13,53,905	5,89,680	2,14,024	3,75,656
34.	INCCU1	7975966	22-02-2023	35,30,873	7,06,175	1,57,248	1,07,239	50,009
35.	INCCU1	8009236	23-02-2023	55,08,266	11,01,653	2,75,184	1,87,117	88,067
36.	INCCU1	8099705	27-02-2023	70,44,710	14,08,942	3,14,496	2,13,848	1,00,648
37.	INCCU1	8355637	15-03-2024	1,00,63,040	20,12,608	3,19,800	2,79,442	40,358
38.	INCCU1	9009167	09-04-2024	57,16,333	11,43,267	7,84,700	7,29,304	55,396
39.	INCCU1	9009337	09-04-2024	57,16,333	11,43,267	7,84,700	7,28,964	55,736
40.	INCCU1	9025621	10-04-2024	58,13,388	11,62,678	7,43,400	7,02,948	40,452
41.	INCCU1	9140143	15-04-2024	58,13,388	11,62,678	7,43,400	7,03,275	40,125
42.	INCCU1	9389797	25-04-2024	1,01,05,940	20,21,188	3,22,530	1,87,756	1,34,774
43.	INCCU1	9504158	24-04-2023	35,97,880	7,19,576	1,37,566	1,15,905	21,661
44.	INCCU1	9508576	24-04-2023	35,97,880	7,19,576	1,37,566	1,15,905	21,661
45.	INCCU1	9533142	25-04-2023	35,97,880	7,19,576	1,37,566	1,20,424	17,142


46.	INCCUI	9534266	25-04-2023	35,97,880	7,19,576	1,37,566	1,20,424	17,142
47.	INCCUI	9590803	27-04-2023	76,19,040	15,23,808	2,75,132	2,32,061	43,071
48.	INCCUI	9591567	27-04-2023	76,19,040	15,23,808	2,75,132	2,32,061	43,071
49.	INCCUI	9694934	07-05-2024	49,39,480	9,87,896	2,14,760	94,771	1,19,989
50.	INCCUI	9919494	10-05-2023	35,73,570	7,14,714	1,36,637	1,17,394	19,243
51.	INMAA1	4889254	18-10-2022	66,62,592	13,32,518	8,07,000	2,33,007	5,73,993
52.	INMAA1	5572142	19-11-2022	52,58,500	10,51,700	4,04,500	1,70,468	2,34,032
53.	INMAA1	5802125	29-11-2022	53,84,704	10,76,941	3,23,600	1,80,143	1,43,457
54.	INMAA1	5840529	30-11-2022	84,55,668	16,91,134	6,06,750	1,94,324	4,12,426
55.	INMAA1	5948034	05-12-2022	15,97,167	3,19,433	1,20,450	50,765	69,685
56.	INMUN1	1085830	17-05-2023	99,63,954	19,92,791	12,23,422	1,13,432	11,09,990
57.	INMUN1	1215902	23-05-2023	70,45,920	14,09,184	2,12,030	61,756	1,50,274
58.	INMUN1	1394744	30-05-2023	67,84,960	13,56,992	2,12,030	61,706	1,50,324
59.	INMUN1	1457504	01-06-2023	49,72,104	9,94,421	1,48,421	43,194	1,05,227
60.	INMUN1	1691573	12-06-2023	33,98,720	6,79,744	1,06,210	39,463	66,747
61.	INMUN1	1714702	13-06-2023	21,34,821	4,26,964	63,726	23,923	39,803
62.	INMUN1	2091695	29-06-2023	34,89,915	6,97,983	1,05,755	39,872	65,883
63.	INMUN1	2345810	10-07-2023	6,78,496	1,35,699	10,602	7,980	2,622
64.	INMUN1	4829995	14-10-2022	69,56,340	13,91,268	8,07,000	53,820	7,53,180
65.	INMUN1	4903629	18-10-2022	69,56,340	13,91,268	8,07,000	1,68,398	6,38,602
66.	INMUN1	5183812	01-11-2022	14,34,226	2,86,845	1,64,400	33,468	1,30,932
67.	INMUN1	6183575	15-12-2022	54,78,548	10,95,710	10,43,900	7,40,094	3,03,806
68.	INMUN1	6513202	28-12-2022	29,59,524	5,91,905	40,900	4,364	36,536
69.	INMUN1	6568306	30-12-2022	59,19,048	11,83,810	4,09,000	1,32,618	2,76,382
70.	INMUN1	6658599	03-01-2023	85,49,736	17,09,947	6,13,500	1,79,676	4,33,824
71.	INMUN1	6741329	06-01-2023	62,39,673	12,47,935	4,09,750	1,40,734	2,69,016
72.	INMUN1	6832222	09-01-2023	59,29,902	11,85,980	4,09,750	1,52,917	2,56,833
73.	INMUN1	6874654	11-01-2023	62,39,673	12,47,935	4,09,750	1,51,458	2,58,292
74.	INMUN1	6945934	13-01-2023	59,29,902	11,85,980	4,09,750	1,13,664	2,96,086
75.	INMUN1	7219136	24-01-2023	23,31,439	4,66,288	2,57,760	61,167	1,96,593
76.	INMUN1	7227264	24-01-2023	34,97,159	6,99,432	3,86,640	80,571	3,06,069
77.	INMUN1	7532194	04-02-2023	29,71,293	5,94,259	3,24,200	62,747	2,61,453
78.	INMUN1	7682438	10-02-2023	58,64,778	11,72,956	4,05,250	1,26,227	2,79,023
79.	INMUN1	7840942	16-02-2023	58,64,778	11,72,956	4,05,250	92,643	3,12,607
80.	INMUN1	8027436	24-02-2023	85,60,188	17,12,038	10,44,225	80,730	9,63,495
81.	INMUN1	8436852	13-03-2023	59,51,400	11,90,280	4,08,750	53,820	3,54,930
82.	INMUN1	8469024	14-03-2023	29,75,700	5,95,140	1,22,625	26,910	95,715
83.	INMUN1	8640652	21-03-2023	61,95,420	12,39,084	2,45,850	55,890	1,89,960
84.	INMUN1	8672141	22-03-2023	29,82,980	5,96,596	1,22,925	26,910	96,015
85.	INMUN1	9020492	01-04-2023	52,50,045	10,50,009	1,96,680	60,454	1,36,226
86.	INMUN1	9064969	04-04-2023	78,75,067	15,75,013	2,95,020	84,440	2,10,580
87.	INMUN1	9064970	04-04-2023	29,82,980	5,96,596	1,22,925	35,284	87,641
88.	INMUN1	9064973	04-04-2023	32,91,932	6,58,386	1,22,925	35,330	87,595
89.	INMUN1	9087071	05-04-2023	32,81,278	6,56,256	1,22,925	37,936	84,989
90.	INMUN1	9106185	06-04-2023	32,38,664	6,47,733	1,22,925	37,739	85,186
91.	INMUN1	9175474	10-04-2023	65,78,832	13,15,766	2,43,300	70,325	1,72,975
92.	INMUN1	9194305	10-04-2023	32,57,787	6,51,557	1,21,650	37,739	83,911
93.	INMUN1	9232365	12-04-2023	32,47,244	6,49,449	1,05,430	35,162	70,268
94.	INMUN1	9543578	25-04-2023	32,80,420	6,56,084	1,05,820	35,381	70,439
95.	INMUN1	9545112	25-04-2023	66,66,660	13,33,332	2,11,640	70,762	1,40,878
96.	INMUN1	9553759	26-04-2023	98,41,260	19,68,252	3,17,460	1,06,142	2,11,318
97.	INMUN1	9621639	28-04-2023	69,84,120	13,96,824	2,11,640	84,009	1,27,631
98.	INMUN1	9621640	28-04-2023	33,86,240	6,77,248	1,05,820	35,381	70,439
99.	INMUN1	9624190	28-04-2023	67,72,480	13,54,496	2,11,640	70,762	1,40,878
100.	INMUN1	9685106	01-05-2023	69,84,120	13,96,824	2,11,640	61,025	1,50,615
101.	INMUN1	9688855	01-05-2023	67,72,480	13,54,496	2,11,640	70,762	1,40,878
102.	INMUN1	9713170	02-05-2023	69,84,120	13,96,824	2,11,640	61,025	1,50,615
103.	INMUN1	9750759	04-05-2023	34,92,060	6,98,412	1,05,820	40,087	65,733
104.	INMUN1	9846076	08-05-2023	69,36,930	13,87,386	2,10,210	75,773	1,34,437
105.	INMUN1	9847260	08-05-2023	70,42,035	14,08,407	2,10,210	71,140	1,39,070
106.	INMUN1	9897330	09-05-2023	69,36,930	13,87,386	2,10,210	61,756	1,48,454
107.	INMUN1	9915090	10-05-2023	34,68,465	6,93,693	1,05,105	42,344	62,761
108.	INMUN1	9971065	12-05-2023	34,68,465	6,93,693	1,05,105	35,570	69,535
109.	INMUN1	9971066	12-05-2023	69,36,930	13,87,386	2,10,210	75,773	1,34,437
110.	INNSAI	2245989	05-07-2023	6,35,750	1,27,150	21,151	2,196	18,955
111.	INNSAI	6481949	27-12-2022	86,62,865	17,32,573	11,04,300	10,24,144	80,156
112.	INNSAI	6657379	03-01-2023	61,03,916	12,20,783	7,36,200	6,96,150	40,050
113.	INNSAI	6657428	03-01-2023	61,03,916	12,20,783	7,36,200	6,96,150	40,050
114.	INNSAI	6953717	13-01-2023	70,02,464	14,00,493	8,85,060	8,22,702	62,358
115.	INNSAI	9978513	12-05-2023	31,53,150	6,30,630	1,05,105	10,965	94,140
116.	INVTZI	1117428	18-05-2023	48,55,851	9,71,170	4,85,585	86,361	3,99,224
117.	INVTZI	1435068	31-05-2023	59,36,840	11,87,368	4,24,060	1,05,311	3,18,749
118.	INVTZI	1611523	08-06-2023	35,04,930	7,00,986	4,67,324	60,733	4,06,591
119.	INVTZI	1611536	08-06-2023	35,04,930	7,00,986	3,50,493	65,819	2,84,674
120.	INVTZI	1632272	09-06-2023	89,21,640	17,84,328	6,37,260	1,72,026	4,65,234
121.	INVTZI	1692874	12-06-2023	21,02,958	4,20,592	2,10,296	35,908	1,74,388
122.	INVTZI	1924141	22-06-2023	69,79,830	13,95,966	8,03,738	1,24,921	6,78,817
123.	INVTZI	2197379	03-07-2023	74,02,850	14,80,570	7,82,587	1,25,068	6,57,519
124.	INVTZI	2347276	10-07-2023	37,10,525	7,42,105	4,87,669	60,834	4,26,835
125.	INVTZI	2393940	12-07-2023	34,98,495	6,99,699	3,49,850	60,834	2,89,016
126.	INVTZI	2393949	12-07-2023	34,98,495	6,99,699	6,78,496	60,834	6,17,662
127.	INVTZI	2431131	13-07-2023	34,98,495	6,99,699	6,78,496	62,799	6,15,697
128.	INVTZI	2431141	13-07-2023	35,51,503	7,10,301	1,59,023	62,461	96,562
129.	INVTZI	4714276	18-10-2023	41,97,375	8,39,475	5,03,685	3,27,338	1,76,347
130.	INVTZI	4868521	25-10-2023	70,74,210	14,14,842	2,78,681	71,988	2,06,693
131.	INVTZI	4958267	28-10-2023	70,74,210	14,14,842	2,78,681	71,988	2,06,693
132.	INVTZI	4958270	28-10-2023	70,74,210	14,14,842	2,78,681	72,005	2,06,676
133.	INVTZI	5255269	09-11-2023	81,41,120	16,28,224	7,92,688	58,566	7,34,122

