	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in	
A	फा. सं./ FILE NO.	GEN/ADJ/ADC/490/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/242/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	18-08-2026
E	जारी करने की तिथि DATE OF ISSUE	18-08-2026
F	कारण बताओ नोटिस सं. एवं तिथि SCN NO. & DATE	GEN/ADJ/ADC/490/2025-Adjn dated 20.02.2025
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	M/s. Rina Brothers (IEC No. 0808014391), Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170

1. यह अपील आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

   "सीमा शुल्क आयुक्त (अपील), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"

   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
   Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

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

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

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

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

Rina Brothers (IEC: 0808014391), having address as 'Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170' (hereinafter referred to as "M/s Rina Brothers/the Importer"), is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) at Mundra Port by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry.

1.2 Intelligence gathered by the Directorate of Revenue Intelligence (DRI), (hereinafter referred to as 'DRI') indicated that M/s. Rina Brothers is indulged into illegal import of Watermelon Seeds (also known as Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. As per said notification *"Import Policy of Melon Seeds is 'Free' with effect from 01st May 2024 up to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import"*.

2. Acting upon the intelligence, the 07 (seven) containers covered under the Bill of Entry No. 7431558 dated 24.12.2024 filed by the importer M/s. Rina Brothers at Mundra Custom House were tracked from the website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) and primarily it was noticed that there were major discrepancies between the details mentioned in Bill of Lading No. GLNPZUMUN0724065 dated 30.06.2024 for Bill of Entry

No. 7431558 dated 24.12.2024 and the tracking details downloaded from aforementioned website. Accordingly, the containers lying in the CFS of M/s AllCargo Terminals Limited, APSEZ, Mundra were put on hold for examination by officers of DRI. The goods covered under Bill of Entry No. 7431558 dated 24.12.2024 were examined by officers of DRI on 02.01.2025 and accordingly a panchnama dated 02.01.2025 was drawn at the CFS of M/s AllCargo Terminals Limited, APSEZ, Mundra in respect of the same.

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

3.1 Statement of Shri Surya Prakash Mishra, Branch Manager of M/s Goodrich Logistics Private Limited, (Delivery Agent of Container Line M/s Dragon Maritimo), having address as 'Office No. 106, Golden Arcade, Plot No. 141, Sector-8, Gandhidham-370201', was recorded under Section 108 of the Customs Act, 1962 on 06.02.2025 wherein he inter alia stated that he is working as Branch Manager of M/s Goodrich Logistics Private Limited for Kandla and Mundra locations and M/s Dragon Maritimo is their principal and headquartered in Dubai. Shri Surya Prakash Mishra further stated that they generally receive e-mail communications regarding consignments sent by M/s Dragon Maritimo. On being shown the tracking of BL No. GLNPZUMUN0724065 dated 30.06.2024 downloaded from the official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) wherein the POL sailing date is 30th July, 2024, Shri Surya Prakash Mishra confirmed that said tracking details are correct and stated that actual shipped on board date is 30.07.2024 and Bill of Lading has been wrongly issued with date 30.06.2024. He further stated that their POL agent i.e. Atlantic Shipping Co. Ltd., Sudan is responsible for the mistake due to which Shipped on Board has been wrongly mentioned on BL. Shri Surya Prakash Mishra stated that subject consignment was shipped from Sudan Port to Jeddah Port from third party feeder. During statement, he also submitted copy of Bill of Lading, copy of Manual IGM and Bill of Lading tracking report as per POL (port of loading) agent and also submitted copy of

agreement between M/s Dragon Maritimo Sea Cargo Services LLC (Dragon Maritimo) and M/s Goodrich Logistics Private Limited.

3.2 Statement of Shri Malav R. Shah, son of Shri Rajendrakumar Shah, General Manager and Authorized Representative of M/s. Rina Brothers, Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170, was recorded under Section 108 of the Customs Act, 1962 on 06.02.2025 wherein he inter alia stated that his firm M/s Rina Brothers was incorporated in year 1985, his father Shri Rajendrakumar Shah is the proprietor M/s Rina Brothers; He also stated that he is aware know about Notification No. 05/2023 dated 05.04.2024 issued by DGFT that if watermelons seeds had loaded or shipped on board before 30th June 2024 then it will be under 'Free' category, however if goods loaded on ship or shipped on board after 30th June 2024, then it will be under category of restricted. On being shown the tracking of BL No. GLNPZUMUN0724065 dated 30.06.2024 downloaded from the official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) wherein the POL sailing date is 30th July, 2024, Shri Malav R. Shah stated that he was in direct contact with the supplier in Sudan, who informed him that all containers had been loaded on June 30, 2024. Further he stated that they had received Bill of Lading showing issue date as 30.06.2024; upon receiving all necessary documents from the supplier, Shri Malav R. Shah provided the same to their Custom Broker M/s Star Marine for filing Bill of Entry. He further stated that they were unaware that containers were loaded/shipped on Board after 30.06.2024. During statement, he also submitted copy of Invoice, Swift Copy, Bill of lading, Copy of License, Copy of Bill of Entry, Phytosanitary certificate, Fumigation Certificate and Certificate of Origin and e-mail correspondence from M/s Goodrich Logistics Pvt. Ltd.

