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Date – 28-08-2025

SHOW CAUSE NOTICE NO. - 01/2025-26
(ISSUED UNDER SECTION 124 OF THE CUSTOMS ACT, 1962)

BRIEF FACTS OF THE CASE:

M/s Shiv Trading Co. [IEC: GPNPS5042]], Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch- 370230 (**hereinafter referred to as 'importer' for sake of brevity**) imported goods declared as 49 MT “PVC REGRIND (39041090) – Others” vide SEZ Warehousing Bill of Entry No. 1010387 dated 20.08.2024 **[RUD-1]**. As per Bill of Lading No. VASJEAMUN012089 dated 25.07.2024 **[RUD-2]**, the goods were shipped by M/s Daily Trade General Trading LLC, P.O. Box No 13492, RM-13, 2nd Floor, AL Ahrar Building, Hor, AZ ANZ, Near Al Bayan Kitchen Deira, Dubai, UAE. IGM No. 2383847 dated 29.07.2024 in respect of the said consignment was filed at Mundra port. Based on NCTC alert, containers Nos. EASU9694987 and TGHU6036630 pertaining to the above said Bill of Entry dated 20.08.2024 were put on hold for examination. The details of the shipment covered under the above Bill of Lading are as under:-

Table-A

Name of consignee as per Bill of Lading	M/s. Shiv Trading Co.
Address of consignee	Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch-370230
Notify Party as per Bill of Lading	M/s. Daily Trade General Trading LLC P.O. Box No 13492, RM-13, 2 nd Floor, AL Ahrar Building, Hor, AZ ANZ, Near Al Bayan Kitchen Deira, Dubai, UAE
Container Line Name	M/s. Vasco Maritime Pte. Ltd.
Bill of Lading No. & Date	VASJEAMUN012089 dated 25.07.2024
Container Nos.	EASU9694987 and TGHU6036630
Description of Goods	49 MT “PVC REGRID (39041090) – Others”
Gross Weight	62520 kgs
Net Weight	54740 kgs
Bags	726
Port of loading	Jebel Ali

Port of Discharge	Mundra
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2. Whereas, importer had filed SEZ warehousing Bill of Entry 1010387 dated 20.08.2024 in respect of the above consignment being imported in container Nos. EASU9694987 and TGHU6036630, as per the provision of Section 30 of the Customs act 1962. Bill of Lading pertaining to the above consignment was VASJEAMUN012089 dated 25.07.2024 and the consignee was specified as M/s Shiv Trading Co. (Warehouse/Custodian), Shed No 167, SPL.CIB Type, GF & FF Phase -I, Sector II, Kandla SEZ, Gandhidham, Kutch-370230, Gujarat, India, and notify party was specified as M/s. Daily Trade General Trading LLC, P.O.Box No 13492, RM-13, 2nd Floor, AL Ahrar Building, Hor, AZ ANZ, Near Al Bayan Kitchen Deira, Dubai, UAE. As per Bill of Entry No. 1010387 dated 20.08.2024, the goods were declared as 49 MT "PVC REGRID (39041090) - Others". Bill of Lading no. VASJEAMUN012089 dated 25.07.2024 pertaining to the above Bill of Entry had been issued by Vasco Maritime Pte Ltd., Singapore and the Carrier's Agent at discharge port was mentioned as M/s. Goodrich Maritime Pvt. Ltd., 174, Sector 1/A, Rabindranath Tagore Road, Gandhidham, Kutch -370201.

2.1 Whereas, the Container Nos. EASU9694987 and TGHU6036630 arrived under Bill of Lading No. VASJEAMUN012089 dated 25.07.2024 in vessel ITAL UNIVERSO, from Jebel Ali, UAE to Mundra Port, India. The containers were unloaded from the Vessel and the containers were transported to Hind Terminals Pvt. Ltd., CFS, Mundra. The containers were placed at Shutter No. 08 of warehouse no.1 of Hind Terminals Pvt. Ltd, CFS, Mundra and examination of the goods was carried out under Panchnama dated 02.09.2024 **[RUD-3]**, in the presence of independent Panchas; Shri Makupalli Ramakrishna, Assistant Operation Manager; Goodrich Maritime Private Limited, Gandhidham and Shri Bipin Maheshwari, Manager Operations, Hind Terminals Pvt. Ltd. CFS.