134.	INVTZI	5255278	09-11-2023	81,41,120	16,28,224	7,92,688	53,820	7,38,868
135.	INVTZI	5424811	18-11-2023	43,19,250	8,63,850	5,18,310	3,52,292	1,66,018
136.	INVTZI	5672168	29-11-2023	32,54,472	6,50,894	2,91,190	21,528	2,69,662
137.	INVTZI	5708180	30-11-2023	81,36,180	16,27,236	7,70,796	53,820	7,16,976
138.	INVTZI	6315518	26-12-2023	17,20,160	3,44,032	60,206	11,712	48,494
139.	INVTZI	6671352	11-01-2024	42,90,000	8,58,000	1,71,600	26,910	1,44,690
140.	INVTZI	7104116	29-01-2024	42,82,200	8,56,440	5,08,511	26,910	4,81,601
141.	INVTZI	7104119	29-01-2024	85,64,400	17,12,880	10,17,023	53,820	9,63,203
142.	INVTZI	7104133	29-01-2024	87,78,510	17,55,702	1,71,288	53,790	1,17,498
143.	INVTZI	7177363	22-01-2023	59,59,089	11,91,818	18,59,497	55,890	18,03,607
144.	INVTZI	7221478	24-01-2023	30,44,790	6,08,958	8,64,463	27,945	8,36,518
145.	INVTZI	7286761	05-02-2024	85,48,800	17,09,760	11,54,088	53,820	11,00,268
146.	INVTZI	7287634	05-02-2024	42,74,400	8,54,880	5,07,585	26,910	4,80,675
147.	INVTZI	7309442	27-01-2023	29,32,020	5,86,404	8,32,484	26,910	8,05,574
148.	INVTZI	7402973	09-02-2024	85,48,800	17,09,760	13,89,180	53,820	13,35,360
149.	INVTZI	7950459	21-02-2023	29,81,160	5,96,232	8,46,437	26,910	8,19,527
150.	INVTZI	8034827	24-02-2023	32,79,276	6,55,855	10,64,700	26,910	10,37,790
151.	INVTZI	8253380	04-03-2023	32,73,270	6,54,654	10,62,750	26,910	10,35,840
152.	INVTZI	8422059	18-03-2024	44,68,590	8,93,718	1,48,953	35,927	1,13,026
153.	INVTZI	8755548	25-03-2023	32,59,971	6,51,994	5,69,962	26,910	5,43,052
154.	INVTZI	9117736	06-04-2023	32,59,971	6,51,994	11,07,964	93,592	10,14,372
155.	INVTZI	9933599	10-05-2023	69,36,930	13,87,386	6,30,630	1,49,979	4,80,651
156.	INVTZI	9933609	10-05-2023	69,73,313	13,94,663	1,61,700	1,49,979	11,721
Grand Total				84,03,66,814	16,80,73,366	6,07,84,714	2,17,91,785	3,89,92,929

In respect of these shipments also, the exporter had not declared the true facts, before the customs authorities at the port of export at the time of effecting exports. They have **declared the higher ocean freight amounts in their export documents** such as shipping bills filed by them, in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines. It is a fact on record that the exporter had recovered the higher freight amounts from the overseas buyers of the export goods in comparison to the amounts paid by them to the freight forwarders & shipping lines in respect of their export shipments. These facts have been confirmed by the exporter in the details of their export shipments submitted by them under the provisions of section 108 of the Customs Act, 1962.

8.5.1 For ready reference, copy of Shipping Bill Number No. 9713170 dated 02.05.2023 is pasted below. As per the shipping bill the ocean freight amount declared in respect of the said shipment is USD 2600, which is equivalent to Rs. 2,11,640 (approx.) (taking exchange rate Rs. 81.4 per USD) whereas during investigation, the document submitted by the exporter vide letter dated 30.11.2023 revealed that as per the corresponding export Invoice for the said consignment i.e. Invoice No. CSS/23241112 dated 24.05.2023, the actual freight amount paid by them in respect of the aforesaid shipping bill is Rs. 61,025/-. Thus, excess freight amount declared in respect of the aforesaid shipment works out to be at Rs. 1,50,615/- The said excess freight amount has also been recovered by the exporter from the overseas buyer of the export goods but the exporter had not paid duty on **the said excess freight amount which is part and parcel of the actual assessable value** of the export goods.