3.3 Statement of Shri Bharat Bhanushali Trikambahi, Authorized Person of M/s Star Marine, Plot No. 213, Ward 12-C, Lilashah Nagar, Gandhidham(Kachchh) Gujarat-370201 was recorded under Section 108 of the Customs Act, 1962 on 11.02.2025 wherein he inter alia stated that he know Shri Malav R. Shah since 2022. He stated that he has idea about the

Notification No. 05/2023 dated 05.04.2024 issued by DGFT which stipulates that before 30.06.2024, the import of watermelon seeds is free and after 30.06.2024 the import of watermelon seeds is Restricted. On being shown the tracking of BL No. GLNPZUMUN0724065 dated 30.06.2024 downloaded from the official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) wherein the POL sailing date is 30th July, 2024 as well as the statement of Shri Surya Prakash Mishra, Branch Manager of M/s Goodrich Logistics Private Limited, (Delivery Agent of Container Line M/s Dragon Maritimo), confirming that the actual "Shipped on Board" date was July 30, 2024; after seeing tracking details of BL No. GLNPZUMUN0724065, he acknowledged that the actual shipped on Board was 30.07.2024. When asked about the delay in filing the Bill of Entry, he stated that the original document was received from the importer in mid-December 2024, and based on that, they proceeded with the filing of Bill of Entry. During statement, he submitted copy of Bill of Entry No. 7431558 dated 24.12.2024, container tracking received from M/s Goodrich Logistic Pvt Ltd vide email dated 24.09.2024, Invoice dated 28.06.2024 and Packing List, Certificate of Origin dated 28.06.2024, B/L no. GLNPZUMUN0724065 (Shipped on board 30.06.2024).

4. Evidences available on record during investigation:

4.1 Tracking details of containers: The container movement details were tracked from the website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) which shows that the import consignment covered under Bill of Lading No. GLNPZUMUN0724065 were actually loaded on vessel on 30.07.2024. It shows that Bill of Lading No. GLNPZUMUN0724065 dated 30.06.2024 showing 'Shipped on Board' date as 30.06.2024, which was submitted for filing IGM and Bill of Entry at Mundra Custom House was manipulated/forged to get the 'Restricted' goods cleared. The Notification No. 05/2023 dated 05.04.2024 issued by DGFT stipulates that if 'watermelons seeds' have been loaded or shipped on board before 30th June 2024 then only it will be under 'Free' category.

4.2 Statements and submissions: Statement of Shri Surya Prakash Mishra, Branch Manager of M/s Goodrich Logistics Private Limited, (Delivery Agent of Shipping Line i.e. M/s Dragon Maritimo), having address as 'Office No. 106, Golden Arcade, Plot No. 141, Sector-8, Gandhidham-370201', which was recorded under Section 108 of the Customs Act, 1962 on 06.02.2025 and further submission of documents which mainly include the Bill of Lading tracking report as per POL (port of loading) agent clearly indicates that Bill of Lading No. GLNPZUMUN0724065 was issued with wrong intention. The tracking details submitted by their Port of Loading agent M/s Atlantic Shipping Co. Ltd. shows that vessel Sailing was done on 30.07.2024 and despite knowing the same, Bill of Lading No. GLNPZUMUN0724065 was issued with showing wrong date as Shipped-On-Board.

The evidences mentioned above, while not exhaustive, provide sufficient evidence to demonstrate that all parties involved—namely representatives from M/s Atlantic Shipping Co. Ltd, Sudan, M/s Dragon Maritimo Sea Cargo Services LLC, Dubai, M/s Goodrich Logistics Private Limited, India and the consignee (importer)—were fully aware of the restrictions on the import of watermelon seeds. Despite being cognizant of the restrictions, these entities deliberately concealed the fact that the actual 'Shipped on Board' date was July 30, 2024 for BL No. GLNPZUMUN0724065. Through intentional misrepresentation and manipulation of dates, they sought to facilitate the clearance of restricted cargo in violation of the established regulations.

5. Seizure:

During the investigation, it was observed as per tracking details available at official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) and as per other evidences gathered during investigation that the imported goods i.e. Watermelon Seeds have been loaded on board after 30th June 2024 i.e. on 30.07.2024 and hence are restricted goods as per Notification no. 05/2023 dated 05.04.2024 issued by the DGFT. Thus, it appears that the imported goods by M/s Rina Brothers, under the Bill of Entry No. 7431558 dated 24.12.2024 filed at Mundra Custom House,

appears to have been mis-declared in documents submitted to the Customs. Therefore, there being a reasonable belief that that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 06.01.2025.

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

6.1 Investigation conducted by DRI has revealed that the containers covered under Bill of Entry No. 7431558 dated 24.12.2024, were shipped from Sudan port on 30.07.2024, well beyond the cut-off date of 30.06.2024 specified in DGFT Notification No. 05/2023 dated 05.04.2024. The tracking details on the official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) and other documents received from M/s Goodrich Logistics Pvt. Ltd. confirm that the containers were shipped on board on vessel at Port of Loading i.e. Port Sudan on 30.07.2024, further corroborating the lapse in compliance with the notification's timeline. The evidences clearly demonstrate that a forged Bill of Lading No. GLNPZUMUN0724065 dated 30.06.2024 was created, falsely reflecting the 'shipped on board' date as 30.06.2024, instead of the actual date of 30.07.2024. This deliberate manipulation of shipping documents was aimed at unlawfully availing the benefits under the DGFT Notification No. 05/2023. The investigation indicates that the importer, in collusion with representatives of M/s Goodrich Logistics/M/s Goodrich Logistics Pvt. Ltd., M/s Atlantic Shipping Co. Ltd, Sudan and M/s Dragon Maritimo Sea Cargo Services LLC, Dubai orchestrated the falsification of relevant dates on the Bill of Lading to facilitate the clearance of restricted cargo. By doing so, the importer has failed to adhere to the conditions of DGFT Notification No. 05/2023, thereby violating the provisions of the Foreign Trade Policy 2023. This constitutes a serious breach of regulatory compliance and evidences deliberate intent to mislead customs authorities.