3. Whereas, upon arrival of the Containers in Hind Terminals Pvt. Ltd, CFS, Mundra on 31.08.2024, the weighment of the Containers were done at CFS weighbridge. The details of the same are as follows:-

Container Number	Net Weight of cargo contained in the container (inclusive of packing material)	Weight of the container	Total weight of the container plus cargo
EASU9694987	26210.00 Kgs	3890.00 Kgs	30100.00 Kgs
TGHU6036630	28530.00 Kgs	3890.00 Kgs	32420.00 Kgs

4. Whereas, during the examination, the Seals of both the Containers were found in intact position and matched with the details as mentioned on Bill of Lading No. VASJEAMUN012089 dated 25.07.2024, and found it in order. Thereafter, the seals intacted on both the Containers were cut with the help of seal cutter. Upon opening the gates of the containers, it was found that the containers were stuffed upto the gate with white coloured Jumbo Bags. Upon further looking inside the Jumbo Bags, the Jumbo bags were found to be stuffed with brown coloured used jute gunny bags. Thereafter, all the Jumbo bags were destuffed from the containers in the warehouse with Forklift machine. Thereafter, all the Jumbo bags were de-stuffed one by one with the help of labours. During the de-stuffing of Jumbo bags, in presence of the Panchas, it came to notice that some bags were stuffed with used white colour PP bags in addition to brown coloured jute gunny bags. All the bags stuffed inside the Jumbo bags were de-stuffed and were placed stack-wise inside the warehouse. Thereafter, the jute gunny bags and the white coloured PP bags were cut open and

both type of bags were found to be stuffed with Split Areca Nuts. The details of the items found during the examination inside both the containers are as under:-

Items found during the examination of cargo imported under B/L No VASJEAMUN012089 dated 25.07.2024				
S.No	Container No	Item found inside the container	No of Jumbo Bags	No of Jute Gunny bags and PP Bags.
1	EASU9694987	Split Arecanut	44	342
2	TGHU6036630	Split Arecanut	44	384
Total			88	726

Total quantity (Net Weight) of goods found in the container covered under the said consignment is as under:

Container No	Quantity (Gross weight) of declared goods (PVC regrind) declared as per B/L	Quantity (net weight inclusive of packing material) of Split Areca Nut found concealed in the subject consignment
EASU9694987	25,000 Kgs	26,210.00 Kgs
TGHU6036630	25,000 Kgs	28,530.00 Kgs
Total	50,000 Kgs	54,740.00 Kgs

5. Investigations undertaken

5.1 Whereas, subsequently to the examination of the cargo pertaining to SEZ Warehousing Bill of Entry No. 1010387 dated 20.08.2024, Customs Kandla Commissionerate was requested to carry out search at the premises of importer i.e. M/s. Shiv Trading Co. located at Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch. Assistant Commissioner, SIIB, Custom House, Kandla, vide letter dated 04.09.2024 **[RUD-4]** informed that search at the premises was conducted on 03.09.2024 and enclosed therewith Panchnama dated 03.09.2024 and Seizure Memo dated 03.09.2024. During the course of search proceedings, the officers found that there were numerous large plastic bags which apparently contained plastic granules and plastic regrind and small plastic bags containing dried dates.

6. During the course of investigation, Statement of Shri Shailesh Babulal Lavadiya, Authorized representative of M/s. Shiv Trading Co., was recorded on 04.09.2024 **[RUD-5]**, wherein, he inter-alia stated that:-

- He had entered into verbal agreement with Shri Bishan Singh, Proprietor of M/s. Shiv Trading Co., as per which, he ran warehousing business from premises of M/s. Shiv Trading Co. located at SPL CIB Type GF and FF, Shed No. 167, Phase-1, Sector-II, KASEZ, Gandhidham, Kutch, Gujarat – 370230. M/s Shiv Trading Co is a warehouse unit and is registered in Kandla SEZ, having GST No. 24GPNPS5042J1ZE. All income from the business of warehousing accrues to him and all expenses related to warehousing of goods are borne by him. To give effect to this verbal agreement, he had been made authorized to transact business; file customs documents relating to import and export of goods on behalf of Indian and foreign clients, conduct clearance thereof; submit

documents on their behalf in the office of Development Commissioner and subordinate authorities at KASEZ and represent them in the office of Development Commissioner in conduct of business, vide letter of authority dated 20.03.2024 submitted to the Development Commissioner, KASEZ by Shri Bishan Singh, Proprietor of M/s. Shiv Trading Co;