Photo of SB No. 9713170 dated 02.05.2023

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA											Port Code INMUN1			SB No 9713170		SB Date 02-MAY-23							
MUNDRA SEZ PORT, MUNDRA, GUJARAT											IEC/Bt 0805003301		0										
											GSTIN/TYPE 09AANCS3897P1Z5 GSN												
											CB CODE AARFD5233DCH002												
											TYPE INV		ITEM 1		CONT 10								
											Nos 1		1		10								
											PKG 5200		G.WT MTS		260.624		*SB22150520231450						
PART - I - SHIPPING BILL SUMMARY																							
A STATUS		1.MODE		2.ASSESS		3.EXMN		4.JOBING		5.MEIS		6.DBK		7.RODTP		8.DEEC/DFIA		9.DFRC		10.RE-EXP		11.LUT	
		SEA		Y		Y		N		Y		N		N		N		N		N		Y	
B DECLARANT DETAILS		12.PORT OF LOADING INMUN1 (Mundra)										13.COUNTRY OF FINAL DESTINATION VIETNAM, DEMOCRATIC REP. O											
		14.STATE OF ORIGIN UTTAR PRADESH										15.PORT OF FINAL DESTINATION VNNGN (Ho Chi Minh City)											
		16.PORT OF DISCHARGE VNNGN (Ho Chi Minh City)										17.COUNTRY OF DISCHARGE VIETNAM, DEMOCRATIC REP. O											
		18.EXPORTER'S NAME & ADDRESS SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED NEAR RESHAM FARM, BHINGA ROAD KALPIPARA BAHRAICH 2.Type Private										19.CONSIGNEE NAME & ADDRESS VIETNAM TRADING INVESTMENT PROMOTION JOINT STOCK COMPANY MUG HAMLET, THANH LIET COMMUNE, THANH TRI DISTRICT, HAN											
C VALU SUMMA		3.AD CODE 02600D7										8.GSTIN/TYPE 09AANCS3897P1Z5 GSN											
		4.RBI WAIVER NO. & DT										9.FOREX BANK A/C NO. 21XXXXXX187											
		5.CB NAME OAKSH SHIPPING AND LOGISTICS										10.DBK BANK A/C NO.											
		6.AEO										11.TFSC NO.											
E MANIFEST DETAILS		1.FOB VALUE		2.FREIGHT		3.INSURANCE		4.DISCOUNT		5.COM		1.DBK CLAIM		2.IGST AMT		3.CESS AMT							
		6884120		211640		42328		0		105820		0				1396824							
		6.DEDUCTIONS		7.P/C		8.DUTY		9.CESS		4.IGST VALUE		5.RODTER AMT		6.ROSCD AMT									
		656084		0				1396824				0		0									
F INVOICE SUMMARY		1.MAWB NO.		2.MAWB DT		3.HAWB NO.		4.HAWB DT		5.N.O.C		1.SNO		2.INV NO.		3.INV AMT		4.CURRENT					
												1		SRF23-24/E-0039		88920		USD					
		4.CIN NO.		5.CIN DT		6.CIN SITE ID																	
		23PCEG0515765889000		15-MAY-23		INMUN1																	
G UPMENT DETAILS		1.CONTAINER		2.SEAL		3.DATE		4.S.No				1SR.NO		2.CHALLAN NO.		3.PAYMT DT		4.AMOUNT					
		CRSU1174931		2310060		13-MAY-23		1				1		124139		15-MAY-23		1396824					
		CAIU6023854		2310041		13-MAY-23		2															
		REGU3229154		2310042		13-MAY-23		3															
H AN DETAILS		TEMU5604544		2310043		13-MAY-23		4															
		REGU3214385		2310045		13-MAY-23		5															


 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA											Port Code INMUN1			SB No 9713170		SB Date 02-MAY-23			
MUNDRA SEZ PORT, MUNDRA, GUJARAT											IEC/Bt 0805003301		0						
											GSTIN/TYPE 09AANCS3897P1Z5 GSN								
											CB CODE AARFD5233DCH002								
											TYPE INV		ITEM 1		CONT 10				
											Nos 1		1		10				
											PKG 5200		G.WT MTS		260.624		*SB22150520231450		
PART - II - INVOICE DETAILS																			
A REF		1.S.No		2.INVOICE No. & Dt		3.P.O.No. & Dt		4.LoC No. & Dt		5.Contract No. & Dt		6.AD code		7.INVTERM					
		SRF23-24/E-0039 02/05/2023										02600D7		CIF					
		1.EXPORTER'S NAME & ADDRESS SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED NEAR RESHAM FARM, BHINGA ROAD KALPIPARA 271801										2.BUYER'S NAME & ADDRESS SAME AS CONSIGNEE							
		3.THIRD PARTY NAME & ADDRESS										4.BUYER AEO STATUS							
B TRANSACTION PARTIES																			
C VAL DTLS		1.INVOICE VALUE		2.FOB VALUE		3.FREIGHT		4.INSURANCE		5.DISCOUNT		6.COMMISSION		7.DEDUCT		8.P/C		9.EXCHANGE RATE	
		88920		85800		2800		50		0		1300		6080				1 USD INR 81.4	
		USD		USD		USD		USD		USD		USD		USD					
		1.Item SNo		2.HS CD		3.DESCRPTION		4.QUANTITY		5.UQC		6.RATE		7.VALUE(F/C)					
1		10063090		INDIAN SHORT GRAIN 5% BROKEN RICE (NON BA SMATI) 6200 NEW WHITE PP BAGS OF 50KG NE T		260		MTS		373		96980							

Image of actual freight amount in invoice or letter submitted by the exporter


Tax Invoice

e-invoice

IRN : 3ccb7818187055ef9391d4f68ab1638fd317e0f5f58fe10aa01-8d13e4842cccc

Ack No. : 162314093908471

Ack Date : 27-May-23



Crystal Shipping Services

Office No. 01, 1st Floor,

Plot No. 141/142, Sector 1/A,

Gandhidham - Kutch

GSTIN/UIN: 24AIUPT4824D1ZZ

State Name : Gujarat, Code : 24

E-Mail : pankaj.crystalshipping@gmail.com

Invoice No.

CSS/23241112

Dated

24-May-23

Reference No. & Date.

Other References

SRF/23-24/E-0039

Vessel/Flight No.

INTERASIA PROGRESS/E072

Place of receipt by shipper.

City/Port of Loading

MUNDRA

City/Port of Discharge

HO CHI MINH CITY

Bill of Lading/LR-RR No.

MDACB23001956 dt. 18-May-23

Terms of Delivery

10X20'

Buyer (Bill to)

SHREE RAMESHWAR LAL FOODS PRIVATE LIMITED

NEAR RESHAM FARM

BHINGA ROAD,

KALPIPARA,

Bahraich

GSTIN/UIN : 09AANCS3697P1Z5

State Name : Other Territory, Code : 97

SI No.	Description of Services	HSN/SAC	GST Rate	Quantity	Rate	per	Amount
1	Ocean Freight 69 USD @ 84.23	996521	5 %	10 CNT	5,811.87	CNT	58,118.70
	IGST Rounding Off						2,905.94 0.36
	Total			10 CNT			₹ 61,025.00 E & O.E

Amount Chargeable (in words)

INR Sixty One Thousand Twenty Five Only

Declaration

1. WE ARE PROPRIETORSHIP FIRM, HENCE KINDLY DEDUCT TDS @ 1% ONLY.

2. We declare that this invoice shows the actual price of the goods described and that all particulars are true and correct.

Company's Bank Details

A/c Holder's Name : Crystal Shipping Services

Bank Name : ICICI Bank Ltd

A/c No. : 025905501168

Branch & IFS Code : Gandhidham & ICIC0000259

SWIFT Code : ICICINBBCTS

for Crystal Shipping Services

Authorised Signatory

This is a Computer Generated Invoice

9. The aforesaid **deduction amounts** claimed by the exporter, as detailed in **Table A & B** above and **reimbursement of duty paid amounts** taken by them separately as detailed in **Table B & C** above as well as the **excess freight amounts declared** by them in their export documents in respect of the shipments as detailed in **Tables D** above, were not included in the declared FOB Value of goods in respect of these shipments, as discussed in para 8 above. Investigation has revealed that these **deduction amounts/reimbursement of duty paid amounts** have also been claimed and/or recovered by them from the overseas buyer of the export goods in their bank accounts. Therefore, the

deduction amounts/reimbursement of export duty amounts taken by the exporter from the overseas buyer in any manner whether or not by declaring the same in the export documents or by mis-declaration of freight amounts in the export documents **appears to be forming part of the consideration received by the exporter** for delivery of the export goods on board the vessel after clearance of the shipments through the customs authorities at the port of export. Thus, these excess freight amounts and deduction amounts claimed by the exporter at the time of filing shipping bills and the amounts recovered separately from the overseas buyer over and above the declared invoice price as reimbursement of export duty, as discussed in above paras, also appear **liable to be included in the FOB Value for the purpose of calculation of the export duty.**

10. Legal Provisions:

10.1 Statutory provisions of the Customs Act, 1962 relevant to this case are enclosed as **Annexure-A** to this SCN and the same are briefly discussed below:

10.2 The provisions of section 2(18), section 14 & section 16 of the Customs Act, 1962, Customs Valuation (Determination of Value of Export Goods) Rules, 2007, CBIC Circular No. 18/2008-Cus. dated 10.11.2008 are relevant for understanding various aspects of valuation of the export goods in the context of present case:

- a) The term 'export' has been defined in "Section 2(18) of the Customs Act, 1962 as "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India."
- b) **Section 14 of the Customs Act 1962, stipulates that 'for the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of theexport goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.**
- c) In this provision the terms **"the price actually paid or payable for the goods" and "when sold for export from India for delivery at the time and place of exportation"** in the context of present case are very significant. For the process of export to be complete, the goods need to be taken out of India to a place outside India. This event can take place only after goods cross Indian borders. This is more so because the price has to be taken for sale of export goods when sold for export from India 'for delivery at the time and place of exportation'. The wording **"for the delivery at the time and place for exportation"** has to be legally construed as "for delivery at the time and place of exportation on board the foreign going vessel". Thus, the time and place of delivery of the export goods will be when the goods are on-board the foreign going vessel which takes place after the goods are given a Let Export Order (LEO) by the jurisdictional Customs officer after examining the compliance to Customs law. By implication, all elements of cost that are required to be incurred to bring the goods 'for delivery at the time and place of exportation' to the foreign going vessel will have to be added to invoice price to arrive at a correct transaction value of export goods as per section 14 notwithstanding the manner as to how the financial transaction is organized by the exporter and the overseas buyer. It is amply clear that without incurring associated expenses the export goods cannot be simply brought to the place of exportation at the time of export. Thus, in the impugned case, the price payable for the export goods for delivery at the time and place of exportation can be arrived at only after inclusion of associated costs including the amounts equal to the

export duty which have been recovered by the exporters from the overseas buyers of the export goods.

