कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात-370421

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.

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A. File No.	GEN/ADJ/COMM/85/2023-Adjn-O/o Pr Commr-Cus-mundra
B. Order-in-Original No.	**MUN-CUSTM-000-COM- 43 -26-27**
C. Passed by	Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	19.11.2026 19.11.2026
E. SCN No. & Date	GEN/ADJ/COMM/85/2023-Adjn-O/o Pr Commr-Cus-mundra Dated 08.05.2023
F. Importer	M/s. Aryan International

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 129A(1) 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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

"केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004"

"Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004."

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 साथ -/ 1000रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रुपये का शुल्क

टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

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 CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 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, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal 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:

Whereas, M/s. Aryan International, 340, Vardhman Premier Mall, Outer ring road, Deepali Chowk, Pitampura, New Delhi- 110034 (IEC No. 0512091528) (hereinafter referred to as **Noticee**), a partnership firm with Shri Rahul Dawar and Shri Parveen kumar as its Partner, was engaged in export of readymade garments to various countries and availing benefits of drawback and focus market schemes. They claimed to have exported goods to notified countries, as per foreign trade policy and availed duty credit scrips equivalent to 3% and 4% of FOB value of exports under the Focus Market Scheme (FMS).

2. For offsetting high freight cost and other externalities to select international markets and with a view to enhance India's export competitiveness in these countries, the Ministry of Commerce and Industry had launched "Focus Market Scheme" w.e.f. 01.04.2006, under which exporters of all products were entitled for duty credit scrip equivalent to 3% of FOB

value of exports for goods exported to notified countries (as listed in Appendix 37C of HBP vol.1 of Foreign Trade Policy). Further, Special Focus Market Scheme was introduced w.e.f. 01.04.2011 with a view to increase the competitiveness of exports with geographical targeting. The markets were categorized into three groups, namely Latin American, African and 07 CIS countries viz. Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan & Uzbekistan and if a commodity covered under SFMS was exported to the countries listed under SFMS, the total duty credit available would be @ 4% of the FOB value of exports.

3. Intelligence developed by the officers of Directorate of Revenue Intelligence (DRI), indicated that M/s. Aryan International had fraudulently availed Focus Market Scheme benefits, wherein consignee country was deliberately mis-declared by them for the purpose of availing undue benefit under the Focus Market Scheme. It was gathered that M/s. Aryan International had adopted this modus operandi mainly in respect of purported exports to Ethiopia. However, the goods had never travelled to the destination shown on the export documents but were diverted to countries not covered under the Focus Market Scheme.

3.1 It was gathered that the modus operandi adopted by the exporter was that after receiving let export order (LEO) from the Customs, TR-1 and TR-2 copies of shipping bills were manually and fraudulently amended to show the country of destination as Dubai and containers were booked for Jebel Ali port and goods were delivered to the consignees based in United Arab Emirates only and these goods never reached the declared destinations covered under the Focus Market Scheme viz. Ethiopia.

4. During investigation, documents were obtained from the Office of the Commissioner of Customs, Mundra Customs, which included some TR-1/TR-2 copies of Shipping Bills filed by the Noticee and on scrutiny of these, it was noticed that the port of discharge had been manually changed from *'Awassa'* to *'Jebel Ali'* and the country of destination had been manually changed from *'Ethiopia'* to *'Dubai'* by appending purported signatures along with a stamp of Superintendent of Customs, Export-Shed, ICD, TKD, Delhi. However, electronic data maintained in ICEGATE (Indian Customs Electronic Gateway) revealed that the port of discharge and Country of final destination were being shown as Awassa and Ethiopia respectively which clearly showed that the manual amendments made on the face of the Shipping Bills purportedly by Superintendent of Customs, ICD Tughlakabad, were fraudulent.

5. The inquiry was extended to the port of export from where all the consignments of the Noticee were shipped. The Container Corporation of India Ltd, the custodian of the port ICD Tuglakabad provided the name of Shipping Lines and Containers involved in shipment of the consignments of M/s Aryan International. Thereafter the inquiry was extended to the respective shipping lines viz. M/s APL (India) Pvt. Ltd and M/s Perma Shipping Line Pte. Ltd. which was involved in the shipping of consignments of M/s Aryan International. The Master Bill of Ladings provided by the said shipping lines clearly showed that the containers were destined for the port Jebel Ali.

6. The details of the consignments thus fraudulently exported by the Noticee are as mentioned in Table-1 below:

Table-1

	Declaration before CUSTOMS				Actual Destination as per the Master Bill of Ladings provided by respective Shipping Lines				
Sl. no.	**SB No.**	**SB Date**	**Country of Destination**	**Port of Destination**	**Container No.**	**Shipping line involved**	**Master Bill of Lading no.**	**Actual Port of destination**	**Actual Country of destination**
1	1518325	11-03-2014	Ethiopia	Awassa	APHU7236170	APL (India) Pvt Ltd	APLU501063084 dtd 04.04.2014 **(RUD-2)**	Jebel Ali	Dubai
2	1518326	11-03-2014	Ethiopia	Awassa	APHU7236170	APL (India) Pvt Ltd		Jebel Ali	Dubai
3	1518328	11-03-2014	Ethiopia	Awassa	APHU7236170	APL (India) Pvt Ltd		Jebel Ali	Dubai
4	2774900	17-05-2014	Ethiopia	Awassa	APHU7111240	APL (India) Pvt Ltd	APLU501074852 dtd 06.06.2014 **(RUD-3)**	Jebel Ali	Dubai
5	2774928	17-05-2014	Ethiopia	Awassa	APHU7111240	APL (India) Pvt Ltd		Jebel Ali	Dubai
6	2774931	17-05-2014	Ethiopia	Awassa	APHU7111240	APL (India) Pvt Ltd		Jebel Ali	Dubai
7	2774937	17-05-2014	Ethiopia	Awassa	APHU7111240	APL (India) Pvt Ltd		Jebel Ali	Dubai
8	2774948	17-05-2014	Ethiopia	Awassa	APHU7111240	APL (India) Pvt Ltd		Jebel Ali	Dubai
9	2774951	17-05-2014	Ethiopia	Awassa	APHU7111240	APL (India) Pvt Ltd		Jebel Ali	Dubai
10	2775537	17-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd		Jebel Ali	Dubai
11	2939691	26-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd	APLU501063635 dtd 20.06.2014 **(RUD-4)**	Jebel Ali	Dubai
12	**2939698**	**26-05-2014**	**Ethiopia**	**Awassa**	**GESU6104985**	**APL (India) Pvt Ltd**		**Jebel Ali**	**Dubai**
13	2939706	26-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd		Jebel Ali	Dubai
14	2939743	26-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd		Jebel Ali	Dubai
15	2939744	26-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd		Jebel Ali	Dubai
16	2939745	26-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd		Jebel Ali	Dubai
17	2939749	26-05-2014	Ethiopia	Awassa	GESU6104985	APL (India) Pvt Ltd		Jebel Ali	Dubai
18	3145041	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd	APLU501063712 dtd 22.06.2014 **(RUD-5)**	Jebel Ali	Dubai
19	3145043	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd		Jebel Ali	Dubai
20	3145044	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd		Jebel Ali	Dubai
21	3145045	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd		Jebel Ali	Dubai
22	3145047	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd		Jebel Ali	Dubai
23	3145048	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd		Jebel Ali	Dubai

24	3145049	06-06-2014	Ethiopia	Awassa	TCNU7999680	APL (India) Pvt Ltd		Jebel Ali	Dubai
25	3283532	13-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.	TKDJEA1404611 dtd 03.07.2014 **(RUD-6)**	Jebel Ali	Dubai
26	3284598	13-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
27	3284611	13-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
28	3284647	13-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
29	3285316	13-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
30	3290211	14-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
31	3290260	14-06-2014	Ethiopia	Awassa	CLHU8995860	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
32	3368337	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd	APLU501076183 dtd 29.06.2014 **(RUD-7)**	Jebel Ali	Dubai
33	3368349	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd		Jebel Ali	Dubai
34	3368358	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd		Jebel Ali	Dubai
35	3368380	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd		Jebel Ali	Dubai
36	3368383	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd		Jebel Ali	Dubai
37	3368386	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd		Jebel Ali	Dubai
38	3369336	18-06-2014	Ethiopia	Awassa	TCNU9595538	APL (India) Pvt Ltd		Jebel Ali	Dubai
39	4190518	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd	APLU501077567 dtd 17.08.2014 **(RUD-8)**	Jebel Ali	Dubai
40	4190542	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd		Jebel Ali	Dubai
41	4190552	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd		Jebel Ali	Dubai
42	4190600	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd		Jebel Ali	Dubai
43	4192737	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd		Jebel Ali	Dubai
44	4192757	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd		Jebel Ali	Dubai
45	4192811	01-08-2014	Ethiopia	Awassa	APHU7375854	APL (India) Pvt Ltd		Jebel Ali	Dubai
46	4587365	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd	APLU501063945 dtd 07.09.2014 **(RUD-9)**	Jebel Ali	Dubai
47	4587368	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai
48	4587424	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai
49	4589471	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai
50	4589472	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai

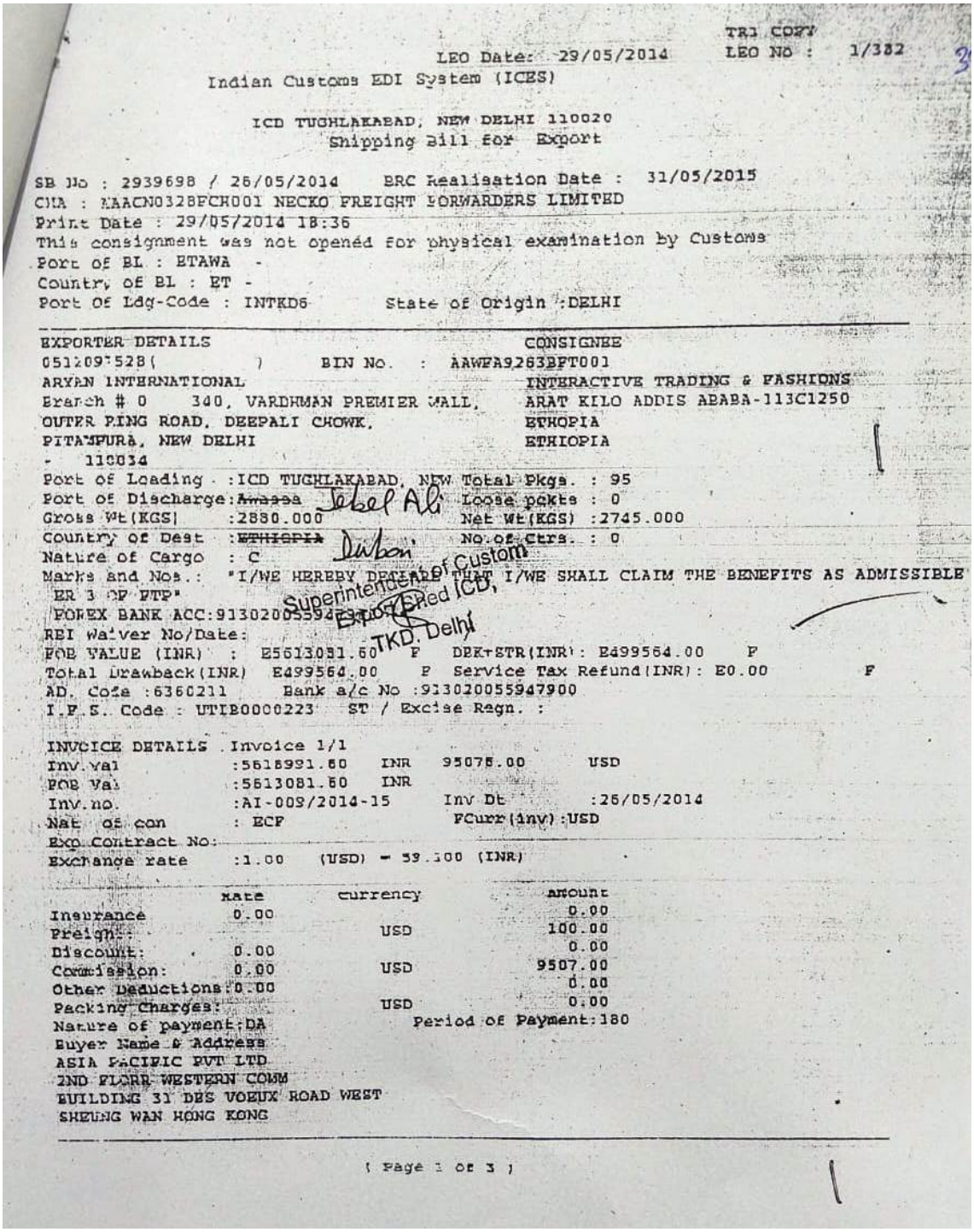
51	4589502	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai
52	4589503	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai
53	4600915	25-08-2014	Ethiopia	Awassa	APHU6169458	APL (India) Pvt Ltd		Jebel Ali	Dubai
54	4851045	06-09-2014	Ethiopia	Awassa	TRLU7132710	APL (India) Pvt Ltd	APLU501069049 dtd 28.09.2014 **(RUD-10)**	Jebel Ali	Dubai
55	4851046	06-09-2014	Ethiopia	Awassa	TRLU7132710	APL (India) Pvt Ltd		Jebel Ali	Dubai
56	4851047	06-09-2014	Ethiopia	Awassa	TRLU7132710	APL (India) Pvt Ltd		Jebel Ali	Dubai
57	4851048	06-09-2014	Ethiopia	Awassa	TRLU7132710	APL (India) Pvt Ltd		Jebel Ali	Dubai
58	4851050	06-09-2014	Ethiopia	Awassa	TRLU7132710	APL (India) Pvt Ltd		Jebel Ali	Dubai
59	4851051	06-09-2014	Ethiopia	Awassa	TRLU7132710	APL (India) Pvt Ltd		Jebel Ali	Dubai
60	9767863	30-01-2014	Ethiopia	Awassa	TCNU6936862	Perma Shipping Line Pte. Ltd.	TKDJEA1403955 dtd 17.02.2014 **(RUD-11)**	Jebel Ali	Dubai
61	9767864	30-01-2014	Ethiopia	Awassa	TCNU6936862	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
62	9767865	30-01-2014	Ethiopia	Awassa	TCNU6936862	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
63	9768205	30-01-2014	Ethiopia	Awassa	TCNU6936862	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
64	9768220	30-01-2014	Ethiopia	Awassa	TCNU6936862	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
65	9769683	30-01-2014	Ethiopia	Awassa	TCNU6936862	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
66	1059439	14-02-2014	Ethiopia	Awassa	CCLU6080577	Perma Shipping Line Pte. Ltd.	TKDJEA1404028 dtd 28.02.2014 **(RUD-12)**	Jebel Ali	Dubai
67	9802822	31-01-2014	Ethiopia	Awassa	GESU4899711	Perma Shipping Line Pte. Ltd.	TKDJEA1403942 dtd 14.02.2014 **(RUD-13)**	Jebel Ali	Dubai
68	9802823	31-01-2014	Ethiopia	Awassa	GESU4899711	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
69	9802824	31-01-2014	Ethiopia	Awassa	GESU4899711	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
70	9802869	31-01-2014	Ethiopia	Awassa	GESU4899711	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
71	9802881	31-01-2014	Ethiopia	Awassa	GESU4899711	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
72	9803071	31-01-2014	Ethiopia	Awassa	GESU4899711	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
73	9854265	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.	TKDJEA1403950 dtd 15.02.2014 **(RUD-14)**	Jebel Ali	Dubai
74	9854268	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
75	9854274	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
76	9854277	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
77	9854285	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai

78	9855097	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
79	9855857	04-02-2014	Ethiopia	Awassa	TTNU9179209	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
80	9896684	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.	TKDJEA1403994 dtd 21.02.2014 **(RUD-15)**	Jebel Ali	Dubai
81	9896694	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
82	9896716	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
83	9896738	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
84	9896745	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
85	9897504	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
86	9897505	06-02-2014	Ethiopia	Awassa	TGHU9550392	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
87	9969374	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
88	9969375	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
89	9969378	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
90	9969407	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
91	9969408	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
92	9969409	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
93	9969410	10-02-2014	Ethiopia	Awassa	CAIU8333463	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
94	9992973	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
95	9992974	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
96	9992977	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
97	9992981	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
98	9992983	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
99	9993024	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai
100	9993025	11-02-2014	Ethiopia	Awassa	TCNU8322170	Perma Shipping Line Pte. Ltd.		Jebel Ali	Dubai

Therefore, it came to light that the goods exported vide above mentioned shipping bills never reached the destination declared before the Customs and the DGFT for obtaining the FMS benefits i.e. Ethiopia but were diverted to Jebel Ali (Dubai) as evident from the Master Bills of Lading provided by the respective Shipping Lines and the fraudulently amended shipping bills obtained from the gateway port Mundra.