- He used to go to KASEZ for his business of providing manpower. Shri Bishan Singh was having warehouse at SPL CIB Type GF and FF, Shed No. 167, Phase-1, Sector-II, KASEZ, Gandhidham, Kutch, Gujarat – 370230. He met him there in relation to his business of providing manpower. Shri Bishan Singh informed that his warehouse business was not doing well and was not able to meet expenses. He offered Shri Shailesh Lavadiya to handle the warehousing business on his own, to which Shri Shailesh Lavadiya agreed and accordingly Shri Bishan Singh authorized Shri Shailesh Lavadiya vide authority letter dated 20.03.2024;
- He had asked many of his acquaintances for warehousing work as he had started the business of warehousing of goods. These parties contacted him on his email address shivtradingkasez@gmail.com. The said e-mail address is exclusively used by him;
- They have received goods for warehousing only from two parties i.e (i) M/s Daily Trade General Trading LLC, P.O.Box No 13492, RM-13, 2nd Floor, AL Ahrar Building, Hor, AZ ANZ, Near Al Bayan Kitchen Deira, Dubai, UAE (ii) M/s Kira General Trading Co. L.L.C, AL Mulla Plaza, Suite Number 3, Second Floor, AL Itthiad Road, AL Quasis AL Nahda1, Dubai, UAE. He files bills of entry in respect of consignments sent by these parties and stores the goods in warehouse located in KASEZ;
- Total four bills of entry for warehousing were filed by him [BE No.1006353 dated 17.05.2024, 1007864 dated 13.06.2024, 1008939 dated 05.07.2024 and 1009398 dated 18.07.2024]. Crush Salt Pink/Black and PVC Granules were imported vide the above bills of entry;
- He had filed warehousing bill of entry no. 1010387 dated 20.08.2024 in respect of goods covered under bill of lading no. VASJEAMUN 012089 dated 25.07.2024. Description of the goods as declared in the said bill of entry is “PVC Regrind (39041090) –Others”;
- He had declared the goods as “PVC Regrind(39041090)–Others” in bill of entry no. 1010387 dated 20.08.2024 on the basis of commercial invoice DT00580 dated 09.07.2024 issued by M/s. Daily Trade General Trading LLC and packing list dated 09.07.2024. Further, Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC had also informed that the goods are “PVC Regrind”;
- Shree Zeeshan Ali Siddiqui looks after the goods sent by M/s. Daily Trade General

Trading LLC. He is the contact person from M/s. Daily Trade General Trading LLC in relation to the goods sent by them. Shri Shailesh Lavadiya does not know his relation with M/s. Daily Trade General Trading LLC;

- He did not know that the goods covered under bill of lading no. VASJEAMUN012089 dated 25.07.2024 were "Split Arecanut". He had declared goods as "PVC Regrind (39041090) – Others" in Bill of Entry No. 1010387 dated 20.08.2024, on the basis of commercial invoice DT00580 dated 09.07.2024 issued by M/s. Daily Trade General Trading LLC and packing list dated 09.07.2024;
- Shree Bishan Singh had no role to play in the mis-declaration as entire operation related to warehousing business was looked after by him and Shri Bishan Singh had no knowledge of mis-declaration in bill of entry No. 1010387 dated 20.08.2024;
- He does not have any employees, he alone looks after the entire work of warehousing without assistance/help from anyone;

7. Whereas, all the acts committed by them as described above are in contravention of the provisions of the Customs Act, 1962 and the rules made thereunder. Accordingly, it appears that Shri Bishan Singh and Shri Shailesh Babulal Lavadiya have rendered the goods liable to confiscation by knowingly concerning themselves with the removal, depositing, harbouring, keeping, concealing, and dealing with misdeclared goods, i.e., Areca Nuts, thereby violating the provisions of the Customs Act, 1962 and the rules made thereunder. Hence, the goods are liable to confiscation under Section 111 of the Customs Act, 1962, and they have also rendered themselves liable to penalty under Section 112(a) and (b) of the said Act.

8. During the course of investigation, Statement of Shri Bishan Singh, Proprietor of M/s. Shiv Trading Co., was also recorded on 11.09.2024 **[RUD-6]**, wherein, he inter-alia stated that:-

- He is proprietor of M/s. Shiv Trading Co., 1066/8, Gandhi Gali Fatehpuri, Khari Baoli, Central Delhi, Delhi, 110006 (GSTIN 07GPNPS5042J1ZA). He used to do trading of Dates (Khajur) till 2020, after that, he stopped doing business in that firm and have been filing NIL GST returns since then;
- HE had also set up warehousing unit in KASEZ, Kandla located at Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch-370230 and had also obtained GST registration 24GPNPS5042J1ZE for the same. He used to do warehousing for various clients till December 2023. As he was not able to meet rent of the warehouse, he stopped warehousing business and authorized Shri Shailesh Lavadiya s/o Babulal Lavadiya, to do warehousing business from warehousing unit located at SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch- 370230. He had entered into verbal agreement with Shri Shailesh Lavadiya, as per which, he was to run warehousing business from premises of M/s. Shiv Trading Co. located at SPL CIB Type GF and FF, Shed No. 167, Phase-1, Sector-II, KASEZ, Gandhidham, Kutch, Gujarat – 370230 and all income from the business of warehousing would accrue to him and all expenses related to warehousing of goods like rent, electricity and all other expenses were to be borne by him.