6.2 The facts and evidence discussed above indicate that the Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import". It means that all consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order. However, as established in the preceding paras, M/s. Rina Brothers, located at Sardar Chowk, Station Road, Unjha, Mahesana, Gujarat - 384170, illegally imported Watermelon Seeds under Bill of Entry No. 7431558 dated 24.12.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board on 07th July 2024 i.e. beyond the permissible date of 30th June 2024 using a forged Bill of Lading. Furthermore, it was revealed during the investigation that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under 7431558 dated 24.12.2024 having total quantity **108** MTs and declared assessable value of **Rs. 1,70,51,407/-** imported by M/s. Rina Brothers are liable for confiscation under confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962.

7. Roles of persons/firms involved:

7.1 Role of the importer M/s Rina Brothers (IEC No. 0808014391) (Proprietor: Shri Rajendrakumar Chhanalal Shah):

Shri Rajendrakumar Chhanalal Shah is Proprietor of M/s. Rina Brothers and being importer, he was well aware of the Import policy and Notification. M/s. Rina Brothers had imported watermelon seeds covered under Bill of Entry No. 7431558 dated 24.12.2024 in by way of violation of import policy mentioned in

Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of entry is **108 MTs** having declared Assessable value of **Rs. 1,70,51,407/-**. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under **Section 111(d), 111(m) and 111 (o)** of the Customs Act, 1962 and therefore is liable to penalty under **Section 112 (a) and 112 (b)** of the Customs Act, 1962. By not uploading the original documents as mandated during filing of Bill of Entry, the importer has attempted to mislead the department thereby rendering themselves liable to penalty under **Section 114AA** of Customs Act, 1962.

7.2 Role of M/s Goodrich Logistics Pvt. Ltd. (Agent of M/s Goodrich Logistics and working in India on behalf of M/s Dragon Maritimo Sea Cargo Services LLC, Dubai):

The facts and evidence gathered during the investigation, including tracking of containers available on official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) wherein the POL sailing date is 30th July, 2024 itself confirms that M/s Goodrich Logistics was aware of the forging the BL date. M/s Goodrich Logistics Private Limited (Delivery Agent mentioned on forged Bill of Lading No. GLNPZUMUN0724065) working on behalf of M/s Goodrich Logistics group and M/s Dragon Maritimo Sea Cargo Services LLC, Dubai vide e-mail dated 24.09.2024 addressed to the importer, confirmed that SOB Date (Shipped-on-Board Date) was 30.06.2024 which was actually false and it was provided to the importer with intention to facilitate the clearance of restricted cargo in direct violation of established regulations. These actions reflect a blatant disregard for regulatory compliance and an intent to mislead

the authorities. The deliberate acts and omissions by M/s Goodrich Logistics Private Limited make them liable for penalties under **Section 112(b)** of the Customs Act, 1962. Furthermore, their involvement in the creation of forged Bills of Lading constitutes a violation that renders them liable to penalties under **Section 114AA** of the Customs Act, 1962.

8. Relevant Legal provisions :

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

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

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

8.3.1 FTDR Act, 1992:

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

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

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

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

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

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

8.3.2 Foreign Trade Policy, 2023 :

Para 1.02: Amendment to FTP

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

Para 2.01: Policy regarding import /Exports of goods

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

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

8.3.3 Relevant Sections of the Customs Act, 1962:

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

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

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

shall be liable, -

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

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

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

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

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

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

SECTION 114AA. Penalty for use of false and incorrect material. *- If a person knowingly or intentionally makes, signs or uses, or causes to be*

made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

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

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

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

9. Accordingly, Show cause Notice GEN/ADJ/ADC/490/2025-Adjn-O/o Pr Commr-Cus-Mundra dated 20.02.2025 was issued to M/s. Rina Brothers, wherein they were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra as to why:

(a) The imported goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. **7431558** dated **24.12.2024** having total quantity **108 MTs** and declared assessable value of **Rs. 1,70,51,407/-** should not be confiscated under Section 111 (d),111(m) and 111(o) of Customs Act, 1962.

(b) Penalty under Section 112(a), Section 112(b) and Section 114AA of the Customs Act, 1962 should not be imposed on **M/s. Rina Brothers.**

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

10. After considering the submissions of the noticees and personal hearing conducted in the impugned matter, the Order-in-Original No. MCH/ADC/ZDC/451/2025-26 dated 20.12.2025 was issued as follows:

> *"i. I order to absolute confiscation of impugned goods i.e. 108 MTS "Watermelon Seeds" imported vide Bill of Entry no. 7431558 dated 24.12.2024 having value Rs. 1,70,51,407/- (One Crore Seventy Lakh Fifty One Thousand Four Hundred and Seven only) under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962.*
>
> *ii. I impose penalty of **Rs. 8,00,000/-** (Rupees Eight Lakh only) on the importer M/s. Rina Brothers under Section 112 (a)(i) of the Customs Act, 1962.*
>
> *iii. I refrain from imposing penalty on the importer M/s. Rina Brothers under Section 112(b) of the Customs Act, 1962.*
>
> *iv. I impose penalty of **Rs. 2,00,000/-** (Rupees Two Lakh only) on the importer M/s. Rina Brothers under Section 114AA of the Customs Act, 1962.*
>
> *v. I impose penalty of **Rs. 2,00,000/-** (Rupees Two Lakh only) on M/s Goodrich Logistics Pvt. Ltd. under Section 112 (b) of the Customs Act, 1962.*
>
> *vi. I impose penalty of **Rs. 1,00,000/-** (Rupees One Lakh only) on M/s. Goodrich Logistics Pvt. Ltd. under Section 114AA of the Customs Act, 1962."*

11.1 Being aggrieved by Order-in-Original No. MCH/ADC/ZDC/451/2025-26 dated 20.12.2025 (hereinafter referred to as "the said OIO"), the importer M/s. Rina Brothers, along with eight other similarly placed importers involved in identical facts and issues, preferred appeals before the Commissioner of Customs (Appeals), Ahmedabad. The said appeals were disposed of vide a common Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026 (hereinafter referred to as "the OIA"), passed by the Commissioner of Customs (Appeals), Ahmedabad.