7. In order to fully appreciate the modus adopted by the noticee, documents related to one such shipping Bill no. 2939698 dated 26.05.2014 (**mentioned at Sr. no. 12 of Table-1**) filed by the noticee, wherein consignee was shown as M/s Interactive Trading & Fashions, Ethopia, is reproduced below. It is seen that after clearance of goods from Customs, fraudulent amendments were made on TR-1/ TR-2 Copies of shipping bill, wherein "port of discharge" was manually changed from " Awassa " to “Jebel Ali" and country of destination has been manually changed from " Ethiopia" to "Dubai" and a Custom stamp of Superintendent of Customs, Export-Shed, ICD, TKD, Delhi was appended thereon along with bogus signature of Customs officer and the container was booked for Dubai. Further, as per Master Bill of Lading no. APLU501063635 dtd 20.06.2014 issued by M/s APL (India) Pvt. Ltd., the said goods covered under Shipping Bill no. 2939698 dated 26.05.2014 was discharged at Jebel Ali and delivered to the consignee based in Dubai, U.A.E. only. Thus, it was fraudulently made to appear that goods were exported vide Shipping Bill no. 2939698 dated 26.05.2014 had been delivered to M/s Interactive Trading & Fashions, Ethiopia but perusal of Master BL No. APLU501063635 dtd 20.06.2014 issued by the Shipping Line M/s APL (India) Pvt. Ltd. for actual transportation of said goods revealed that the goods had been actually delivered to Dubai, UAE which was not a notified country for availment of export incentives under FMS.

(i) The fraudulently amended TR-1/TR-2 copy of Shipping Bill no. 2939698 dated 26.05.2014 stuffed in container no. GESU6104985 for export of goods to Dubai is reproduced as below:



TRI COPY

LEO Date: 29/05/2014 LEO No : 1/382

Indian Customs EDI System (ICES)

ICD TUGHLAKABAD, NEW DELHI 110020
Shipping Bill for Export

SB No : 2939698 / 26/05/2014 BRC Realisation Date : 31/05/2015
CHA : AACN0328FCH001 NECKO FREIGHT FORWARDERS LIMITED
Print Date : 29/05/2014 18:36
This consignment was not opened for physical examination by Customs
Port of BL : ETAWA -
Country of BL : ET -
Port of Ldg-Code : INTKD6 State of Origin :DELHI

EXPORTER DETAILS
0512097528( ) BIN No. : AAWFA9263BFT001
ARYAN INTERNATIONAL
Branch # 0 340, VARDHMAN PREMIER MALL,
OUTER RING ROAD, DEEPALI CHOWK,
PITAMPURA, NEW DELHI
- 110034

CONSIGNEE
INTERACTIVE TRADING & FASHIONS
ARAT KILO ADDIS ABABA-113C1250
ETHOPIA
ETHIOPIA

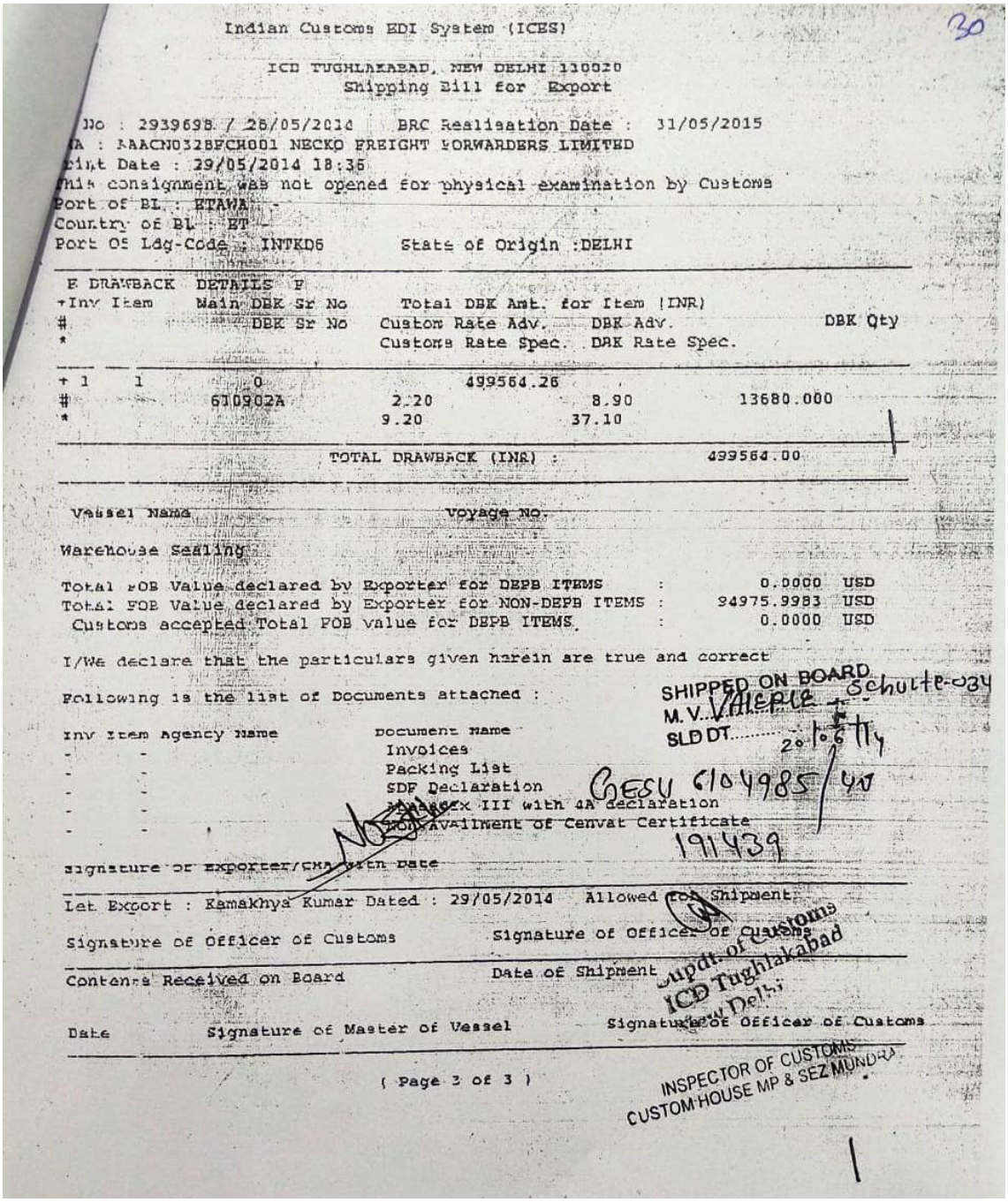
Port of Loading :ICD TUGHLAKABAD, NEW Total Pkgs. : 95
Port of Discharge:~~Amassa~~ Jebel Ali Loose pckts : 0
Gross Wt(KGS) :2880.000 Net Wt(KGS) :2745.000
Country of Dest :~~ETHIOPIA~~ Dubai, No.of Ctrs. : 0
Nature of Cargo : C
Marks and Nos.: "I/WE HEREBY DECLARE THAT I/WE SHALL CLAIM THE BENEFITS AS ADMISSIBLE ER 3 OF FTP"
FOREX BANK ACC:913020055947900 Superintendent of Custom Exptd Thru ICD, TKD. Delhi
REI Waiver No/Date:
FOB VALUE (INR) : E5613081.60 F DBK+STR(INR): E499564.00 F
Total Drawback(INR) E499564.00 P Service Tax Refund(INR): E0.00 F
AD. Code :6360211 Bank a/c No :913020055947900
I.F.S. Code : UTIB0000223 ST / Excise Regn. :

INVOICE DETAILS Invoice 1/1
Inv.Val :5618991.60 INR 95078.00 USD
FOB Val :5613081.60 INR
Inv.no. :AI-009/2014-15 Inv Dt :26/05/2014
Nat of con : ECF FCurr(inv):USD
Exp Contract No:
Exchange rate :1.00 (USD) = 59.100 (INR)

	Rate	currency	Amount
Insurance	0.00		0.00
Freight:		USD	100.00
Discount:	0.00		0.00
Commission:	0.00	USD	9507.00
Other Deductions:	0.00		0.00
Packing Charges:		USD	0.00

Nature of payment:DA Period of Payment:180
Buyer Name & Address
ASIA PACIFIC PVT LTD
2ND FLOOR WESTERN COMM
BUILDING 31 DES VOEUX ROAD WEST
SHEUNG WAN HONG KONG

(Page 1 of 3)



Indian Customs EDI System (ICES)

30

ICD TUGHLAKABAD, NEW DELHI 110020
Shipping Bill for Export

No : 2939698 / 26/05/2014 BRC Realisation Date : 31/05/2015
IA : AACCN0328FCH001 NECKO FREIGHT FORWARDERS LIMITED
Print Date : 29/05/2014 18:36
This consignment was not opened for physical examination by Customs
Port of BL : ETAWA
Country of BL : ET
Port Of Ldg-Code : INTKD6 State of Origin :DELHI

F DRAWBACK DETAILS F				
+Inv Item # *	Main DBK Sr No / DBK Sr No	Total DBK Amt. for Item (INR) / Custom Rate Adv. / Customs Rate Spec.	DBK Adv. / DBK Rate Spec.	DBK Qty
+ 1	1 0	499564.26		
#	6109024	2.20	8.90	13680.000
*		9.20	37.10	
	TOTAL DRAWBACK (INR) :			499564.00

Vessel Name Voyage No.