- To give effect to this verbal agreement, he had authorized Shri Shailesh Lavadiya to transact business; file customs documents relating to import and export of goods on behalf of Indian and foreign clients, conduct clearance thereof; submit documents on in the office of Development Commissioner and subordinate authorities at KASEZ and represent them in the office of Development Commissioner in conduct of business, vide letter of authority dated 20.03.2024 submitted to the Development Commissioner, KASEZ;
- He did not know for whom Shri Shailesh Lavadiya does warehousing business. He did not have any knowledge of the business being undertaken by Shri Shailesh Lavadiya;
- He had no knowledge of the goods covered under bill of lading no. VASJEAMUN012089 dated 25.07.2024 as warehousing business from warehousing unit belonging to M/s. Shiv Trading Co. located at SPL CIB Type GF and FF, Shed No. 167, Phase-1, Sector-II, KASEZ, Gandhidham, Kutch, Gujarat – 370230 is being undertaken by Shri Shailesh Lavadiya.

9. Whereas, all the acts committed by them as described above are in contravention of the provisions of the Customs Act, 1962 and the rules made thereunder. Accordingly, it appears that Shri Bishan Singh and Shri Shailesh Babulal Lavadiya have rendered the goods liable to confiscation by knowingly concerning themselves with the removal, depositing, harbouring, keeping, concealing, and dealing with mis-declared goods, i.e., Areca Nuts, thereby violating the provisions of the Customs Act, 1962 and the rules made thereunder. Hence, the goods are liable to confiscation under Section 111 of the Customs Act, 1962, and they have also rendered themselves liable to penalty under Section 112(a) and (b) of the said Act.

10. Whereas, during the course of investigation, Statement of Shri Suresh Kumar, Deputy Manager, Import Documentation of M/s. Goodrich Maritime Private Limited, was recorded on 24.10.2024 **[RUD-7]**, wherein, he inter- alia stated that:

- M/s Vasco Maritime Global LLC, UAE, had booked the container nos. EASU9694987 and TGHU6036630 on enquiry from the freight forwarder M/s. MNJ Shipping LLC, UAE and they had further sent the booked containers to the shipper M/s. Daily Trade General Trading LLC., PO Box No 13942, RM-13, 2nd Floor, Al Ahirar Building, HOR AZ ANZ Al Bayan Kitchen Deira, Dubai, United Arab Emirates, as per their request;
- They had received list of containers and estimated time of arrival (ETA) from Shipping Line M/s. Unifeeder vide their e-mail dated 26.07.2024. The container nos EASU9694987 and TGHU6036630 had arrived at Mundra Port on 31.07.2024 per vessel ITAL Universo/169E IGM No.2383847 dated 29.07.2024 which was filed by shipping agent M/s. Unifeeder;
- They had sent arrival notice to the consignee of M/s. Shiv Trading Co. on their e-mail address shivtradingkasez@gmail.com vide our e-mail dated 30.07.2024. In response, the consignee M/s. Shiv Trading Co. vide their email dated 20.08.2024 submitted KYC documents, viz. KYC form in our company's format, copy of GST registration, copy of the PAN card of the proprietor Shri Bishan Singh, copy of the aadhaar card of the proprietor Shri Bishan Singh, copy of Import Export Certificate, LoA extension letter dated 22.02.2022 issued by KASEZ authorities;
- Shri Shailesh Lavadiya was the contact person from the consignee M/s. Shiv Trading Co. He had contacted Shri Shailesh Lavadiya on his mobile no. 9638558098 subsequent to the arrival of containers at Mundra port as there was no response from

the consignee after arrival of the containers and he was requested to submit KYC documents, which were submitted vide e-mail dated 20.08.2024 through e-mail address shivtradingkasez@gmail.com;

- They had not received any bookings either from M/s. Shiv Trading Co. i.e. consignee or M/s. Daily Trade General Trading LLC., UAE.

a. An e-mail dated 02.09.2024 was received from Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC [RUD-8], wherein, he inter-alia stated that:-