11.2 Vide the OIA, the learned Commissioner (Appeals), Ahmedabad, after condoning the delay in filing of the appeals, examined the submissions made by the appellants, including the contention regarding the option of redemption extended by the undersigned in the case of M/s. Shreeshiv Agri Impex LLP vide Addendum dated 10.02.2026 to Order-in-Original No. MCH/ADC/ZDC/486/2025-26 dated 01.01.2026, passed in compliance with the directions of the Hon'ble High Court of Gujarat vide Common Oral Order dated 29.01.2026 in SCA Nos. 17295, 17314, 17325, 17402 and 17988 of 2025. The learned Commissioner (Appeals) observed that the impugned order did not contain any detailed examination or findings on the legal submissions, judicial precedents, and contentions raised by the appellants in their defence reply, and

accordingly set aside the said OIO and remanded the matter to the undersigned for de novo adjudication under Section 128A(3) of the Customs Act, 1962. The relevant observations of the learned Commissioner (Appeals) are reproduced below for ready reference:

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

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

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

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

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

12. <u>Written Submission</u>

12.1 M/s. Rina Brothers submitted their earlier reply, wherein they have, *inter alia*, submitted that:

12.1.1 Acting upon specific intelligence gathered by DRI regarding importer importing Watermelon Seeds in contravention to the DGFT Notification No. 05/2023 dated: 05.04.2024 and some tracking of containers online on the official website of M/s Goodrich Logistics. The investigation, as brought out in SCN comprises of only a few statements being recorded and no record of any premises of importer or the shipping line or CHA or any other concerned person having being searched. It is therefore conclusive from the perusal of the SCN itself that the entire case is built up on the foundation of statements of various persons recorded under Section 108 of the Customs Act, 1962.

12.1.2 A statement of Shri Bharat Bhanushali Authorized Representative of M/s Star Marine was recorded at Gandhidham wherein in Q4 he was asked to produce the import related documents called under summons in answer to which he had produced Copy of Bill of Entry No 7431558 dated: 24.12.2024, Container tracking received from M/s Goodrich Logistics Pvt Ltd wide email dated

24.09.2024 invoice dated 28.06.2024, Packing List, Certificate of Origin, and Bill of Lading for the present consignment. These documents submitted by him are relied in the SCN and are brought on record as annexure to his statement. Upon per user of these documents it can be seen that he had submitted the copy slash print out of the email received by him from M/s Goodrich Logistics Pvt Ltd in which it has been clearly mentioned that the goods Have arrived at Mundra Port on 720 4 and were Shipped on Board on 30.06.2024 And that the date of BL is 30.06.2024. This email from the Shipping line itself is abundantly clear that the goods were shipped on board on 30.06.2024 which is the date well within the permitted window of the DGFT notification which states that the goods shipped with BL having shipped on board date before 30.06.2024 shall be treated as free. This submission of his has been totally ignored as this email disproves the allegation of the department pertaining to the tracking allegedly downloaded from the website of Goodrich Logistics Pvt Ltd themselves.

12.1.3 Further in Q7 He was shown the tracking downloaded from the website on which POL sale date is 30 July 2024 for which he answered that as per the said tracking report the POL sale date is 30.07.2024 however M/s Goodrich Logistics Pvt Ltd vide their email dated 24.09.2024 informed us that the ship on board date was 30.06.2024.

12.1.4 Further at Q8 He was again asked about the website tracking and the B/L showing the different dates along with statement of Shri Surya Prakash Mishra the branch manager of M/s Goodrich Logistics Private Limited when he agreed that the actual shift on board date is 30.07.2024. It appears that he was made to admit that Shipped on Board for the impugned consignment is after 30.06.2024 which is permitted window under DGFT Notification, as in Question Number 9 and Question Number 10 he has again reiterated that the Shipped-on-Board date was 30.6.2024. Such a statement which is contradictory in itself cannot be relied upon in the ac unless the dependent is given for cross examination and his true and voluntary version of the statement is brought on record as the deponent in the statement has time and again reiterated that the Shipped on Board date is 30.06.2024.

12.1.5 Statement of Shree Malav Shah Authorised Representative of M/s Reena Brothers was recorded at Gandhidham wherein in question number 5 he was asked to produce the documents sort under the summon in answer to which he submitted the copy of Invoice, Swift Copy, Bill of Lading, copy of Licence, copy of Bill of Entry, Phytosanitary Certificate, Fumigation Certificate, and Certificate of Origin along with the email correspondence from M/s Goodrich Logistics Pvt Ltd confirming that Shipped on Board date was 30.06.2024. Further in question number 6 he was shown the copy of tracking retrieved from the website and the statement of Shri Surya Prakash Mishra after seeing both of which he answered

that it was informed to us that all containers have been loaded on 30th June at Sudan Port we received the Bill of Lading showing as issued on 30th June 2024 and after receiving the documents we have filed the Bill of Entry accordingly.