- d) "FOB value" means the price actually paid or payable to the exporter for goods when the goods are loaded onto the carrier at the named port of exportation including the cost of the goods and all costs necessary to bring the goods onto the carrier at included in the term 'FOB Value'. The valuation shall be made in accordance with the World Trade Organisation (WTO) Agreement on Implementation of rule VII of General Agreement on Tariffs and Trade (GATT), 1994. There cannot be an exception to the well laid down principles of valuation.
- e) This method of calculation of 'FOB Value' is prescribed in various trade facilitation agreements such as 'Asean India Free Trade Agreement (AIFTA)' in a very clear manner as follows. FOB value shall be calculated in the following manner, namely:
 - (a) FOB Value = ex-factory price + other costs
 - (b) Other costs in the calculation of the FOB value shall refer to the costs incurred **in placing the goods in the ship** for export, **including but not limited to**, domestic transport costs, storage and warehousing, **port handling**, brokerage fees, service charges, et cetera.
- f) This in fact lays down the foundation for arriving at the assessable value of the export goods whereby various elements of costs, including the export duty, notwithstanding it is being paid to the exporter directly by the foreign buyer or otherwise, are required to be added to the invoice price. Costing exercise of addition of other cost elements in FOB Value is not limited to transit transportation cost, storage & warehousing alone. Without payment of export duty, let export order cannot be issued by the jurisdictional customs office and the goods cannot be loaded on the foreign going vessel to take them out of India. On this background it is observed that value of the export goods on which duty has been paid by the exporter of rice does not reflect an FOB value i.e. a price payable for delivery of goods at the time and place of exportation which is a basis for export assessment.
- g) This practice of payment of export duty by considering the FOB Value as cum-duty FOB Value was prevalent prior to the year 2009. **CBIC Circular No. 18/2008-Cus. dated 10.11.2008** in this regard instructed that the existing practice of computation of the export duty by taking FOB price as the cum-duty price may be continued till 31.12.2008 and all the pending cases may be finalized accordingly. It was also clarified that with effect from 01.01.2009, the practice of computation of export duty shall be changed; that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.
- h) In order to bring in uniformity, transparency and consistency in assessment of export of Iron Ore, CBIC vide Circular No. 12/2014 -Customs dated 17.11.2014 directed the field formations *inter alia* to monitoring the receipt of Bank Realisation Certificates for the purposes of comparison with the final invoices submitted by the exporter to satisfy the accuracy of the assessed values. It also indicates that the total consideration received by the exporter from the buyer for sale of the export goods have to be considered for assessment of the export goods. In shipments exported on FOB incoterm basis, duty has to be calculated on the total considerations received by the exporter from the buyer whether or not they are included in the BRC. For shipments exported on CIF/CF/CI inco-term basis, FOB Value has to be deduced from the CIF/CF/CI value by deducting the actual freight amounts paid by the exporter as the case may be.
- i) **Relevance of time of export is further proved as Section 16 of the Customs Act, 1962 which provides for the date for determination of rate of duty and**

tariff valuation of export goods, stipulate that the rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force, - (a) in the case of goods entered for export under section 50, on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; (b) in the case of any other goods, on the date of payment of duty. The afore-said statutory provision also indicate that time of export is relevant for valuation of the export goods.

From the above, it is evident that from 01.01.2009 onwards, the transaction value shall be the FOB Value of the export goods and the FOB value shall not be treated as the Cum-duty price of the export goods. The above practice has to be followed for all export commodities irrespective of the description of the export goods.

11. The investigation into undervaluation of rice shipments exported by M/s. Rameshwar Lal Foods Private Limited vide above mentioned Shipping Bills as discussed in **Tables A, B, C & D** above, revealed deliberate mis-statement and suppression of facts on part of the exporter, who was actively involved in mis-declaration of the FOB value of export goods, with an intention to evade appropriate export duty leviable on *ad valorem* basis on such goods. As discussed in above paras, the exporter had mis-declared the ocean freight amounts whereas they were very well aware of the actual freight amounts paid by them in respect of these shipments exported vide Shipping Bills mentioned in **Table D** above. Moreover, in respect of the shipments mentioned in **Tables B & C** above, the exporter had claimed/recovered the export duty/packing charges/profit margin from the overseas buyer without declaring these facts in the export documents. In respect of the goods exported by them through shipping bills as discussed in **Table A** above, the exporter had wrongly claimed the deduction in the shipping bills for export duty amounts and packing charges & profit margin etc. and in some cases though the exporter had claimed duty amounts by raising separate debit notes/invoices to the buyer but have not declared the same in the shipping bills and export invoices submitted to the customs authorities and thus have mis-declared the actual transaction value. Thus, the exporter had not declared the actual FOB Values in the shipping bills thereby intentionally evading the applicable duties of customs on such undue deduction amounts/excess freight amounts and export duty reimbursement amounts claimed and recovered by them from the buyers of the export goods.

12.1 As discussed in above paras, the valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14 *ibid*, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [hereinafter referred as 'CVR (E), 2007']. As per the provisions of Section 14 of the Customs Act, 1962, **the value of export goods shall be the 'transaction value' of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation (i.e., the FOB price) when price is the sole consideration.** As such, the sum total of price paid by the overseas buyer for delivery at the time and place of exportation would be the 'transaction value' of such goods.

12.2 Further, for the purpose of charging export duty, the value to be considered is the FOB price. This is so because, the terms "*for export from India for delivery at the time and place of exportation*" appearing in Section 14 of the Customs Act, 1962, means to FOB (Free On Board) value only. This has been clarified also by the Central Board of Excise and Customs (CBEC) vide Circular No. 18/2008, dated 10.11.2008, wherein it stated that in case of export shipments, *for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the*

time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

12.3 In this case the value of the export goods shall be the transaction value thereof when the price is the sole consideration. As such, **for determination of the transaction value of the export goods, the sole consideration received by the exporter from the buyer should be taken in to account**, then it should be seen as to which prices are compulsory for delivery of the export goods on board the vessel. In this case, the exporter is insisting that the export duty is on reimbursement basis from the overseas buyer of the export goods. By doing so, the exporter is separately receiving a part of the export proceeds from the overseas buyer and not including the same in the assessable value of the export goods. It can be stated that the seller has imposed a condition on the buyer of the export goods which states that if the buyer does not pay him a fixed amount (equal to the 20% export duty on their declared lesser FOB value), they would not sell the export goods to the overseas buyer and would not deliver the same at the time and place of exportation. Thus, all such agreements wherein the seller had imposed a condition on the buyer by which buyer has to pay a part of the payment separately in the bank accounts of the seller on account of sale of the export goods, such payments are necessarily part of the consideration received by the seller for sale of the export goods. Likewise, the excess ocean freight amounts declared by the exporter are also part of the consideration received by the exporter from the buyer for sale of the export goods as such excess ocean freight amounts have not be paid by them to the shipping lines/freight forwarders for the transportation of the export goods. All such amounts which are equal to the export duty amounts claimed/recovered from the buyer and excess ocean freight amounts declared in the shipping bills are liable to be added in their declared FOB Values for determination of their actual FOB Value for calculation of applicable export duties thereon.

13.1 The **method of calculation of FOB Value** has been provided at the website of various reputed platforms such as 'Freightos', which also support the contention of DRI that export duty is also includible in the FOB Value if the same has been recovered by the seller from the buyer.