- Daily Trade General Trading LLC are dealing with various items like PVC materials of various grades, PVC sheets, dates, nuts , Arecanuts , salts etc.;
- They are into international trading and do most of the trading from FTWZ in the UAE, Middle East and Africa. Recently, they have made an agreement with a FTWZ Unit in Kandla Free Zone for availing their duty free warehousing services at Kandla. They have few queries of PVC related items from Indian buyers. The name of FTWZ company is Shiv Trading Co. This agreement is made mainly for trading of PVC and allied items in India and neighboring countries. They have recently commenced our business with them;
- He was not having good health for the last few months and had serious bronchial issues and was not able to look after his work. In his absence, the dispatch staff by mistake dispatched a consignment of 2 containers loaded with Areca nuts packed for a Pakistani by mistake to Kandla FTWZ, India. The shipment for India, Kandla FTWZ is of PVC material and packed in jumbo packing;
- They had to check it only after receiving mail from Shiv Trading co. On 30th August. Further, he could not attend their calls because he was very sick, so did not know about our mistake before;
- Mistake of sending the wrong shipment of Areca nuts to India instead of PVC material is of his staff and he took full responsibility. He was also ready to pay any fine for this mistake;
- The Indian Kandla FTWZ warehouse unit had no role of any kind in this mistake. Shiv trading co. is totally out of this. The mistake is theirs and they are accountable for this.

11. Vide e-mails dated 15.10.2028 and 28.10.2028 [RUD-9], Shri Zeeshan Ali Siddiqui was asked to answer questions given in the attached questionnaire, however, he did not respond to the e-mails.

12. During the course of investigation, Summons dated 05.12.2024 was issued to Shri Shailesh Lavadiya, the said summons was returned undelivered by postal authorities with the remarks "Left". Another summons dated 27.12.2024 was issued to Shri Shailesh Lavadiya through post and e-mail [RUD-10].

13. As per the e-mail dated 02.09.2024 received from Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC and the investigation undertaken, it appears that the SEZ unit is engaged in the warehousing of the goods for M/s. Daily Trade General Trading LLC. Invoice and packing list were issued by them and based on which the importer had filed Bill of Entry 1010387 dated 20.08.2024. As per the provisions of Section 46(4A), the importer who presents bill of entry, is required to ensure (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. Accordingly, it appears that M/s. Shiv Trading Co. are responsible for mis-declaration of goods Bill of Entry No. 1010387 dated 20.08.2024 and Bill of Lading No. VASJEAMUN012089 dated 25.07.2024.

14. During the examination, the goods were found to be 54,740 Kgs Split Arecanuts. Therefore, the goods imported in container no. EASU9694987 and TGHU6036630, viz 54,740 kgs Split Arecanuts were placed under seizure vide Seizure Memo dated 02.09.2024 [RUD-11] under Section 110 of the Customs Act, 1962 and custody of the said seized goods was handed over to Mundra CFS, Mundra.

15. Valuation

15.1 In Bill of Entry 1010387 dated 20.08.2024 (Bill of Lading no. VASJEAMUN012089 dated 25.07.2024), the goods have been declared as "PVC Regrind (39041090) – Others" and value was declared as Rs.19,15,221.48.

15.2 Based on investigations conducted in the matter, it is noticed that the importer has mis-declared the imported goods in terms of classification and value. Therefore, it appears that the importer has contravened Section 14 and Section 46 of the Customs Act, 1962 read with Rule 11 of Customs Valuation (Determination of value of imported goods) Rules, 2007 (hereinafter referred to as 'CV Rules' for the sake of brevity) in as much as they failed to declare correct classification and value of the goods in the Customs document filed by them. The value declared by the importer under Rule 3 of the CV Rules appears to be liable to be rejected in terms of Rule 12 of the CV Rules. The goods imported are found to be "Split Arecanuts" and are appropriately classifiable under CTH 08028020.

The Areca nuts have been notified under Section 14(2) of the Customs Act, 1962. As per Notification No.54/2024-CUSTOMS (N.T.) dated 14.08.2024, tariff value of US\$ 6868 has been fixed in respect of Arecanuts. Further, as per Exchange Rate Notification No. 4/2024, rate of exchange for US\$ for imported goods is Rs. 84.85. Therefore, the value of the impugned goods in terms of the above-mentioned notifications has been determined as Rs. 3,18,99,724/- in as follows in Table-D:-

Table-D

Goods found	Total Quantity found in MT	Unit price as per Tariff Value Notification dated 30.08.2024 (In USD/MT)	Exchange rate as per Notification dated 20.06.2024 (in Rs.)	Assessable Value (In Rs.)
Split Areca nuts	54.74	6868	84.85	3,18,99,724

16. The relevant legal provisions, in so far as they relate to the facts and circumstances of the subject imports, are as under: -

16.1 Section 2(23) defined the terms "import":

"import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

16.2 Section 2(23) defined the terms "smuggling":

"smuggling", in relation to any goods, means any act or omission which will render

such goods liable to confiscation under section 111 or section 113;

16.3 Section 2(33) defined the terms "Prohibited Goods":

"prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

16.4 Section 111 : Confiscation of improperly imported goods, etc.–

The following goods brought from a place outside India shall be 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;

...