12.1.6 A statement of Sri Surya Prakash Mishra Branch manager of M/s. Goodrich Logistics Pvt Ltd was recorded at Gandhidham under section 108 of Customs Act where in he was asked regarding the relation between the foreign principle and the firm for which he produced the copy of agreement later at question number 5 he was asked to produce the documents called under summon in response to which he submitted the Bill of Lading, Manual IGM, copy Bill of Lading Tracking Report as per POL agent and Agency Agreement. The said tracking report as per POL agent submitted in this statement has been attached to the statement as Annexure and Upon per user it can be seen that the containers in full load were handed over to the shipping line and were marked as full container in the port on 3624 this tracking report Has not been bought out in the investigation nor relied in the SCN by the SCN issuing authority. This tracking report makes it abundantly clear that the goods were Shipped on Board on 30.06.2024 and the vessel has sailed on a later date. Further in question number 8 he was again shown the bill of lading and tracking on which he had commented that the actual shift on board is 3724. This Appears to be a coerced answer in the statement as he has submitted the tracking details from Port of Loading Agent M/s Atlantic Shipping Co. from which it can be seen that the Shipped on Board is dated: 30.06.2024.

12.1.7 The Noticee submitted that it is not a case where two Bs/L for one consignment have been found / recovered. The investigating officer / agency has not taken the efforts / pain to even write an email to the office of shipper at Port of Loading or to the exporter asking them about the details as to on which vessel the consignment has left and on what date the containers were handed over to the shipping line by the exporter to prove the case of department. Nither any effort was made to disprove the credibility of the tracking reports submitted by the importer and the agent.

12.1.8 The Noticee submitted that the entire case is built upon the self-contradictory uncorroborated statement of Shri Surya Prakash Mishra of M/s Goodrich Logistics Pvt Ltd who has allegedly admitted that the Shipped-on-Board date is 30.07.2024. Hence, it is of essence to cross-examine him so as to confirm if the said statement is the true and voluntary and if so why is there no Shipped on Board date on B/L and how can B/L dated 30.06.2024 be issued for goods which were loaded on 30.07.2024 as the said B/L was received by him on e-mail and it is not the case that importer or CHA or Broker has supplied them the alleged manipulated copy of B/L. The reliance in this case is placed on:

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

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

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

> ***"6.*** *Having heard learned counsel for the parties, we are inclined to interfere on the short ground of serious breach of principles of natural justice in the process of passing final order of adjudication. We say so because the adjudicating authority, though categorically informed by the representative of the petitioners that the petitioners are serious about exercise of their right to cross-examination and further that any meaningful participation in the adjudicating proceedings can take place only after such cross-examination is granted, the authority proceeded to decide such request only along with the final order of adjudication. Whether the petitioners had a right to seek cross-examination in the facts of the present case, is not our brief at the moment. We, therefore, refuse to comment on the petitioners' insistence for cross-examination or authority's reluctance to grant it.*

> ***What we, however, find is that the petitioners had at least a right to be told whether such application is being granted or refused before final order was passed. When the petitioners prayed for cross-examination and reasonably expected that the same would be granted, they cannot be expected to participate in the adjudicating proceedings up to the final stage. In other words, without dealing with and disposing of the petitioners' application for cross-examination, the adjudicating authority could not have finally adjudicated the issues. If he was of the opinion that the request for cross-examination was not tenable, by giving reasons, he could have rejected it. We wonder what would have happened, if he was inclined to accept such a request. In such a situation, he himself could not have finally disposed of the show cause notice proceedings. In either case, the petitioners had a right to know the outcome of their application****."* (Highlighting Supplied)

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

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

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

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

ii. It is submitted that the goods so imported by the importer are neither in contravention to any Act within India nor are prohibited

for import under Customs Act or any other Act. Hence, no provisions of 111(d) can be said to have been violated by the importer.

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

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

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

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

The noticee further submits that there can be no penalty imposed / mulcted on the noticee as proposed in the SCN since no confiscation can be arrived at in the view of the submissions (supra) and there is no violation of provisions of Section 112(a) and or 112(b) of the Customs Act, 1962.

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

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

*"**6.** The Ld. AR has submitted that the Commissioner (Appeals) has set aside the penalty under Section 114AA for the reason that penalty has been imposed by the adjudicating authority under Section 112(a) and therefore there is no necessity of further penalty under Section 114AA. I find that this submission is incorrect for the reason that in the impugned order in paras 7 and 8, the Commissioner (Appeals) has discussed in detail the provision with regard to Section 114AA. It is seen stated that **as per the Taxation Laws (Amendment) Bill, 2005, introduced in Lok Sabha on 12-5-2005, the Standing Committee has examined the necessity for introducing a new Section 114AA. The said Section was proposed to be introduced consequent to the detection of several cases of fraudulent exports where the exports were shown only on paper and no goods crossed the Indian border.** The said Section envisages enhanced penalty of five times of the value of the goods. The Commissioner (Appeals) has analyzed the object and the purpose of this Section and has held that in view of the rationale behind the introduction of Section 114AA of the Customs Act and the fact that penalty has already been imposed under Section 112(a), the appellate authority has found that the penalty under Section 114AA is excessive and requires to be set aside. Thus, the penalty under Section 114AA is not set aside merely for the reason that penalty under Section 112(a) is imposed. After considering the ingredients of Section 114AA and the rationale behind the introduction of Section 114AA, the Commissioner (Appeals) has set aside the penalty under Section 114AA.*

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

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

*"13 ..... **The purpose behind introduction of Section 114 AA was to punish those people who availed export benefits***

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

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

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

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

12.2 Pursuant to the remand, M/s. Kautilya Consultancy Services, Authorised Representative acting for and on behalf of M/s. Rina Brothers and the other similarly placed noticees/importers (excluding M/s. Goodrich Logistics Pvt. Ltd.), vide letter dated 17.07.2026, has, inter alia, submitted as under:-