Warehouse Sealing

Total FOB Value declared by Exporter for DEPB ITEMS : 0.0000 USD
Total FOB Value declared by Exporter for NON-DEPB ITEMS : 94975.9983 USD
Customs accepted Total FOB value for DEPB ITEMS : 0.0000 USD

I/We declare that the particulars given herein are true and correct

Following is the list of Documents attached :

Inv Item	Agency Name	Document Name
-	-	Invoices
-	-	Packing List
-	-	SDF Declaration
-	-	Annexx III with 4A declaration
-	-	Non Availment of Cenvat Certificate

SHIPPED ON BOARD
M.V. Maersk Schulte-034
SLD DT 20.6.14

GESU 6104985/40
191439

Signature of exporter/CHA with Date

Let Export : Kamakhya Kumar Dated : 29/05/2014 Allowed for Shipment

Signature of Officer of Customs Signature of Officer of Customs

Dupdt. of Customs
ICD Tughlakabad
New Delhi

Contains Received on Board Date of Shipment

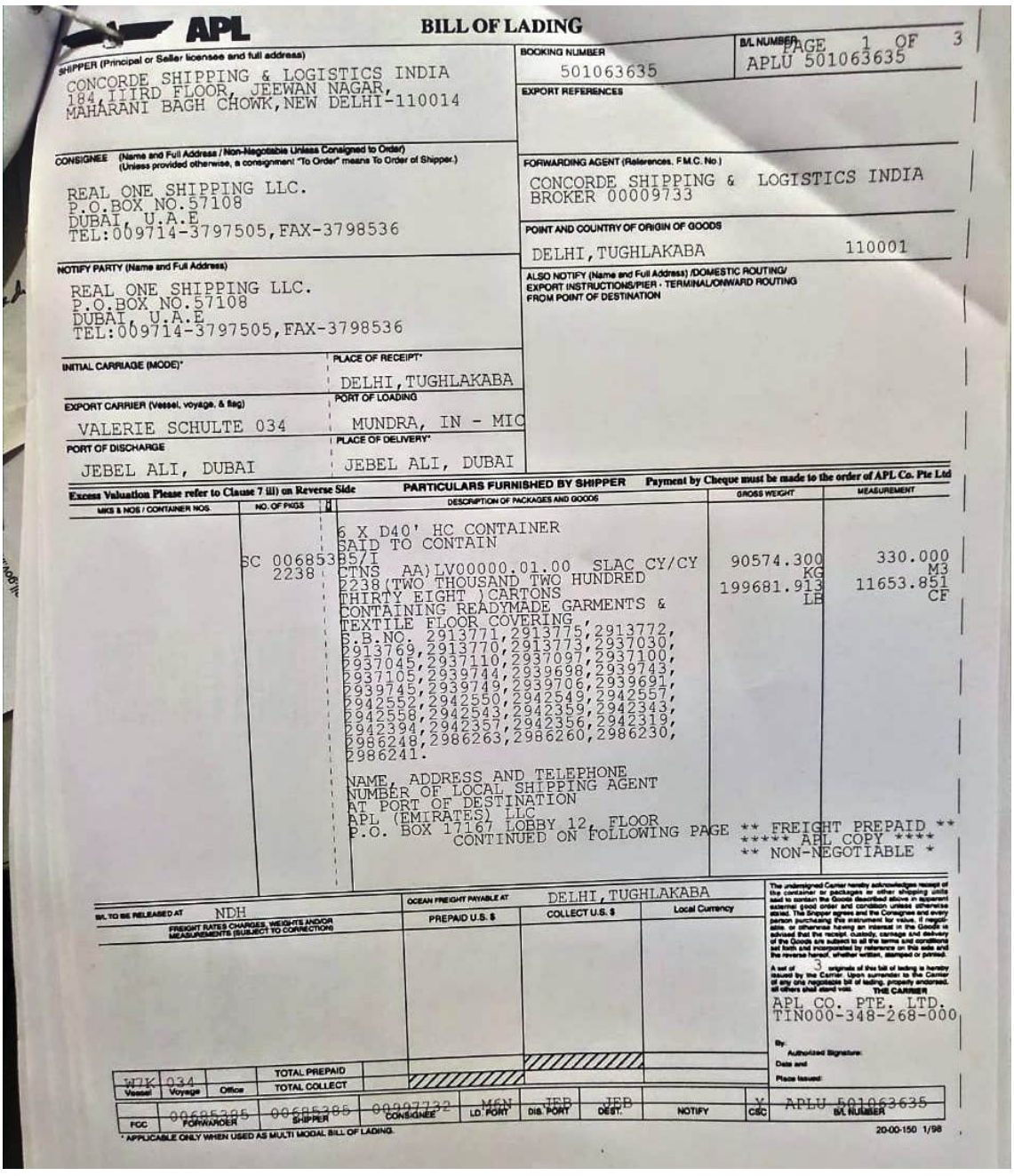
Date Signature of Master of Vessel Signature of Officer of Customs

INSPECTOR OF CUSTOMS
CUSTOM HOUSE MP & SEZ MUNDRA

(Page 3 of 3)

Image of tampered TR-1/TR-2 copy of Shipping Bill no. 2939698 dated 26.05.2014 for diverting the export goods to UAE.

(ii) The Master BL No. APLU501063635 dtd 20.06.2014 issued by M/s APL (India) Pvt. Ltd. showing actual destination i.e. Dubai, U.A.E. for delivery of goods shipped vide Shipping Bill no. 2939698 dated 26.05.2014 stuffed in container no. GESU6104985 is reproduced as below:



APL

BILL OF LADING

PAGE 1 OF 3

SHIPPER (Principal or Seller licensee and full address)
CONCORDE SHIPPING & LOGISTICS INDIA
184, IIIRD FLOOR, JEEWAN NAGAR,
MAHARANI BAGH CHOWK,NEW DELHI-110014

BOOKING NUMBER 501063635

B/L NUMBER APLU 501063635

EXPORT REFERENCES

CONSIGNEE (Name and Full Address / Non-Negotiable Unless Consigned to Order) (Unless provided otherwise, a consignment "To Order" means To Order of Shipper.)
REAL ONE SHIPPING LLC.
P.O.BOX NO.57108
DUBAI, U.A.E.
TEL:009714-3797505,FAX-3798536

FORWARDING AGENT (References, F.M.C. No.)
CONCORDE SHIPPING & LOGISTICS INDIA
BROKER 00009733

POINT AND COUNTRY OF ORIGIN OF GOODS
DELHI,TUGHLAKABA 110001

NOTIFY PARTY (Name and Full Address)
REAL ONE SHIPPING LLC.
P.O.BOX NO.57108
DUBAI, U.A.E.
TEL:009714-3797505,FAX-3798536

ALSO NOTIFY (Name and Full Address) /DOMESTIC ROUTING/ EXPORT INSTRUCTIONS/PIER - TERMINAL/ONWARD ROUTING FROM POINT OF DESTINATION

INITIAL CARRIAGE (MODE)* | PLACE OF RECEIPT* DELHI,TUGHLAKABA

EXPORT CARRIER (Vessel, voyage, & flag) VALERIE SCHULTE 034 | PORT OF LOADING MUNDRA, IN - MIC

PORT OF DISCHARGE JEBEL ALI, DUBAI | PLACE OF DELIVERY* JEBEL ALI, DUBAI

Excess Valuation Please refer to Clause 7 iii) on Reverse Side — PARTICULARS FURNISHED BY SHIPPER — Payment by Cheque must be made to the order of APL Co. Pte Ltd