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(m) 2[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 3 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];

16.5 Section 112 : Penalty for improper importation of goods, etc.

Any person,—

- a. *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
- b. *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,*
 - i. *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, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;*

- 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 219 [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 220 [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.*

16.6 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.

16.7 Section 119. Confiscation of goods used for concealing smuggled goods.

Any goods used for concealing smuggled goods shall also be liable to confiscation. Explanation.—In this section, —goods □ does not include a conveyance used as a means of transport.

16.8 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 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] [Inserted by Act 80 of 1985, Section 9 (w.e.f. 27.12.1985).] an option to pay in lieu of confiscation such fine as the said officer thinks fit:[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply: Provided further that] [Substituted by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.] without prejudice to the provisions of the proviso to sub-section*
2. *of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.* [\(2\)](#)

[Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges, payable in respect of such goods.] [Substituted by Act 80 of 1985, Section 9, for sub-Section (2) (w.e.f. 27.12.1985).]

[\(3\)](#)*[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.*

16.9 DGFT vide Notification No.57/2015-2020 dated 14.02.2023:-

The Central Government hereby amends the Import Policy and policy Condition of items under Chapter 8 and Chapter 21 of Schedule-I (Import Policy) of ITC (HS) 2022, as under:-

ITC (HS) Codes	Description	Existing Import Policy	Revised Import Policy	Existing Policy Condition	Revised Policy Condition
08028010	- Areca nuts-- Whole	Prohibited	Prohibited	However, import is free if CIF value is Rs.251/ and above per Kilogram	<p>a. However, import is Free if CIF value is Rs.351/- or above per Kilogram.</p> <p>b. MIP Conditions, however, will not be applicable for imports by 100% Export Oriented Units (EOUs) and units in the SEZ subject to the condition that no DTA sale is allowed.</p>

Roles and Penalties: -**17. ROLE AND CULPABILITY OF IMPORTER I.E. M/s Shiv Trading Co**

As per the facts and evidences discussed supra, it is evident that the importer M/s Shiv Trading Co had improperly imported "Split Arecanut" instead of "PVC Regrind (39041090) – Others" under the Bill of Entry No. 1010387 dated 20.08.2024 having bill of lading no.VASJEAMUN012089 dated 25.07.2024 and thus misclassified the imported goods in terms of classification and value. Therefore, the importer appeared to have contravened Section 14 and Section 46 of the Customs Act, 1962 read with Rule 11 of Customs Valuation (Determination of value of imported goods) Rules, 2007. The goods imported are found to be "Split Arecanuts" and are appropriately classifiable under CTH 08028020.

17.1 Furthermore, the importer/any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable for confiscation under section 111 of the Customs Act, 1962 or abets the doing or omission of such an act, is liable to penalty under Section 112 (a) of the Customs Act, 1962 as the said importer mis-classified the imported goods in terms of classification and value. Further, from the facts of the case, it appears that the importer has concerned themselves with removing the goods mis-classified and the same would have not been come in the knowledge of the Customs Authority/Department if the Department had not initiated the investigation against them and thus the mis-classified goods which were liable to confiscation under the provisions of Section 111 of the Act ibid rendering themselves liable for penalty u/s 112(a) and 112(b) of the Customs Act, 1962. It is also a fact on record that the particulars as mentioned in the Bill of Entry No. 1010387 dated 20.08.2024 and Bill of Lading no.VASJEAMUN012089 dated 25.07.2024 were incorrect in as much as the goods found during the examination i.e. "Split Areca Nuts" were not mentioned therein attracting penalty u/s 114AA of the Act, ibid.