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

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

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

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

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

Personal Hearing

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

Discussion and Findings

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

14.1 I have gone through the letter F.No. S/49-793/CUS/MUN/MAR/2025-26 dated 13.08.2026 issued by the Office of the Commissioner of Customs (Appeals), Ahmedabad, whereby, in response to this office's letter F.No. GEN/ADJ/ADC/490/2025-Adjn dated 12.08.2026 seeking clarification on the scope of the Order-in-Appeal No. MUN-CUSTM-000-APP-158 to 166-26-27 dated 07.07.2026, it has been clarified that the said Order-in-Appeal, including the directions for de-novo adjudication, pertains to and is operative in respect of the appellants specifically named in Table-I of the Order-in-Appeal dated 07.07.2026 and the issues arising from their respective appeals. Since M/s Rina Brothers is one of the appellants specifically named in the said Table-I, the impugned Order-in-Original stands set aside only in respect of M/s Rina Brothers and not in respect of any other noticee covered under the said Order-in-Original No. MCH/ADC/ZDC/451/2025-26 dated 20.12.2025. Accordingly, the matter is required to be adjudicated de-novo only qua M/s Rina Brothers, in accordance with the directions of the Hon'ble Appellate Authority.

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

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

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

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

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

16.1 I find that M/s. Rina brothers (Importer) imported Watermelon seed in seven containers under Bill of Entry no. 7431558 dated 24.12.2024 with Bill of Lading no. GLNPZUMUN0724065 dated 30.06.2024. Based on intelligence gathered by DRI, Gandhidham that importer is indulged into illegal import of Watermelon Seeds (Melon Seeds) by way of violation of Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade. The proceedings of the examination were recorded under panchnama dated 02.01.2025 drawn at M/s. AllCargo Terminals Limited, APSEZ, Mundra.

16.2.1 I observed that shipped on board date in the Bill of Lading GLNPZUMUN0724065 dated 30.06.2024 used for filing of subject Bill of Entry no. 7431558 dated 24.12.2024 was declared as 30.06.2024.

16.2.2 Further, I also observed that the tracking of BL No. GLNPZUMUN0724065 dated 30.06.2024 downloaded from the official website of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/) wherein the POL sailing date is 30th July, 2024.

16.2.3 I find that the tracking details of the BL No. GLNPZUMUN0724065 obtained from the official site of M/s Goodrich Logistics (https://goodrichlogistics.com/tracking/), shows that it shipped from Port Sudan on 30.07.2024.

Further, the tracking details in reference of BL No. GLNPZUMUN0724065 submitted by their Port of Loading agent M/s Atlantic Shipping Co. Ltd. also shows that vessel Sailed from port Sudan on 30.07.2024.

Whereas on perusal of BL no. GLNPZUMUN0724065 dated 30.06.2024 submitted during filing of subject Bill of Entry no. 7431558 dated 24.12.2024 shows shipped on Board date as 30.06.2024.

Accordingly, I find that the contradictory facts demonstrate that the Bill of Lading (BL) was manipulated/forged to clear the restricted goods.

16.2.4 From the above, it is established that the goods of the subject Bill of Entry no. 7431558 dated 24.12.2024 having BL No. GLNPZUMUN0724065 was shipped from port Sudan on 30.07.2024. Thus, it is evident that the shipment in question, imported by M/s. Rina brothers was shipped after 30.06.2024.

It established that BL no. GLNPZUMUN0724065 dated 30.06.2024 was manipulated/forged by falsely indicating a 'Shipped On Board' date prior to June 30, 2024 in order to facilitate the clearance of 'Restricted' goods.

16.2.5 Ongoing through the entire documentary trail—including tracking data, and statements, I find that the BL was manufactured to misrepresent the original shipping date and acted in concert to suppress the actual shipping details and presented manipulated documents before Customs.

Accordingly, It is established that details in Bill of lading no. GLNPZUMUN0724065 dated 30.06.2024 have been manipulated/forged to facilitate the clearance of restricted goods by falsely claiming eligibility period as stipulated in Notification No. 05/2023 dated 05.04.2024 issued by DGFT and the goods covered under Bill of Entry no. 7431558 dated 24.12.2024 were shipped beyond the time limit prescribed under DGFT Notification No. 05/2023.

16.3 I also find that during statement were recorded by DRI, the bill of lading No. GLNPZUMUN0724065 dated 30.06.2024 and tracking details of BL no. GLNPZUMUN0724065 dated 30.06.2024 downloaded from the official website of M/s Goodrich Logistics (as discussed above) were presented to (i) Shri Surya Prakash Mishra, Branch Manager of M/s Goodrich Logistics Private Limited (ii) Shri Bharat Bhanushali Trikambahi, Authorized Person of M/s Star Marine, after analyzing they admitted in their statements that shipped on board date has been manipulated in BL in order to satisfy the conditions prescribed under Notification No. 05/2023 dated 05.04.2024 issued by DGFT.

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

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

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

iii. Hon'ble Punjab and Haryana High Court in the case of **Jagjit Singh** has decided that *"It is settled law that Customs Officers were not police officers and the statements recorded under Section 108 of the Customs Act were not hit by Section 25 of the Evidence Act. The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the*

Hon'ble Supreme Court in the matter of Ram Singh, in which it is held that recovery of opium was from accused by officers of Narcotic Bureau. Accused made confession before said officers. Officers of Central Bureau of Narcotics were not police officers within the meaning of Section 25 and 26 of the Evidence Act and hence, confessions made before them were admissible in evidence".

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

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

(i) I find that M/s. Rina Brothers (Noticee no. 1) through their advocate, have requested for cross-examination of Shri Surya Prakash Mishra the branch manager of M/s Goodrich Logistics Private Limited.

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

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

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

b. **Kamar Jagdish Ch. Sinha Vs. Collector - 2000 (124) E.L.T. 118 (Cal H.C.)**:- wherein it has been observed that the right to confront

witnesses is not an essential requirement of natural justice where the statute is silent and the assessee has been offered an opportunity to explain allegations made against him.