The description of the said platform as available on their website under the heading 'About Freightos' states that

Freightos® (NASDAQ: CRGO) is the leading, vendor-neutral booking and payment platform for international freight, improving world trade. WebCargo® by Freightos and 7LFreight by WebCargo form the largest global air cargo booking platform, connecting airlines and freight forwarders. Over ten thousand freight forwarder offices, including the top twenty global forwarders, place thousands of eBookings a day on the platform with over fifty airlines. These airlines represent over 2/3rds of global air cargo capacity. Alongside ebookings, freight forwarders use WebCargo and 7LFreight to automate rate management, procurement, pricing and sales of freight services, across all modes, resulting in more efficient and more transparent freight services. More information is available at freightos.com/investors.

The website of freightos <https://www.freightos.com/freight-resources/fob-calculator> was visited which provide FOB calculator tools for the ease of international freight industry. As per the said website, FOB (Free on Board) Calculator is a tool used in international trade to determine the total cost of goods when they are shipped from the seller's location to the buyer's destination. The FOB price includes the cost of the goods, as well as various expenses incurred until the goods are loaded onto the vessel, such as packaging, loading, and inland transportation to the port of departure. It does not include the freight charges for transporting the goods from the port of departure to the port of destination or any other charges or taxes beyond the point of loading.

From the above details available on their website, **it is evident that all taxes before the point of loading of the export goods on board the vessel are included in the term 'FOB'**. In the case of export of goods, loading of the export goods starts after issuance of the 'Let Export Order (LEO)' by the proper officer

of the Customs. LEO is issued after payment of the export duty. As the export duty is leviable before the point of loading of the export goods on to the vessel the same is includible in the FOB Value of the export goods.

13.2 The above contention of DRI is also supported by the **Incoterms** which are widely used in the international transactions. **Incoterm or International Commercial Terms** which are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. **These incoterms define the responsibility of the importers and exporters in the arrangement of shipments and transfer of liability involved at various stages of transaction.** They are widely used in the international commercial transactions and procurement processes. These incoterms rules are accepted by governments, legal authorities worldwide for the interpretation of most commonly used terms in the international trade. They are intended to reduce or remove altogether uncertainties arising from the differing interpretations of the rules in different countries. **As per Wikipedia, the Incoterms 2020 is the ninth set of international contract terms published by the International Chamber of Commerce with the first set published in 1936 (RUD-12). As per Incoterms 2020 published by ICC, the term 'FOB' has been defined as under-**

FOB - Free on Board (named port of shipment)

Under FOB terms the seller bears all costs and risks up to the point the goods are loaded on board the vessel. The seller's responsibility does not end at that point unless the goods are "appropriated to the contract" that is, they are "clearly set aside or otherwise identified as the contract goods".^[20] Therefore, FOB contract requires a seller to deliver goods on board a vessel that is to be designated by the buyer in a manner customary at the particular port. In this case, the seller must also arrange for export clearance. On the other hand, the buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination.

As per the allocation of costs to buyer/seller according to incoterms 2020, in FOB terms, all costs related to loading of the export goods at origin, **export custom declaration**, carriage to the port of export, unloading of truck in port of export, loading on vessel/airplane in the port of export have to be borne by the seller of the goods and other expenses such as carriage to the port of import, insurance, unloading in port of import, loading on truck in port of import, carriage to the place of destination, import custom clearance, import duties and taxes and unloading at destination have to be borne by the buyer of the goods. Thus, all cost until the loading of the export cargo on board the foreign going vessel have to be borne by the seller of the export goods which also include export customs declaration and cost related to it. Thus, it is evident that the export duty is includible in the FOB Value and the same have to be borne by the seller and it cannot be recovered by the seller from the overseas buyer. If the same is recovered, it becomes part of the consideration for sale of the export goods and thus becomes liable to be included in the FOB Value of the export goods.

14. Rejection & Redetermination of the Transaction Value:

14.1 As discussed in the above paragraphs, valuation of export goods under the Customs Act, 1962, is governed by the provisions of Section 14, *ibid*, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [here-in-after referred as the CVR (E), 2007]. The export proceeds receivable in full consequent to negotiation and finalization of sale price between the exporter from India and their overseas buyer form 'transaction value' of such goods. The

export. Customs duty is leviable on the actual sale price at which the goods were sold. Where such sale price has been mis-declared and under-stated by the exporter, the actual sale price, i.e. the Transaction Value, needs to be taken into account for the purpose of valuation of the impugned export goods.

14.2 In respect of the shipments of rice covered by the Shipping Bills as shown in the Tables **A, B, C & D** above, it appears that M/s Rameshwar Lal Foods Private Limited negotiated and finalized one price with their overseas buyer but in the contracts, the said price was intentionally bifurcated in two parts. The amount of duty and packing charges payable by the exporter as well as the profit margin earned on export of the goods was deducted from the transaction value. In the shipping bills filed by the exporter, such undervalued and mis-declared transaction value was shown, which was lesser than the price that was actually finalized with the overseas buyer as consideration for the export goods. A part of the consideration was intentionally excluded from the transaction value of the export goods by adopting different modus operandi as discussed in para 8 above. The difference between the actual price finalized with the overseas buyer and the price shown in the export documents were recovered/claimed by the exporter from the buyer separately by an arrangement of the buyer and the seller in this regard. The exporter and buyer may enter into any contract (oral or written), they may sell and purchase the export goods on any terms (such as FOB, CIF, CF, CI or ex-works basis) but for the purposes of calculation of the export duty, the transaction value in terms with the provisions of Section 14 of the Customs Act, 1962 has to be derived and such transaction value is the FOB Value of the export goods as discussed in above paras and for the purpose of calculation of the FOB Value of the export goods, **abatement of the export duty is not available as per Section 14 of the Customs Act, 1962 read with CBIC Circular No. 18/2008-Customs dated 10.11.2008.**

14.3 The receipt of these deduction amounts on account of packaging charges, profit margin & export duty was apparently never disclosed to the concerned Customs authorities. The said amounts were received from the overseas buyer, as reimbursement of taxes/duties under **wrong RBI Purpose code P1306** which is not meant for receipt of the export duty. The reduced FOB Value declared in the export documents was presented as the true Transaction Value being paid for the export goods by the overseas buyer as the deduction amount was not reflected in the Bank Realization Certificate (BRC) in respect of these export shipment. The deduction amount was recovered separately in their bank account as reimbursement of taxes/packaging charges/ profit margin. Hence, it appears that the value declared by M/s Rameshwar Lal Foods Private Limited to the concerned Customs authorities as the Transaction Value of the export cargo in respect of **165** shipments of rice covered by the Shipping Bills as shown in the Tables **A, B, C & D** above, is liable to be rejected under Rule 8 of the CVR(E), 2007 and the impugned export goods are liable to be valued at their actual Transaction Value as established by the present investigation, in accordance with the provisions of Section 14 of the Customs Act, 1962, read with Rule 3 of the CVR(E), 2007.

14.4 The amount wrongly excluded from the FOB price was indeed part of the consideration negotiated and finalized between the exporter M/s Rameshwar Lal Foods Private Limited and their respective overseas buyers and the said amount which was excluded from the FOB Value was duly claimed /received by the exporter from the overseas buyer in their bank account. Therefore, the differential value (equal to the deduction amount/excess freight amount and the

amount claimed/received separately as reimbursement of duty) as shown in the Tables **A, B, C & D** above appear to be includible in the declared value (FOB Value) of the respective export shipments to arrive at the correct transaction value at which the said goods were sold for export from India for delivery at the time and place of exportation and Customs export duty as per the prevailing rate needs to be charged on the said value. M/s Rameshwar Lal Foods Private Limited appears to be liable to pay the resultant differential duty in addition to the duty already paid by them.

14.5 In view of the above, in accordance with the provisions of Section 14 of the Customs Act, 1962, the amount of differential customs duty in respect of the Shipping Bills as mentioned in the Tables **A, B, C & D** at Para 8 above, wherein a part of export proceeds was apparently not declared to the concerned Customs authorities, and the same was not included in the declared transaction value has to be worked out on the basis of actual Transaction Value of the export goods revealed during the investigation.

15. Calculation of Differential Duty:

As discussed in above paras, the exporter had undervalued their export shipments of rice. For this four modus operandi were adopted by the exporter.

15.1 In several export shipments, as detailed in **Table A in para 8 above**, FOB price were undervalued and mis-declared by wrongly claiming the deduction of not only the duty paid amounts but some additional deduction amounts on account of packaging charges & profit margin in relation to the export goods as well. These additional deduction amounts along with the deduction of duty paid amounts are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs. 1,34,72,690/-** is liable to be recovered from the exporter in respect of all these deduction amounts also. The detailed calculation of differential duty is shown in **Annexure-I** to this SCN.