17.2 ROLE AND CULPABILITY OF Shri Bishan Singh, Proprietor of M/s. Shiv Trading, Shri Shailesh Babulal Lavadiya, Authorized Representative of M/s. Shiv Trading Co. and Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC

Being the Proprietor of M/s Shiv Trading Co, Shri Bishan Singh was whole and sole controller of the firm and authorized Shri Shailesh Lavadiya as a representative of M/s Shiv Trading Co and to do transaction, file customs documents relating to import and export of goods, conduct clearance thereof, submit documents on in the office of Development Commissioner and subordinate authorities at KASEZ and represent them in the office of Development Commissioner in conduct of business, shows the effective control in collaboration with Shri Shailesh Lavadiya. Even, during the course of investigation, subsequent Summons dated 05.12.2024 and another Summons dated 27.12.2024 was issued to Shri Shailesh Lavadiya through post and e-mail, however, the said summons was returned undelivered by postal authorities with the remarks "Left". Thus, he did not appeared before the authority for tendering Statement or producing documentary evidences and thus not extended co-operation in the subjected investigation matter. Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC vide e-mail dated 02.09.2024 agreed with the fact that the goods exported by them to M/s Shiv Trading Co were Areca Nuts stuffed in two containers. Thus, it appears that Shri Bishan Singh, Shri Shailesh Lavadiya and Shri Zeeshan Ali Siddiqui was well aware that the characteristic of the goods were of Split Areca Nuts, although the Bill of Entry No. 1010387 dated 20.08.2024 having bill of lading no.VASJEAMUN012089 dated 25.07.2024 filed by M/s Shiv Trading Co for the import of 49 MT of goods and to be cleared by resorting to mis-declaring the goods as "PVC REGRIND (39041090) – Others". Thus, they had knowingly and intentionally made a declaration under the Bill of Entry and on other documents viz. Bill of Lading, Invoice etc. which were false and incorrect. Accordingly, it appears that the investigation brought to light a meticulously orchestrated conspiracy involving importer Shri Bishan Singh, intermediary/representative Shri Shailesh Babulal Lavadia and foreign seller party Shri Zeeshan Ali Siddiqui, all of whom acted in concert to attempt illegal import of prohibited goods "Split Arecanut" and joined their hands in glove for a unanimous purpose and resorting to mis-declaration of description, quantity, value, abuse of Bill of Entry documentation to circumvent statutory provisions. Thus, all of them actively participated in, abetted or failed to exercise mandated due diligence thereby facilitated the illegal import attempt. Thus, it appears to be of outright case of smuggling of "Split Areca Nuts" in the country which has been a widespread crackdown as this is high evasion prone commodity and therefore, M/s Shiv Trading Co. and all of three individuals as stated above are the actual beneficiaries as per factual matrix of the case. Hence, they have committed offences of the nature as described under the Section 112(a), 112(b), 114 AA of the Customs Act, 1962 and have consequently rendered themselves liable to penalty under the said Section 112(a), 112(b), 114 AA of the Customs Act, 1962.

18 In view of the above discussion, the following outcome is forthcoming:

1. The above-mentioned goods i.e. Split Areca Nuts valued at Rs.3,18,99,724/- is liable for confiscation under Section 111(d), 111 (f), 111 (i) and 111(m) of the Customs Act, 1962, since, any dutiable or prohibited goods required to be

mentioned under the regulations in an import manifest or import report which were not mentioned by the importer properly in SEZ Bill of Entry No. 1010387 dated 20.08.2024 in respect of goods covered under bill of lading no. VASJEAMUN012089 dated 25.07.2024, in as much as, the goods found to be “Split Areca nuts” [CTH 08028020] instead of “PVC REGRID (39041090) – Others”.

2. The seized goods are liable to confiscation under Section 111(d), 111 (f), 111 (i) and 111(m) of the Customs Act, 1962 and it appears that the importer have rendered themselves liable for penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. Further, it appears that the importer is liable for penalty u/s 114AA of the Act ibid in as much as the particulars/details filed in the import documents were found to be incorrect in as much as the goods mentioned in documents viz. Bill of Lading and Bill of Entry, Quantity and description of the goods were not proper and, mis-declared.
3. Shri Bishan Singh, Proprietor of M/s. Shiv Trading Co., Shri Shailesh Babulal Lavadiya, Authorized Representative of M/s. Shiv Trading Co. and Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC, Dubai are liable to penalty under Section 112(a), 112(b) and 114 AA of the Customs Act, 1962, since it appears to be of outright case of smuggling of “Split Areca Nuts” and all of three individuals are the actual beneficiaries as per factual matrix of the case.