MKS & NOS / CONTAINER NOS.	NO. OF PKGS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
SC 006853 2238		6 X D40' HC CONTAINER SAID TO CONTAIN B57I CTNS AA)LV00000.01.00 SLAC CY/CY 2238(TWO THOUSAND TWO HUNDRED THIRTY EIGHT)CARTONS CONTAINING READYMADE GARMENTS & TEXTILE FLOOR COVERING , S.B.NO. 2913771,2913775,2913772, 2913769,2913770,2913773,2937030, 2937045,2937110,2937097,2937100, 2937105,2939744,2939698,2939743, 2939745,2939749,2939706,2939691, 2942552,2942550,2942549,2942557, 2942558,2942543,2942359,2942343, 2942394,2942357,2942356,2942319, 2986248,2986263,2986260,2986230, 2986241. NAME, ADDRESS AND TELEPHONE NUMBER OF LOCAL SHIPPING AGENT AT PORT OF DESTINATION APL (EMIRATES) LLC P.O. BOX 17167 LOBBY 12, FLOOR CONTINUED ON FOLLOWING PAGE	90574.300 KG 199681.913 LB	330.000 M3 11653.851 CF

** FREIGHT PREPAID **
***** APL COPY *****
** NON-NEGOTIABLE *

B/L TO BE RELEASED AT NDH

OCEAN FREIGHT PAYABLE AT DELHI,TUGHLAKABA

FREIGHT RATES CHARGES, WEIGHTS AND/OR MEASUREMENTS (SUBJECT TO CORRECTION)	PREPAID U.S. $	COLLECT U.S. $	Local Currency

The undersigned Carrier hereby acknowledges receipt of the container or packages or other shipping units said to contain the Goods described above in apparent external good order and condition unless otherwise stated. The Shipper agrees and the Consignee and every person purchasing this instrument for value, if negotiable, or otherwise having an interest in the Goods is advised that the receipt, custody, carriage and delivery of the Goods are subject to all the terms and conditions set forth and incorporated by reference on this side and the reverse hereof, whether written, stamped or printed.

A set of 3 originals of this bill of lading is hereby issued by the Carrier. Upon surrender to the Carrier of any one negotiable bill of lading, properly endorsed, all others shall stand void. THE CARRIER

APL CO. PTE. LTD.
TIN000-348-268-000

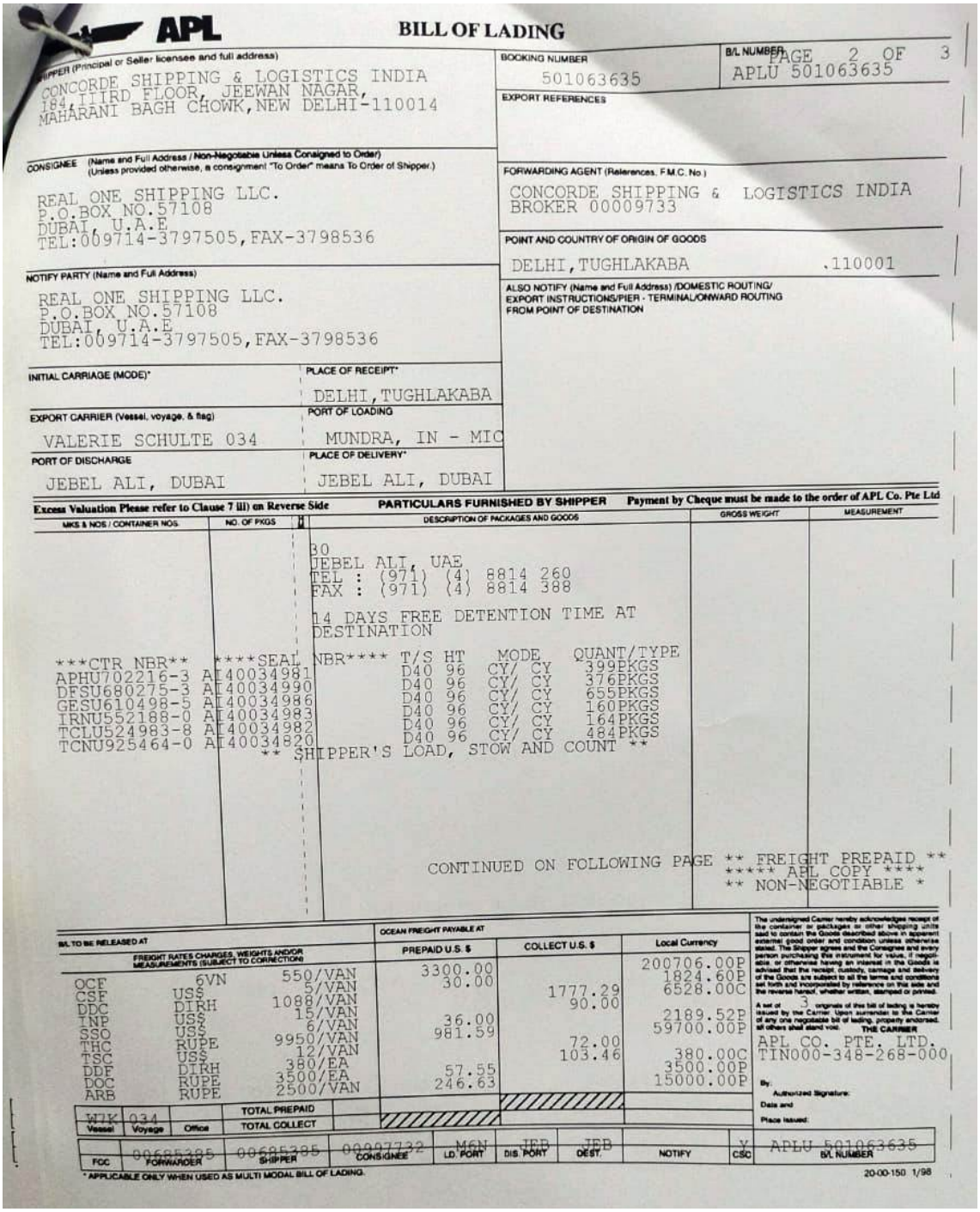
By:
Authorized Signature:
Date and
Place Issued:

Vessel	Voyage	Office	TOTAL PREPAID / TOTAL COLLECT
WIK	034		

FCC	FORWARDER	SHIPPER	CONSIGNEE	LD. PORT	DIS. PORT	DEST.	NOTIFY	CSC	B/L NUMBER
	00685385	00685385	00007732	MEN	JEB	JEB		Y	APLU 501063635

* APPLICABLE ONLY WHEN USED AS MULTI MODAL BILL OF LADING.

20-00-150 1/98



APL

BILL OF LADING

PAGE 2 OF 3

SHIPPER (Principal or Seller licensee and full address)
CONCORDE SHIPPING & LOGISTICS INDIA
184, IIIRD FLOOR, JEEWAN NAGAR,
MAHARANI BAGH CHOWK, NEW DELHI-110014

BOOKING NUMBER: 501063635
B/L NUMBER: APLU 501063635
EXPORT REFERENCES:

CONSIGNEE (Name and Full Address / Non-Negotiable Unless Consigned to Order)
(Unless provided otherwise, a consignment "To Order" means To Order of Shipper.)
REAL ONE SHIPPING LLC.
P.O.BOX NO.57108
DUBAI, U.A.E
TEL:009714-3797505,FAX-3798536

FORWARDING AGENT (References, F.M.C. No.)
CONCORDE SHIPPING & LOGISTICS INDIA
BROKER 00009733

POINT AND COUNTRY OF ORIGIN OF GOODS
DELHI,TUGHLAKABA .110001

NOTIFY PARTY (Name and Full Address)
REAL ONE SHIPPING LLC.
P.O.BOX NO.57108
DUBAI, U.A.E
TEL:009714-3797505,FAX-3798536

ALSO NOTIFY (Name and Full Address) /DOMESTIC ROUTING/
EXPORT INSTRUCTIONS/PIER - TERMINAL/ONWARD ROUTING
FROM POINT OF DESTINATION

INITIAL CARRIAGE (MODE)*
PLACE OF RECEIPT*: DELHI,TUGHLAKABA
EXPORT CARRIER (Vessel, voyage, & flag): VALERIE SCHULTE 034
PORT OF LOADING: MUNDRA, IN - MIC
PORT OF DISCHARGE: JEBEL ALI, DUBAI
PLACE OF DELIVERY*: JEBEL ALI, DUBAI

Excess Valuation Please refer to Clause 7 iii) on Reverse Side — PARTICULARS FURNISHED BY SHIPPER — Payment by Cheque must be made to the order of APL Co. Pte Ltd