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

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

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

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

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

by such denial alone, it cannot be concluded that principles of natural justice had been violated." [para 23]

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

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

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

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

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

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

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

16.7.1 I find that the Noticee, in their written submission, alleged that the entire case is built upon the assumptions and presumptions of Shri Surya Prakash Mishra of M/s Goodrich Logistics Pvt Ltd. Further, I find that the Noticee has relied upon various case laws in their detailed written submissions, however, I find that the **Hon'ble Supreme Court of India in case of Ambica Quarry Works vs. State of Gujarat & Others [1987(l) S.C. C. 213]** observed that *"the ratio of any decision* must be understood in the

background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."

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

16.7.3 I rely upon following judgments from various courts:-

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

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

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

16.9 I have also examined the other grounds recorded in said Order-in-Appeal dated 07.07.2026, to the extent relevant to the facts of the present case. As regards the contention that the panchnama proceedings are vitiated, I find that the panchnama(s) drawn in the present case were conducted in accordance with the procedure prescribed under the Customs Act, 1962, duly witnessed and signed, and no specific infirmity therein has been demonstrated on record; a bald allegation of vitiation, without more, cannot invalidate the seizure or the consequent proceedings. As regards the contention that the shipping line's own tracking data supports the noticee and has been selectively ignored by the Department, I find that it is this very tracking data, read together with the other documentary evidence discussed in the preceding paragraphs, that forms the very foundation of the finding of manipulation of the Bill of Lading; the said evidence has, therefore, been duly relied upon and not ignored. As regards the contention that the investigation is incomplete for want of verification from overseas offices of the supplier/shipping line, I find that the evidence on record — the carrier's own tracking data, documents furnished/recovered during the course of investigation, and voluntary statements recorded under Section 108 of the Customs Act, 1962 — is direct and sufficient to establish the charge, and no material has been placed on record to show how any overseas verification would alter this finding. As regards the contention founded on the IGM having been filed in conformity with the Bill of Lading, and non-invocation of Section 30 of the Customs Act, 1962 against the shipping line, I find that the IGM, having itself been filed on the strength of the very Bill of Lading

found to be manipulated, cannot be relied upon to validate that document, and the correctness of a Bill of Entry cannot be tested merely by its conformity with an equally tainted IGM. As regards the contention that the Department's case rests on an unproved assumption regarding the actual date of loading, I find, for the reasons discussed in the preceding paragraphs, that the said date stands established on the basis of documentary evidence and admissions on record, and not on mere assumption. Accordingly, I find that none of the aforesaid common grounds urged in the batch of connected appeals detracts from the findings recorded in this order.

16.10I also find that it is a fact that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of the Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make proper & correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and after self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendments to Section

17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

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

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

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

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

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

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

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

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of

goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54]

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

In view of the facts and evidence discussed above, I find that the Directorate General of Foreign Trade (DGFT), through Notification No. 05/2023 dated 05.04.2024, amended the import policy for Melon Seeds under CTH 12077090. As per the notification, the import of Melon Seeds was classified as 'Free' from 1st May 2024 to 30th June 2024. Consignments with 'shipped on board' Bill of lading issued till 30th June 2024 shall be treated as 'Free' to import". All consignments of Watermelon Seeds which have shipped on board before 01.07.2024 can be imported in India on 'Actual User' basis to processors of Melon Seeds having a valid FSSAI Manufacturing License in line FSSAI Order dated 15.03.2024. However, as established in the preceding paras, M/s. Rina brothers, illegally imported Watermelon Seeds under Bill of Entry No. 7431558 dated 24.12.2024, in violation of Notification No. 05/2023. The investigation conclusively proved that the goods were shipped on board on 30th July 2024 i.e. beyond the permissible date of 30th June 2024 using a forged Bill of Lading. Furthermore, from the investigation carried out, I also find that the importer deliberately withheld critical information from Customs Authorities, failing to disclose that the goods were shipped on board after the specified date of 30th June 2024. This reflects intentional non-compliance with the DGFT Notification No. 05/2023 dated 05.04.2024, which rendered the subject goods prohibited, hence, contravened the provisions of Section 46 of the Customs Act, 1962. I find that Bills of lading provided were forged /manipulated to meet the requirement of notification no. 05/2023-Cus dated 05.04.2024. This deliberate manipulation confirms malafide intention of noticee's. Hence, the goods declared as 'Watermelon Seeds' under CTH 12077090 covered under Bill of Entry No. 7431558 dated

24.12.2024 having total quantity 108 MTs and declared assessable value of Rs. 1,70,51,407/- imported by M/s. Rina Brothers are liable for confiscation. These acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111 (d), 111(m) and 111(o) of the Customs Act, 1962.

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

17.1 I find that vide the said OIO No. MCH/ADC/ZDC/451/2025-26 dated 20.12.2025, the impugned goods i.e. Watermelon Seeds imported by M/s. Rina Brothers under Bill of Entry No. 7431558 dated 24.12.2024 were ordered to be absolutely confiscated under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962, without extending any option of redemption under Section 125 of the Customs Act, 1962.

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

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

> *"3. Prima facie we are of the considered opinion that the said order runs contrary to the decision of the Punjab and Haryana High Court. The petitioners in their reply have categorically referred to the various decisions including the decision in the case of Shree Balaji Industries (supra) however, the respondent authorities have still proceeded with proceedings of confiscation of goods.*
>
> *4. While passing the order dated 17.12.2025, a statement was made before this Court that the auction of the goods, which was scheduled to be held tomorrow i.e. on 18.12.2025, is postponed and the same will be held on 15.01.2026. The matter was thereafter listed on 08.01.2026. In the order dated 08.01.2026, a statement of learned Senior Standing Counsel was recorded that auction will be*

conducted till 30.01.2026. Thus, during pendency of the writ petition, the respondents have proceeded further by passing order of confiscating the goods, which appears to be prohibited and not restricted.