Table-E

Port of Export	No. of SBs	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction claimed in Shipping Bill (INR)	Amount received in any other manner such as Debit Note/ Credit Note etc. INR	Re-determined FOB (INR)	Export Duty Payable (INR)	Differential Duty (INR)
INMUNI	25	12,72,26,432	2,54,45,288	4,32,60,543	4,30,97,594	17,04,86,975	3,40,97,395	86,52,107
INCCU1	7	2,77,68,236	55,53,646	91,63,237	91,36,130	3,69,31,473	73,86,295	18,32,649
INNSA1	4	2,78,73,161	55,74,632	90,91,878	90,91,878	3,69,65,039	73,93,008	18,18,376
INMAA1	4	2,06,96,039	41,39,208	58,47,793	58,20,624	2,65,43,832	53,08,766	11,69,558
Total	40	20,35,63,868	4,07,12,774	6,73,63,451	6,71,46,226	27,09,27,319	5,41,85,464	1,34,72,690

15.2 In some of their export shipments mentioned at **Table B in para 8 above**, the FOB price was undervalued and mis-declared by an amount equal to the amount of export duty paid by them at the time of export as well as the packaging charges & profit margin. The deduction amounts claimed in these export shipments were on account of packaging charges & profit margin and the export duty paid amounts were separately claimed from the overseas buyer as reimbursement of taxes by raising separate debit notes/invoices. In such shipping bills, actual transaction value of the export goods has to be re-determined by adding the amounts which were wrongly claimed as deduction in the shipping bills as well as the amounts which were separately recovered from

the buyer by raising separate debit notes/invoices to the buyer. These deduction amounts/export duty amounts claimed from the overseas buyer are liable to be included in the actual assessable value of the export goods and differential duty of **Rs. 78,91,443/-** is liable to be recovered from the exporter in respect of these shipments as summarized below. The detailed calculation of differential duty is shown in **Annexure- I** to this SCN.

Table-F

Port of Export	No. of SBs	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction claimed in Shipping Bill (INR)	Amount received in any other manner such as Debit Note/ Credit Note etc. INR	Amount received in any other manner such as Debit Note/ Credit Note etc. INR	Re-determined FOB (INR)	Export Duty Payable (INR)	Differential Duty (INR)
INMUN1	25	13,06,77,188	2,61,35,438	1,21,34,541	2,55,03,188	1,19,23,558	16,89,47,167	3,37,89,433	76,53,995
INNSA1	2	37,88,900	7,57,780	4,29,458	7,57,780	4,17,536	49,76,138	9,95,228	2,37,448
Total	27	13,44,66,088	2,68,93,218	1,25,63,999	2,62,60,969	1,23,41,094	17,39,23,305	3,47,84,661	78,91,443

15.3 In several export shipments, as detailed in **Table C in para 8 above**, exporter had separately recovered the duty amounts from the overseas buyer of the cargo. These facts were not declared by them before the customs authorities at the port of export. Admittedly, these amounts have also been claimed/recovered by the exporter from the overseas buyer on reimbursement basis. Had the overseas buyer not paid these amounts to the exporter, they would not have sold the export goods to the buyer. Thus, these amounts claimed/recovered from the buyer are also part of the consideration received by the exporter for sale of their export goods. These amounts separately claimed/recovered by the exporter from the buyer are also liable to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs. 1,40,68,941/-** is liable to be recovered from the exporter in respect of these reimbursed export duty amounts. The detailed calculation of differential duty is shown in **Annexure- II** to this SCN.

Table - G

Port of Export	No. of SBs	Declared FOB Value (INR)	Export duty Paid (INR)	Deduction claimed in Shipping Bill (INR)	Amount received through Reimbursement of taxes in INR	Re-determined FOB (INR)	Export Duty Payable (INR)	Differential Duty (INR)
INCCU1	33	20,22,33,850	4,04,46,770	-	3,86,83,013	24,26,80,620	4,85,36,124	80,89,354
INVTZ1	25	13,95,25,739	2,79,05,149	-	2,65,16,952	16,74,30,888	3,34,86,178	55,81,029
INMUN1	1	99,63,954	19,92,791	-	19,86,848	1,19,56,745	23,91,349	3,98,558
Total	59	35,17,23,543	7,03,44,710	-	6,71,86,813	42,20,68,253	8,44,13,651	1,40,68,941

15.4 Apart from the above, in several shipments of rice, as detailed in **Table D in para 8 above**, the exporter had declared excess freight amounts in comparison to the actual freight amounts paid by them to the freight forwarders/shipping lines for transportation of the export goods to the country of destination. Only the ocean freight amounts paid by the exporter are eligible for deduction from the CIF value for calculation of the FOB Value of the export goods. Therefore, the excess freight amounts declared by the exporter are not eligible/allowed for deduction as per the provisions of Section 14 of the Customs Act, 1962. These excess freight amounts claimed by the exporter are also liable

to be included in the actual assessable value of the export goods and as summarized below, differential duty amount of **Rs.77,98,583/-** is liable to be recovered from the exporter in respect of these excess freight amounts also. The detailed calculation of differential duty is shown in **Annexure- III** to this SCN.

Table – H

Port of Export	No. of SBs	Declared FOB Value (INR)	Export duty Paid (INR)	Excess Freight	Re-determined FOB value	Differential Duty
INVTZ1	41	21,37,55,138	4,27,51,028	2,20,26,487	23,57,81,625	44,05,297
INMUN1	54	28,32,14,479	5,66,42,898	1,13,77,708	29,45,92,187	22,75,539
INCCU1	50	28,43,76,504	5,68,75,302	38,19,431	28,81,95,936	7,63,885
INMAA1	5	2,73,58,631	54,71,726	14,33,594	2,87,92,225	2,86,719
INNSA1	6	3,16,62,061	63,32,412	3,35,709	3,19,97,770	67,142
Total	156	84,03,66,814	16,80,73,366	3,89,92,929	87,93,59,743	77,98,583

15.5 In view of the above-mentioned four modus operandi followed by the exporter for evasion of export duty, their re-determined assessable value in respect of total 165 export shipments have been calculated as shown in below table. Accordingly, the differential duty payable by the exporter M/s Rameshwar Lal Foods Private Limited works out to be at **Rs. 4,32,31,658/-** as shown in below Table. The detailed calculation of the differential duty amounts has been shown in **Annexure I, II & III** to this SCN.

The port wise summary of differential duty payable by M/s Rameshwar Lal Foods Private Limited is as under:

Table-I

Port of Export	No. of SBs	Declared FOB Value (INR)	Export duty Paid (INR)	Re-determined FOB value	Duty Payable	Total Differential Duty
INMUN1	54	28,32,14,479	5,66,42,898	37,81,15,500	7,56,23,100	1,89,80,202
INCCU1	55	31,81,51,869	6,36,30,375	37,15,81,308	7,43,16,262	1,06,85,887
INVTZ1	45	23,98,85,528	4,79,77,106	28,98,17,164	5,79,63,433	99,86,327
INNSA1	6	3,16,62,061	63,32,412	4,22,76,886	84,55,377	21,22,965
INMAA1	5	2,73,58,631	54,71,726	3,46,40,018	69,28,004	14,56,278
Total	165	90,02,72,569	18,00,54,517	1,11,64,30,876	22,32,86,175	4,32,31,658

16. Obligation under Self-assessment and Reasons for raising duty demand by invoking extended period:

16.1 The exporter had subscribed to a declaration as to the truthfulness of the contents of the Shipping Bill in terms of Section 50(2) of the Customs Act, 1962, in all their export declarations. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, '**Self-Assessment**' had been introduced in Customs. Section 17 of the Customs Act, 1962, effective from 08.04.2011, provides for self-assessment of duty on export goods by the exporter himself by filing a Shipping Bill, in electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make an entry for the export goods by presenting a Shipping Bill electronically to the proper officer. As per Regulation 4 of the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulation, 2019 (issued under Section 157 read with Section 50 of the Customs Act, 1962), the Shipping Bill shall be deemed to have

been filed and self-assessment of duty completed when, after entry of the electronic declaration (which was defined as particulars relating to the export 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 Shipping Bill number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it was the exporter who must doubly ensure that he declared the correct classification / CTH of the export goods, the applicable rate of duty, value, the benefit of exemption notification claimed, if any, in respect of the export goods while presenting the Shipping Bill. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 08.04.2011, it was the added and enhanced responsibility of the exporter to declare the correct description, value, Notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the export goods.