19. In view of foregoing, M/s. Shiv Trading Co. [IEC: GPNPS5042J], Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch- 370230, is hereby called upon to show cause to the Additional Commissioner of Customs, Customs House, Kandla, having his office situated at Custom House, Kandla, within thirty days from the receipt of this notice as to why:-

- i. 54,740 kgs “Split Areca Nuts” [CTH 08028020] valued at Rs. 3,18,99,724/- (Rupees Three Crore Eighteen Lakh Ninety-Nine Thousand and Seven Hundred Twenty-four Only) should not be confiscated under Section 111(d), 111 (f), 111 (i) and 111(m) of the Customs Act, 1962;
- ii. Penalty should not be imposed upon them under the provisions of Section 112(a), 112(b) and 114 AA of the Customs Act, 1962;

20. In view of foregoing, the following individuals as appearing below are is hereby called upon to show cause to the Additional Commissioner of Customs, Customs House, Kandla, having his office situated at Custom House, Kandla, within thirty days from the receipt of this notice as to why:-

- a. Penalty should not be imposed upon Shri Bishan Singh, Proprietor of M/s Shiv Trading Co. under the provisions of Section 112(a), 112(b) and 114 AA of the Customs Act, 1962;
- b. Penalty should not be imposed upon Shri Shailesh Babulal Lavadiya, Authorized Representative of M/s Shiv Trading Co under the provisions of Section 112(a), 112(b) and 114 AA of the Customs Act, 1962;
- c. Penalty should not be imposed upon Shri Zeeshan Ali Siddiqui, M/s Daily Trade General Trading LLC, Dubai under the provisions of Section 112(a), 112(b) and 114 AA of the Customs Act, 1962;

21. This show cause notice is being issued without prejudice to any other action that

may be taken against the noticee to this show cause notice or any other person(s) whether mentioned herein above or not under the Customs Act, 1962 or any other law for the time being in force in India.

22. The department reserves the right to add, amend, modify or delete any part or portion of this notice any such addition, amendment, modification or deletion if made shall be deemed to be part and parcel of this notice.

23. The notices are directed to submit their written replies within the stipulated time of 30 days from the date of receipt of this notice. In their replies they should clearly state whether they wish to be heard in person or not. If no cause is shown within the stipulated time or within such other time as may be provided by the adjudicating authority on a request being made in that regard, or, if they do not appear when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences available on record without making any further reference to them.

Additional Commissioner
Custom House, Kandla

To,

1. M/s. Shiv Trading Co. [IEC: GPNPS5042J] Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch-370230
2. Shri Shailesh Lavadiya, Authorised Representative of M/s. Shiv Trading Co. Shed No 167, SPL.CIB Type, GF & FF Phase –I, Sector II, Kandla SEZ, Gandhidham, Kutch-370230
3. Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC, P.O. Box No 13492, RM-13, 2nd Floor, AL Ahrar Building, Hor, AZ ANZ, Near Al Bayan Kitchen Deira, Dubai, UAE. IGM No. 2383847
4. The Additional Commissioner (Adjudication), Customs, Kandla Commissionerate.
5. The Additional Commissioner, SIIB, Custom House, Mundra.
6. The Superintendent (EDI) for uploading on the website
7. Guard File

Annexure-A

List of the documents relied upon for issuance of Show Cause Notice to M/s. Shiv Trading Co. [IEC: GPNPS5042J], Shed No 167, SPL.CIB Type, GF & FF Phase -I, Sector II, Kandla SEZ, Gandhidham,s Kutch-370230, in respect of goods imported in Container No. EASU9694987 and TGHU6036630 vide SEZ Warehousing Bill of Entry No. 1010387 dated 20.08.2024 [Bill of Lading no. VASJEAMUN012089 dated 25.07.2024]:-

Sr. No.	Description of the document	Remarks
1.	SEZ Warehousing Bill of Entry No. 1010387 dated 20.08.2024	Copy enclosed
2	Bill of Lading No. VASJEAMUN012089 dated 25.07.2024	Copy enclosed
3.	Panchnama dated 02.09.2024	Copy enclosed
4.	Assistant Commissioner, SIIB, Custom House, Kandla's letter dated 04.09.2024	Copy enclosed
5.	Statement of Shri Shailesh Babulal Lavadiya, Authorized representative of M/s. Shiv Trading Co., dated 04.09.2024	Copy enclosed
6.	Statement of Shri Bishan Singh, Proprietor of M/s. Shiv Trading Co, dated 11.09.2024	Copy enclosed
7.	Statement of Shri Suresh Kumar, Deputy Manager, Import Documentation of M/s. Goodrich Maritime Private Limited, dated 24.10.2024	Copy enclosed
8.	E-mail dated 02.09.2024 received from Shri Zeeshan Ali Siddiqui of M/s. Daily Trade General Trading LLC	Copy enclosed
9.	E-mails dated 15.10.2028 and 28.10.2028 sent to Shri Zeeshan Ali Siddiqui	Copy enclosed
10.	Summons dated 05.12.2024 and 27.12.2024 was issued to Shri Shailesh Lavadiya	Copy enclosed
11	Seizure Memo dated 02.09.2024	Copy enclosed