MKS & NOS / CONTAINER NOS.	NO. OF PKGS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
		30 JEBEL ALI, UAE TEL : (971) (4) 8814 260 FAX : (971) (4) 8814 388 14 DAYS FREE DETENTION TIME AT DESTINATION		
***CTR NBR**	****SEAL NBR****	T/S HT MODE QUANT/TYPE		
APHU702216-3	AE40034981	D40 96 CY/ CY 399PKGS		
DFSU680275-3	AE40034990	D40 96 CY/ CY 376PKGS		
GESU610498-5	AE40034986	D40 96 CY/ CY 655PKGS		
IRNU552188-0	AE40034983	D40 96 CY/ CY 160PKGS		
TCLU524983-8	AE40034982	D40 96 CY/ CY 164PKGS		
TCNU925464-0	AE40034820	D40 96 CY/ CY 484PKGS		
		** SHIPPER'S LOAD, STOW AND COUNT **		
		CONTINUED ON FOLLOWING PAGE		

** FREIGHT PREPAID **
***** APL COPY ****
** NON-NEGOTIABLE *

B/L TO BE RELEASED AT

OCEAN FREIGHT PAYABLE AT

FREIGHT RATES CHARGES, WEIGHTS AND/OR MEASUREMENTS (SUBJECT TO CORRECTION)			PREPAID U.S. $	COLLECT U.S. $	Local Currency
	6VN	550/VAN	3300.00		200706.00P
OCF		5/VAN	30.00		1824.60P
CSF	US$	1088/VAN		1777.29	6528.00C
DDC	DIRH	15/VAN		90.00	
INP	US$	6/VAN	36.00		2189.52P
SSO	US$	9950/VAN	981.59		59700.00P
THC	RUPE	12/VAN		72.00	
TSC	US$	380/EA		103.46	380.00C
DDF	DIRH	3500/EA	57.55		3500.00P
DOC	RUPE	2500/VAN	246.63		15000.00P
ARB	RUPE				

The undersigned Carrier hereby acknowledges receipt of the container or packages or other shipping units said to contain the Goods described above in apparent external good order and condition unless otherwise stated. The Shipper agrees and the Consignee and every person purchasing this instrument for value, if negotiable, or otherwise having an interest in the Goods is advised that the receipt, custody, carriage and delivery of the Goods are subject to all the terms and conditions set forth and incorporated by reference on this side and the reverse hereof, whether written, stamped or printed.

A set of 3 originals of this bill of lading is hereby issued by the Carrier. Upon surrender to the Carrier of any one negotiable bill of lading, properly endorsed, all others shall stand void. THE CARRIER

APL CO. PTE. LTD.
TIN000-348-268-000

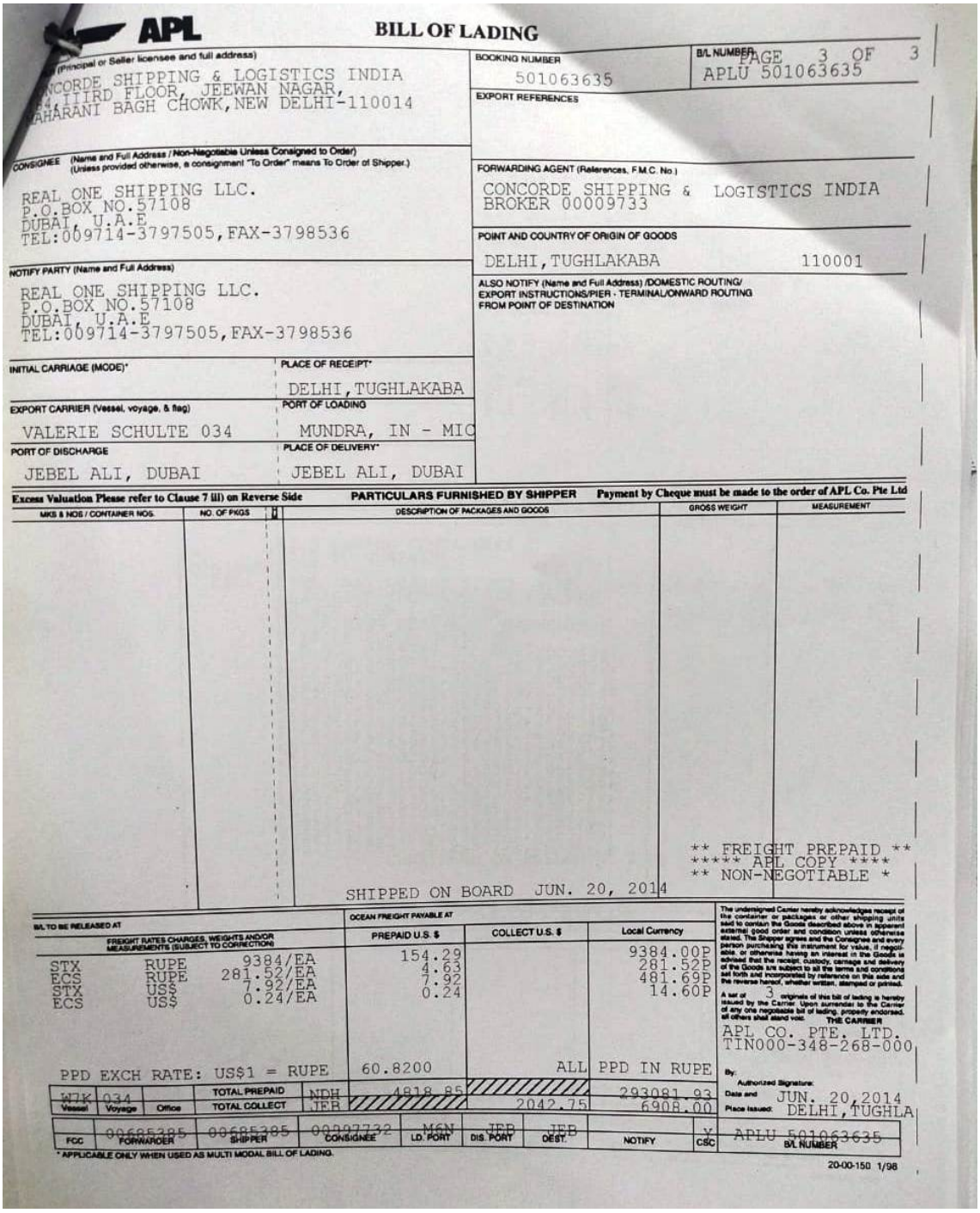
By:
Authorized Signature:
Date and
Place issued:

Vessel	Voyage	Office	TOTAL PREPAID	TOTAL COLLECT
WIK	034			

FCC	FORWARDER	SHIPPER	CONSIGNEE	LD. PORT	DIS. PORT	DEST.	NOTIFY	CSC	B/L NUMBER
	00685395	00685395	00007732	MGN	JEB	JEB		Y	APLU 501063635

* APPLICABLE ONLY WHEN USED AS MULTI MODAL BILL OF LADING.

20-00-150 1/98



APL

BILL OF LADING

PAGE 3 OF 3

(Principal or Seller licensee and full address)
CONCORDE SHIPPING & LOGISTICS INDIA
THIRD FLOOR, JEEWAN NAGAR,
MAHARANI BAGH CHOWK, NEW DELHI-110014

BOOKING NUMBER: 501063635
B/L NUMBER: APLU 501063635
EXPORT REFERENCES

CONSIGNEE (Name and Full Address / Non-Negotiable Unless Consigned to Order)
(Unless provided otherwise, a consignment "To Order" means To Order of Shipper.)
REAL ONE SHIPPING LLC.
P.O.BOX NO.57108
DUBAI, U.A.E
TEL:009714-3797505,FAX-3798536

FORWARDING AGENT (References, F.M.C. No.)
CONCORDE SHIPPING & LOGISTICS INDIA
BROKER 00009733

POINT AND COUNTRY OF ORIGIN OF GOODS
DELHI,TUGHLAKABA 110001

NOTIFY PARTY (Name and Full Address)
REAL ONE SHIPPING LLC.
P.O.BOX NO.57108
DUBAI, U.A.E
TEL:009714-3797505,FAX-3798536

ALSO NOTIFY (Name and Full Address) /DOMESTIC ROUTING/
EXPORT INSTRUCTIONS/PIER - TERMINAL/ONWARD ROUTING
FROM POINT OF DESTINATION

INITIAL CARRIAGE (MODE)*
PLACE OF RECEIPT*: DELHI,TUGHLAKABA
EXPORT CARRIER (Vessel, voyage, & flag): VALERIE SCHULTE 034
PORT OF LOADING: MUNDRA, IN - MIC
PORT OF DISCHARGE: JEBEL ALI, DUBAI
PLACE OF DELIVERY*: JEBEL ALI, DUBAI

Excess Valuation Please refer to Clause 7 (ii) on Reverse Side — PARTICULARS FURNISHED BY SHIPPER — Payment by Cheque must be made to the order of APL Co. Pte Ltd