16.2 In view of the discussion supra, it is evident that the Director of the exporter firm M/s Rameshwar Lal Foods Private Limited, was well aware about the actual value of the export goods. They have knowingly got indulged in preparation and planning of forged / manipulated export documents, which they used to forward to the Customs broker in relation to Customs clearance of the said export goods at the time of exportation by way of wilful mis-declaration and intentional suppression of these facts in the Shipping Bills filed by them and thus they appear to have evaded the applicable Customs duty on export of rice.

16.3 In the event of short levy of Customs duty by reason of collusion, any wilful mis-statement or suppression of facts by the exporter or the agent or employees of the exporter, such duty can be recovered by invoking extended period of five years as provided in **Section 28(4) of the Customs Act, 1962**. In this case, it appears that the exporter has knowingly and deliberately mis-declared the transaction value (i.e. FOB Value) of the export goods. Hence, the extended period of five years is rightly invocable in this case to recover the differential duty as detailed in **Annexure -I, Annexure -II and Annexure -III** of this SCN. Further, M/s Rameshwar Lal Foods Private Limited is also liable to pay interest on their said differential duty liability as per the provisions of Section 28 AA of the Customs Act, 1962, at applicable rate. Further, M/s Rameshwar Lal Foods Private Limited is also liable to be penalized under the provisions of Section 114A of the Customs Act, 1962.

17. From the scrutiny of the documents/ information gathered/submitted during investigation by the exporter M/s Rameshwar Lal Foods Private Limited, scrutiny of the export data and statements of Sh. Shrawan Kumar Agarwal, Director, M/s Shree Rameshwar Foods Private Limited & Shri Shumbam Kumar Agarwal, employee of M/s Rameshwar Lal Foods Private Limited involved in export of rice from various ports of India, it appears that—

- i. Sh. Shrawan Kumar Agarwal, Director, M/s Rameshwar Lal Foods Private Limited and his son Shri Shubham Kumar Agarwal, employee of M/s Rameshwar Lal Foods Pvt. Ltd. were the key persons who on behalf of M/s. Rameshwar Lal Foods Private Limited negotiated and finalized the sale price of rice, exported by M/s Rameshwar Lal Foods Private Limited to various overseas buyers, vide 165 Shipping Bill as detailed in Tables **A, B, C & D in para 8** above.

- ii. The declared FOB value in respect of shipping bills listed in Tables **A, B, C & D**, did not reflect the correct transaction value of the export goods;
- iii. As discussed in above paras, the actual transaction value (i.e. FOB Value) was not declared by them in their export documents. They have undervalued and mis-declared their transaction value with intent to evade applicable duty of customs which is leviable @ 20% *ad valorem* on the actual transaction value of the export goods in following manners:
 - In respect of Shipping bills listed in Table **A** above, the FOB Value was undervalued by them by an amount equal to the amount of export duty plus additional amounts in the name of expenses incurred for packaging of the export goods & profit margin earned on export of rice. These amounts were also wrongly claimed as deductions in the shipping bills.
 - In respect of Shipping bills listed in Table **B** above, the FOB Value was undervalued by them by an amount equal to the amount of export duty paid plus additional amounts in the name of expenses incurred for packaging of the export goods & profit margin earned on export of rice. The amount of packing charges & profit margin was wrongly claimed as deduction in the shipping bills and export duty paid amount was not even claimed as 'deductions' in the shipping bills, but the full duty paid amount plus packaging charges & profit margin was recovered/ claimed from the overseas buyer. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.
 - In respect of the shipping bills listed in Table **C**, above the declared FOB Value was undervalued by an amount equal to the amount of duty paid by them on export of rice cargo, however, the said amounts were not claimed as deductions in the shipping bills, in fact, they have declared 'nil' deduction amount in the shipping bills. The said amounts were also recovered from the overseas buyers as reimbursement of taxes. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.
 - In respect of the shipping bills listed in Table **D**, the declared FOB Value was further undervalued by an amount equal to the excess freight declared by the exporter in the shipping bills which were over and above the actual freight amounts paid by them. The ocean freight amounts actually paid by the exporter are eligible deductions from the CIF Value. By declaring the excess freight amounts, exporter had wrongly claimed excess deductions of freight amounts which are not eligible. Thus, exporter had out rightly mis-declared the actual transaction value at the time of export.

Thus, the declared FOB value in respect of all these shipments did not reflect the correct transaction value of the goods for delivery of the export goods at the time and place of exportation (i.e. on board the foreign going vessel after clearance from the customs authorities at the port of export).

- iv. The FOB value of export goods in all these cases was mis-declared by M/s Rameshwar Lal Foods Private Limited to the Customs authorities in the shipping bills filed by them which was supported by their export invoices, resulting in suppression and mis-declaration of actual transaction value at the time of assessment of the export goods. As such, the value of export goods in respect of all these Shipping Bills was mis-represented to be lower than the actual transaction value, thereby causing evasion of export duty leviable on rice shipments exported by them;
- v. The value of export goods pertaining to each of these Shipping Bills are liable to be rejected and reassessed as per their actual transaction value as ascertained during investigation, by taking into account the amount which was excluded from the declared value at the time of assessment, as brought out in above paras;
- vi. The balance amount not included in the declared FOB Value and wilfully suppressed by not declaring to Customs with an intention to misrepresent the transaction value of the export goods, is liable to be assessed to duty at the applicable rate as detailed in '**Annexure-I, Annexure-II and Annexure-III**' of this SCN and the same is recoverable along with interest at applicable rate;
- vii. The act of undervaluation and mis-declaration of actual transaction value in respect of Shipping Bills listed in Tables **A, B, C & D** by M/s Rameshwar Lal Foods Private Limited has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962 and consequently M/s Rameshwar Lal Foods Private Limited have rendered themselves liable to a Penalty under the provisions of Section 114A and Section 114AA of the Customs Act, 1962;
- viii. Sh. Shrawan Kumar Agarwal, Director of M/s Rameshwar Lal Foods Private Limited and Shri Shubham Kumar Agarwal, employee of M/s Rameshwar Lal Foods Private Limited appears to be the persons who knowingly or intentionally either made, signed and used or caused to be made, signed and used, the export invoices, Shipping Bills for export of rice by M/s Rameshwar Lal Foods Private Limited, which were incorrect as regards to the value of export goods for payment of export duty. The goods covered under Shipping Bills listed in Tables **A, B, C & D** above, contained the declarations made by M/s Rameshwar Lal Foods Private Limited which were false and incorrect in material particulars relating to the value of the impugned goods. The contracts with the buyer for sale and export of rice as well as the export documents submitted to Customs were finalized/signed in the overall supervision of Sh. Shrawan Kumar Agarwal & Shri Shubham Kumar Agarwal, who were handling the day to day business of the export firm. This fact has been admitted by Sh. Shrawan Kumar Agarwal & Shri Shubham Kumar Agarwal in their statements recorded u/s 108 of the Customs Act, 1962. In view of this, it appears that Sh. Shrawan Kumar Agarwal & Shri Shubham Kumar Agarwal were the key persons who have orchestrated the entire scheme of mis-declaration of value of the export goods, with an intention to evade customs (export) duty. Sh. Shrawan Kumar Agarwal & Shri Shubham Kumar Agarwal were, therefore, responsible for wilful acts of mis-statement and suppression of facts in respect of export of rice by M/s Rameshwar Lal Foods Private

Limited. The act of Sh. Shrawan Kumar Agarwal & Shri Shubham Kumar Agarwal regarding under valuation and mis-declaration of actual transaction value in respect of Shipping Bills filed by M/s Rameshwar Lal Foods Private Limited has rendered the export goods liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. As such, Sh. Shrawan Kumar Agarwal & Shri Shubham Kumar Agarwal have rendered himself liable to penal action under the provisions of Section 114 (ii) and 114AA of the Customs Act, 1962;

18. CBIC vide Notification No. 28/2022-Customs (N.T.) dated 31.03.2022 had stipulated that in cases of multiple jurisdictions as referred in Section 110AA of the Customs Act, the report in writing, after causing the inquiry, investigation or audit as the case may be, shall be transferred to officers described in column (3) of the said Notification along with the relevant documents. For cases involving short levy, non-levy, short payment or non-payment of duty, as provided in Section 110AA (a) (ii), the functions of the proper officer for exercise of powers under Section 28 of the Customs Act, 1962 have been assigned to the jurisdictional Pr. Commissioner/ Commissioner of Customs in whose jurisdiction highest amount of duty is involved. Since, in the present case, exports have been made from five (05) different ports, as mentioned in **Table I in para 15.7 above**, however the highest amount of differential export duty is in respect of Mundra port. Hence, Mundra port, being the port involving highest revenue, this Show Cause Notice is being made answerable to the Principal Commissioner/ Commissioner of Customs, Customs House Mundra, having jurisdiction over Mundra port, for the purpose of issuance as well as adjudication of Show Cause Notice under Section 110AA read with Notification No. 28/2022-Customs (N.T.) dated 31.03.2022.