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

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

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

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

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

accordingly the goods were allowed to be redeemed on payment of redemption fine.

17.6 I find that the facts of the present case are similar to the case of M/s. Shreeshiv Agri Impex LLP. Accordingly, I allow the importer M/s. Rina Brothers to redeem the confiscated goods of Bill of Entry No. 7431558 dated 24.12.2024 i.e. Watermelon Seeds, on payment of redemption fine under Section 125 of the Customs Act, 1962.

18. <u>Penalties on M/s. Rina Brothers</u>:

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

> ***SECTION 112 of the Customs Acts***. ***Penalty for improper importation of goods, etc.***- *Any person, -*
>
> *(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
>
> *(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*
>
> *shall be liable, -*
>
> *(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;*
>
> *(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :*

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

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

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

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

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

18.2 Role and culpability of M/s. Rina Brothers:

M/s. Rina Brothers was well aware of the Import policy and

Notification No. 05/2023 dated 5th April, 2024 issued by the DGFT. M/s. Rina Brothers had imported watermelon seeds under BL No. GLNPZUMUN0724065 in Bill of Entry no. 7431558 dated 24.12.2024, by way of violation of import policy mentioned in Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry. The total quantity of the said goods covered under the subject Bill of Entry is 108 MTs having Assessable value of Rs. 1,70,51,407/-. As per Notification No. 05/2023 dated 5th April, 2024 issued by Directorate General of Foreign Trade, Ministry of Commerce & Industry, the import of said goods with shipped on board dated after 30th June is under restricted category. The importer must comply with the conditions outlined in the said Notification. Further, the notification was issued for a definite period and it is the obligation of the firm utilizing that authorization to ensure that no condition of the Notification has been violated. The acts of commission and omission on the part of the importer rendered the subject goods liable to confiscation under Section 111(d), 111(m) and 111 (o) of the Customs Act, 1962 and therefore is liable to penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. I find that the evidences clearly indicating malafide intention on their part in respect of the imported goods warranting imposition of penalty under Section 112 (a) (i) as the fact of non-compliance of conditioned outlined in the Notification No. 05/2023-Cus dated 05.04.2024 issued by DGFT. Result is that proposal to impose penalty under Section 112 (a)(i) is correct and sustainable in law.

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

I find that the SCN proposed imposition of penalty on the Importer under Section 114AA of the Customs Act, 1962. I find that in spite of well aware of import policy and conditioned outlined in the notification no.

05/2023-Cus dated 05.04.2024 issued by DGFT. Accordingly, I find that the importer M/s. Rina Brothers has knowingly and wilfully filed the bill of entry with forged Bill of Lading with the clear intention to import the restricted cargo in direct violation of established regulations. As it is the obligation of the firm to ensure that proper and correct documents are maintained and as forged Bill of Lading was created which constitutes the violation. By manipulating and forging Bills of Lading in collusion with their supplier and shipping line and filing import documents which were false and incorrect in material particulars. Accordingly, it is evident that M/s. Rina Brothers **knowingly and intentionally made, signed, used and/or caused to be made, signed or used** import documents and related papers that were **false or incorrect in material particulars** for the purpose of illegally importing the subject goods. Therefore, I find that importer is also liable for **penal action under Section 114AA** of the Customs Act, 1962.

19. I find it pertinent to mention that the present de novo adjudication is confined to M/s. Rina Brothers alone, since the appeal culminating in the OIA dated 07.07.2026 was filed by the importer, M/s. Rina Brothers, against Order-in-Original No. MCH/ADC/ZDC/451/2025-26 dated 20.12.2025. The penalties imposed vide the said Order-in-Original on M/s. Goodrich Logistics Pvt. Ltd. are not affected by the OIA and are not being examined in these proceedings.

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

ORDER

(i). I order to confiscate the impugned goods i.e. **108 MTS "Watermelon Seed"** imported vide Bill of Entry No. 7431558 dated 24.12.2024 having value Rs. **1,70,51,407/-** (Rupees One Crore Seventy Lakh Fifty One Thousand Four Hundred and Seven only) under Section 111(d), 111(m) & 111(o) of the Customs Act, 1962. However, I give an option to the importer, M/s. Rina Brothers, to redeem the confiscated goods on payment of redemption fine of **Rs.**

17,00,000/- (Rupees Seventeen Lakhs Only) under Section 125 of the Customs Act, 1962. In terms of Section 125(3) of the Customs Act, 1962, the option for redemption shall be exercised within a period of one hundred and twenty days from the date of receipt of this order, failing which the said option shall become void, unless an appeal against this order is pending.

(ii). I impose penalty of **Rs. 8,00,000/-** (Rupees Eight Lakh only) on the importer M/s. Rina Brothers under Section 112 (a)(i) of the Customs Act, 1962.

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

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

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

22. The Show Cause Notice bearing no. GEN/ADJ/ADC/490/2025-Adjn dated 20.02.2025 stands disposed of in the above terms qua M/s. Rina Brothers.

Digitally signed by Dipakbhai Zala
Date: 18-08-2026 18:02:47

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

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

To,

M/s. Rina Brothers,
Sardar Chowk, Station Road,
Unjha, Mahesana, Gujarat - 384170
(IEC No. 0808014391)
(Proprietor: Shri Rajendrakumar Chhanalal Shah)
(e-mail: ***rinabrothers@gmail.com***)

Copy to:

(1) The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).
(2) The Deputy Commissioner of Customs (RRA/TRC), Mundra Customs House.
(3) The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
(4) Guard File.