MKS & NOS / CONTAINER NOS.	NO. OF PKGS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
		** FREIGHT PREPAID ** ***** APL COPY ***** ** NON-NEGOTIABLE * SHIPPED ON BOARD JUN. 20, 2014		

B/L TO BE RELEASED AT

FREIGHT RATES, CHARGES, WEIGHTS AND/OR MEASUREMENTS (SUBJECT TO CORRECTION)			OCEAN FREIGHT PAYABLE AT		
			PREPAID U.S. $	COLLECT U.S. $	Local Currency
STX	RUPE	9384/EA	154.29		9384.00P
ECS	RUPE	281.52/EA	4.63		281.52P
STX	US$	7.92/EA	7.92		481.69P
ECS	US$	0.24/EA	0.24		14.60P
PPD EXCH RATE: US$1 = RUPE			60.8200	ALL	PPD IN RUPE
TOTAL PREPAID		NDH	4818.85		293081.93
TOTAL COLLECT		JEB		2042.75	6908.00

The undersigned Carrier hereby acknowledges receipt of the container or packages or other shipping units said to contain the Goods described above in apparent external good order and condition unless otherwise stated. This Shipper agrees and the Consignee and every person purchasing this instrument for value, if negotiable, or otherwise having an interest in the Goods is advised that the receipt, custody, carriage and delivery of the Goods are subject to all the terms and conditions set forth and incorporated by reference on this side and the reverse hereof, whether written, stamped or printed.

A set of 3 originals of this bill of lading is hereby issued by the Carrier. Upon surrender to the Carrier of any one negotiable bill of lading, properly endorsed, all others shall stand void. THE CARRIER

APL CO. PTE. LTD.
TIN000-348-268-000

By: Authorized Signature
Date and Place issued: JUN. 20,2014 DELHI,TUGHLA

Vessel	Voyage	Office	FCC	FORWARDER	SHIPPER	CONSIGNEE	LD. PORT	DIS. PORT	DEST.	NOTIFY	CSC	B/L NUMBER
W7K	034		00685385	00685385	00007732	M&N	JEB	JEB		Y	APLU 501063635

* APPLICABLE ONLY WHEN USED AS MULTI MODAL BILL OF LADING.

20-00-150 1/98

8. Therefore, it is evident that after clearance of goods from ICD Tughlakabad which were cleared for export to countries covered under the Focus Market Scheme, the TR-1/TR-2 copies of Shipping bills were manually and fraudulently tampered wherein 'port of discharge' was changed from *'Awassa'* to '*Jebel Ali'* and 'Country of Destination' was changed from '*Ethiopia'* to *'Dubai'* and a stamp of Superintendent of Customs, Export-Shed, ICD, TKD, Delhi was appended thereon along with forged signature of the purported Customs officer to

give effect to the fraudulent diversion to Dubai, a country not covered under Focus Market Scheme benefits. Hence, the goods exported vide Shipping Bills as detailed in Table-1 filed by the Noticee never reached the declared destination i.e. Ethiopia but were illegally diverted to Jebel Ali (UAE) as emerging from the Master Bills of Lading provided by the respective Shipping Lines.

9. Further, on scrutiny of Bill of Ladings issued by the Shipping Line, it was revealed that the shipper is mentioned as M/s Concorde Shipping & Logistics India,184, 3rd Floor, Jeewan Nagar, Opp Maharani BaghChowk, New Delhi-110014.

9.1. Statement of Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India, in a similar case of fraudulent availment of FMS/SFMS benefits by M/s New Era Trading Pvt. Ltd. were recorded under Section 108 of Customs Act, 1962 on 15.03.2017 **(RUD- 1)** wherein he had interalia stated that-

(i) They dealt with containers purportedly shown to be exported to countries notified under SFMS but the said export goods were destined to Jebel Ali port, UAE,by way of manipulation and amendments in the shipping bills by him; that the said purported exports to countries notified under SFMS resulted in the grant of undue benefit under SFMS.

(ii) After perusing the TR-1 and TR-2 copies of Shipping Bills having amended 'port of discharge' and 'country of destination, he stated that these shipping bills were received un-amended from CHA after custom clearance but these amendments concerning change in the port of discharge and country of destinations were changed/made in their office on direction from the concerned exporter.

(iii) He admitted that amendments in the TR-1 and TR-2 copies of the Shipping Bills were done only to fraudulently avail the undue benefits of the Focus Market Scheme (FMS)/ Special Focus Market Scheme (SFMS) at the rate of 4% for export made to the countries as initially mentioned on those shipping bills. He confirmed that amendments were done willfully by them (exporter/himself) and in actual, the goods were diverted/ exported to Jebel Ali, United Arab Emirates.

(iv) He stated that they have issued a Landing certificate to be further submitted to DGFT and to process for issuance of FMS scrips even after knowing that the said export goods have never gone to the country as mentioned in the primed shipping bills filed at the time of customs clearance at ICD; that they have issued Landing certificates to the exporter based on detailsviz.name of the consignee, buyer and notify party provided by the exporter. He admitted that inspite of knowing that exporter was not eligible for SFMS benefits in respect of such amended shipping bills, which were illegally diverted to Dubai, he arranged for the landing certificate to help them in availing undue benefits of Focus Market scheme.

(v) On being asked regarding manipulation of the export shipping bill to change the 'port of discharge' and 'country of destination' in the shipping Bills, he stated that amendments in the shipping bills and the signature and stamp of the Customs officers

were forged in the shipping bills by his employee, as per his instruction.

9.2. In this case also, scrutiny of the Bill of Ladings revealed that the Shipper was M/s Concorde Shipping & Logistics India and tampered Shipping Bills have been recovered in which the Port of Destination and Country of Destination have been amended fraudulently by appending bogus signature and stamp of Customs Officer which was an admitted modus-operandi by Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India, to help exporters avail inadmissible FMS export incentives. Therefore, it is clear that Shri Imran Mirza, Prop. of M/s Concorde Shipping & Logistics India, has helped the noticee by fraudulently shipping his goods to Jebel Ali, U.A.E. while claiming export to Ethiopia and has aided the noticee in the FMS fraud by submitting forged proof of export to DGFT.

10. During the further course of investigation, the Additional Director General of Foreign Trade, Delhi was requested to provide the shipping bills wise details of duty credit scrips issued under the Focus Market Scheme to the Noticee for purported export to countries which were notified (as listed in Appendix 37C of HBP vol.1 of Foreign Trade Policy) for availment of export incentives. In response, Director General of Foreign Trade, Delhi provided shipping bill wise details of the FMS Authorizations issued to the Noticee for export of goods to the Notified countries. Scrutiny of documents supplied by DGFT revealed that the Noticee had obtained Nine Focus Market Scheme Authorizations. In respect of the these 9 FMS Authorizations there is clear evidence that the goods never reached the countries covered under FMS but were diverted to Jebel Ali, UAE as discussed in the foregoing paras. The details of FMS authorizations issued to the Noticee are as detailed in Table-2:

TABLE-2

Sl. No.	FMS Authorisation No./Dt.	No. of S/B	FOB utilised for FMS (Rs.)	Duty credit (Rs.)
1	0519008277 dtd 22.09.2014	16	73120108	2924795
2	0519031472 dtd 17.07.2015	21	110266807	4410664
3	0519031777 dtd 23.07.2015	21	105781190	4231235
4	0519032506 dtd 30.07.2015	4	19170710	766827
5	0519032719 dtd 03.08.2015	7	39305086	1572200
6	0519032720 dtd 03.08.2015	13	63613304	2541131
7	0519032822 dtd 03.08.2015	7	34399717	1375986
8	0519033023 dtd 04.08.2015	9	44672018	1786877
9	0519034010 dtd 19.08.2015	2	9768151	390725
	TOTAL		**500097091**	**20000440**

Therefore, investigations carried out and the evidences available on record, revealed that the FMS scrips having total duty credit of **Rs. 2,00,00,440/-** were obtained fraudulently by the Noticee from the office of the Additional Director General of Foreign Trade, Delhi.

11. Summons dated 25.04.2019, 12.06.2019 and 15.06.2021 for appearance on 07.05.2019, 08.07.2019 and 08.07.2021 respectively were issued to the noticee for tendering the statement and submitting documents relevant to exports under FMS scheme to which neither the noticee nor any representative appeared nor they submitted any details related to the export. Thus, the exporter did not deliberately comply with the summons and failed to produce any evidence that the goods had been exported to the Focus market country (*Ethiopia*) as claimed by the Noticee.