19.1 Now therefore, **M/s Rameshwar Lal Foods Private Limited, having registered office at Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801, Also at 1730, 2nd Floor, Nai Basti, Naya Bazar, New Delhi-110006, having IEC No. 0605003301**, are hereby called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., the Principal Commissioner of Customs, Custom House Mundra having jurisdiction over Mundra Port as to why—

- i. The declared assessable value of **Rs. 90,02,72,569/-** (*Rupees Ninety Crore Two Lakh Seventy Two Thousand Five Hundred and Sixty Nine Only*) in respect of the shipments of rice exported vide Shipping Bills detailed in '**Annexure-I, II & III**', should not be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Rule 3 (1) *ibid* and Section 14 (1) of the Customs Act, 1962;
- ii. The actual assessable value in respect of Shipping Bills detailed in '**Annexure-I, II & III**', should not be re-determined at **Rs. 1,11,64,30,876/-** (*Rupees One Hundred Eleven Crore Sixty Four Lakh Thirty Thousand Eight Hundred and Seventy Six Only*) under the provisions of Section 14 (1) of the Customs Act, 1962, by taking into account – (a) the amounts claimed as deduction in the shipping bills, which were equivalent to amount of export duty, profit margin and/or packing charges paid/claimed by them; (b) excess ocean freight amounts claimed/recovered and (c) undeclared export duty reimbursement

amounts - which were claimed/recovered by them from the overseas buyer of the goods, as discussed in **Para 8 & 15** of this Notice;

- iii. The differential (export) duty amounting to **Rs. 4,32,31,658/-** (*Rupees Four Crore Thirty Two Lakh Thirty One Thousand Six Hundred and Fifty Eight Only*) payable, as calculated and shown in '**Annexure-I, II and III**' to this Show Cause Notice, in respect of Shipping Bill filed by them at six different ports, should not be demanded and recovered from them, by invoking the extended period of limitation available under the provisions of Section 28 (4) of the Customs Act, 1962;
- iv. The interest on the afore-said total differential duty amount of **Rs. 4,32,31,658/-** (*Rupees Four Crore Thirty Two Lakh Thirty One Thousand Six Hundred and Fifty Eight Only*) should not be demanded and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;
- v. The voluntary deposit of Rs. **1,64,38,554/-** (*Rupees One Crore Sixty Four Lakh Thirty Eight Thousand Five Hundred and Fifty Four Only*) made during investigation should not be appropriated against their aforesaid differential duty liability;
- vi. The shipments of rice exported vide Shipping Bills detailed in '**Annexure-I, II & III**' to this Notice having re-determined assessable value of **Rs. 1,11,64,30,876/-** (*Rupees One Hundred Eleven Crore Sixty Four Lakh Thirty Thousand Eight Hundred and Seventy Six Only*) should not be held liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962;
- vii. Penalty under the provisions of section 114 A and Section 114 AA should not be imposed upon them.

19.2 Now therefore, Sh. Shrawan Kumar Agarwal, Director of **M/s Rameshwar Lal Foods Private Limited**, having registered office at Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801, Also at 1730, 2nd Floor, Nai Basti, Naya Bazar, New Delhi-110006, R/o 7/35, Sahibabad, Rajendra Nagar, Sector-2, Uttar Pradesh, having IEC No. **0605003301**, is hereby called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., the Principal Commissioner/ Commissioner of Customs, Custom House Mundra, as to why penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 should not be imposed upon them for their acts and omissions in evasion of Customs Duty amounting to **Rs. 4,32,31,658/-** (*Rupees Four Crore Thirty Two Lakh Thirty One Thousand Six Hundred and Fifty Eight Only*) on export of rice through their export firm.

19.3 Now therefore, Sh. Shubham Kumar Agarwal s/o Shri Shrawan Kumar Agarwal and Employee of **M/s Rameshwar Lal Foods Private Limited**, having registered office at Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801, Also at 1730, 2nd Floor, Nai Basti, Naya Bazar, New Delhi-110006, R/o - 7/35, Sahibabad, Rajendra Nagar, Sector-2, Uttar Pradesh, having IEC No. **0605003301**, is hereby called upon to show cause within 30 (thirty) days of receipt of this Notice, in writing, to the Adjudicating Authority i.e., the Principal Commissioner/ Commissioner of Customs, Custom House Mundra having jurisdiction over Mundra Port, as to why penalty under the provisions of section 114 (ii) and Section 114AA of the Customs Act, 1962 should not be imposed upon them for their acts and omissions in evasion of Customs Duty amounting to **Rs. 4,32,31,658/-** (*Rupees Four Crore Thirty Two Lakh Thirty One Thousand Six Hundred and Fifty Eight Only*) on export of rice through their export firm.

20. The noticees are further called upon to intimate in writing as to whether they wish to be heard in person by the adjudicating authority before the case is adjudicated within 30 days from the date of receipt of this show cause notice. If no reply of this notice is received and / or they fail to appear before the adjudicating authority, when the case is posted for hearing, the case will be decided ex-parte on the basis of the evidences available on record without any further notice to them.

21. The original copies of the relied upon documents, if required, can be inspected by the noticee / noticees in the office of the Principal Director General, Directorate of Revenue Intelligence, 7th Floor, 'D' Block, I. P. Bhavan, I.P. Estate, New Delhi during office hours on any working day with prior appointment.

22. This Show Cause Notice is issued without prejudice to any other action that may be taken against the noticee / noticees mentioned hereinabove or any other persons / firms connected with the case under the Customs Act, 1962 or any other law for the time being in force.

23. Documents relied upon are detailed in **Annexure -'R'** attached to this Show Cause Notice. Scanned copy of the Relied Upon documents stored in a CD is also attached with this Show Cause Notice.

24. The Non-RUDs may also be collected, if required, by the notice/ noticees from the office of the Principal Director General, Directorate of Revenue Intelligence, 7th Floor, 'D' Block, Indraprastha Bhavan, I.P. Estate, New Delhi during office hours on any working day with prior appointment within 30 days of receipt of this notice.

25. A copy of the Show Cause Notice is also transmitted to M/s Rameshwar Lal Foods Private Limited, Sh. Shrawan Kumar Agarwal, Director of M/s Rameshwar Lal Foods Private Limited and Shri Shubham Kumar Agarwal, Employee of M/s Rameshwar Lal Foods Private Limited at their email ids

shubhamagarwal602@gmail.com and sribahraich@gmail.com, respectively in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962 so that such service through email shall be deemed to have been received by the noticees in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962.

26. The Noticee(s) have an option to make an application under Section 127B of the Customs Act, 1962 prior to adjudication of the case to the Hon'ble Settlement Commission to have the case settled in such form and in such manner specified in the rules.

27. The department also reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.


(K. ENGINEER)

Pr. Commissioner of Customs, Mundra

Enclosures- Annexure-R & RUD's

To,

- 1) M/s Rameshwar Lal Foods Private Limited, Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801; **Branch Office** - at 1730, 2nd Floor, Nai Basti, Naya Bazar, New Delhi-110006
- 2) Sh. Shrawan Kumar Agarwal, Director, M/s Shree Rameshwar Foods Private Limited; **R/o:** Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801; **Also at** 7/35, Sahibabad, Rajendra Nagar, Sector-2, Uttar Pradesh
- 3) Sh. Shubham Agarwal, Employee, M/s Shree Rameshwar Foods Private Limited; **R/o:** Near Resham Farm, Bhinga Road, Kalpipara, Bahraich Uttar Pradesh-271801; **Also at** 7/35, Sahibabad, Rajendra Nagar, Sector-2, Uttar Pradesh

Copy for necessary action to: -

- 1) The Commissioner of Customs (Port) Custom House, 15/1 Strand Road, Kolkata-700001 (INCCU1)
- 2) The Pr. Commissioner of Customs, Visakhapatnam Port Area, Visakhapatnam-530001(INVTZ1)
- 3) The Pr. Commissioner of Customs, Nhava Sheva-I Jawaharlal Nehru Customs House, Nhava Sheva, Tal: Uran, Dist.-Raigad, Maharashtra-400707 (INNSA1)
- 4) The Commissioner of Customs, Chennai-IV (Export) Custom House, 60, Rajaji Salai, Chennai-600001 (INMAA1)
- 5) The Director General, Central Economic Intelligence Bureau, 6th Floor, B-Wing, Janpath Bhawan, Janpath, New Delhi-110001