12. In view of above, it appears that the Focus Market Scheme Authorizations/ Scrips as detailed in Table-2 above have been obtained fraudulently. The Import data of the Noticee shows that they have not themselves used the scrips and sold these free transferrable scrips for utilization to Chambal Fertilisers & Chemicals Ltd., (IEC-1390000028), Posco-India Delhi Steel Processing Centre Pvt. Ltd (IEC-507015215), Baldeo Metals Pvt. Ltd. (IEC-597033056), Metline Houseware (IEC-509009263) and Intex Technologies India Ltd (IEC-597011231). The details of the fraudulently obtained FMS Scrips which were sold to said importers and subsequently utilized by them for the payment of the Customs duty are in Table-3 below:

Table-3

S. No	FMS Authorisation No./Dt. Issued to M/s Aryan International, Delhi **(A)**	FOB utilised for FMS (Rs.) **(B)**	Duty credit (Rs.) against the FMS Authorisation fraudulently obtained by M/s Aryan International, Delhi which was subsequently transferred **(C)**	Details of Importer to whom the fraudulent FMS duty credit was transferred for utilization **(D)**	Port where the duty was debited by the importer **(E)**	Port wise Duty debited against the FMS Licence **(F)**
1	0519008277 dtd 22.09.2014	73120108	2924795	CHAMBAL FERTILISERS & CHEMICALS LTD., (IEC-1390000028)	**INMUN1**	2924795
2	0519032719 dtd 03.08.2015	39305086	1572200	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INMUN1**	1572199
3	0519032822 dtd 03.08.2015	34399717	1375986	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INMUN1**	1375984
4	0519033023 dtd 04.08.2015	44672018	1786877	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD	**INMUN1**	1786875

				(IEC-507015215)		
	TOTAL	***191496929***		***TOTAL***		***7659853***
5	0519031472 dtd 17.07.2015	110266807	4410664	BALDEO METALS PVT.LTD. (IEC-597033056)	**INTKD6**	4410664
6	0519034010 dtd 19.08.2015	9768151	390725	METLINE HOUSEWARE (IEC-509009263)	**INTKD6**	390725
	TOTAL	***120034958***		***TOTAL***		***4801389***
7	0519031777 dtd 23.07.2015	105781190	4231235	INTEX TECHNOLOGIES INDIA LTD (IEC-597011231)	**INDEL4**	4231183
	TOTAL	***105781190***		***TOTAL***		***4231183***
8	0519032506 dtd 30.07.2015	19170710	766827	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INIXY1**	766821
9	0519032720 dtd 03.08.2015	63613304	2541131	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INIXY1**	2541121
	TOTAL	***82784014***		***TOTAL***		***3307952***

13. Thus, the Noticee exported readymade garments under shipping bills **as detailed in Table- 1 above** by showing exports to the countries listed in Focus Market Scheme for fraudulently claiming benefits of Focus Market Scheme and the goods were diverted to UAE by tampering the TR-1 and TR-2 copies of the Shipping Bills. By committing the above fraud, the Noticee appears to have contravened the provisions of Section 50(2) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992 and Rule 14(2) of the Foreign Trade (Regulation) Rules 1993, in as much as they gave a false declaration regarding the destination of the goods exported. Thus, the goods did not correspond with the material particulars with regard to their "Port of Discharge" and "Country of Destination" in the Shipping Bills filed under Section 50 of the Customs Act, 1962 and therefore, the said goods are liable for confiscation under sub-section (i) of the Section 113 of the Customs Act, 1962. Further, the goods so exported are to be treated as "smuggled goods" as defined under Section 2 (39) of Customs Act, 1962 and "illegal export" as defined under Section 11H(a) of Customs Act, 1962. Now since "FMS authorization was obtained by Noticee by means of fraud, the customs duty paid by debiting the credit scrips, amounting to ***Rs. 76,59,853/- at Mundra Sea port (INMUN1), Rs. 48,01,389/- at ICD***

Tutghlakabad (INTKD6), Rs. 42,31,183/- at Delhi Air Cargo (INDEL4) and Rs. 33,07,952/- at Kandla Sea Port (INIXY1), as detailed in Table-3, is liable to be recovered from the Noticee under Section 28AAA of the Customs Act, 1962 along with interest under Section 28 AAA of the Customs Act,1962. Further, the Noticee also appears to be liable to penalty under Section 114(iii) of the Customs Act, 1962 for having rendered the goods valued at ***Rs 50,00,97,091/-*** as detailed in **Table-2**, liable to confiscation under Section 113(i) as well as Section 28 AAA ibid; penalty under Section 114AB and Section 114 AA of the Customs Act, 1962.

14. Shri Imran Mirza, proprietor of M/s Concorde Shipping & Logistics India had conspired with M/s Aryan International to obtain FMS authorisation from DGFT by tampering shipping bills by changing destination country by hand and putting a table stamp of "Superintendent of Customs, Export Shed, ICD TKD, Delhi" and discharge port and arranging and issuing bogus landing certificates and house BL. From the statement by Shri Imran Mirza, it is evident that the transportation of export goods was handled by Shri Imran Mirza, he arranged container and booked the consignment with shipping lines and tampered country of destination and discharge port in TR-1 and TR-2 copies of shipping Bills. Shri Imran Mirza thus very well knew that these goods were not being exported to the countries declared on the export documents and were being diverted to Dubai. Since Shri Imran Mirza had consciously and deliberately dealt with goods which he knew were liable to confiscation under the provisions of Section 113 (i) of the Customs Act, 1962, he is liable to penalty under Section 114(iii) and 114AA of the Customs Act, 1962.

15. This SCN pertains to demand of duty involved in the goods imported through multiple ports viz. Mundra port (INMUN1), ICD Tutghlakabad (INTKD6), Delhi Air Cargo (INDEL4) and Kandla Sea Port. This Show Cause Notice is being issued by the competent authority at Customs House Mundra as per Notification No. 28/2022-Customs (N.T.) dated 31.03.2022 issued by Central Board of Indirect Taxes and Customs (CBIC), New Delhi being the port i.e. Mundra port (INMUN1) where highest duty is involved.

16. Now, therefore **M/s. Aryan International (IEC No. 0509049478)**, Shop no. 217, 2nd floor, G. T. Kamal Road, Vardhman Fortune Mall, Delhi- 110033 is hereby called upon to show cause to **the Commissioner of Customs**, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat 370421 as to why:

(i) the Customs duty of **Rs. 2,00,00,377/- (Rupees Two Crore Three Hundred Seventy Seven Only)** relatable to utilisation of the fraudulently obtained FMS scrips as **detailed in Table-3 above**, should not be demanded and recovered from them under Section 28 AAA of the Customs Act, 1962 along with interest in terms of Section 28AA of the Customs Act, 1962.

(ii) the goods with declared FOB value of **Rs. 50,00,97,091/-** exported and landed at Dubai, as detailed in **Table-3 above**, should not be held liable for confiscation

under Section 113 (i) of the Customs Act, 1962 and penalty should not be imposed on them under Section 114 (iii) of the Customs Act, 1962;

(iii) penalty should not be imposed on them under Section 114AB and Section 114AA of the Customs Act, 1962.

17. **Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India**, 184, 3rd Floor, Jeewan Nagar, Maharani Bagh Chowk, New Delhi-110014 is hereby called upon to show cause to **the Commissioner of Customs**, Mundra, 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat 370421, as to why penalty should not be imposed on him under Section 114 (iii) and Section 114AA of the Customs Act, 1962.

WRITTEN SUBMISSION AND PERSONAL HEARING

18. In compliance with the principles of natural justice and in accordance with the provisions of the Customs Act, 1962, adequate and reasonable opportunities of personal hearing were afforded to the Noticees on 22.10.2026 at 11:30 AM, 28.10.2026 at 11:30 AM and 05.11.2026 at 11:00 AM. However, despite being afforded three opportunities to present their case, neither of the Noticees appeared for personal hearing, nor was any request for adjournment or other communication received from them. Further, no written submissions or documentary evidence were furnished by either of the Noticees in response to the Show Cause Notice or in support of their defence.

In view of the above, I find that sufficient and reasonable opportunities were afforded to the Noticees to explain their position and defend themselves against the allegations levelled in the Show Cause Notice. However, they failed to avail themselves of the opportunities so provided. Their continued non-appearance and failure to file any written submissions indicate that they have chosen not to avail themselves of the opportunities granted to them. Accordingly, I proceed to adjudicate the matter ex parte, on the basis of the allegations contained in Show Cause Notice No. GEN/ADJ/COMM/85/2023-Adjn dated 08.05.2023, the documents relied upon therein, and the other material available on record. I shall examine and determine the issues involved on the basis of the evidence on record and the applicable provisions of law.

DISCUSSION AND FINDINGS

19. I find that the Show Cause Notice (SCN) was transferred to the Call Book on 19.03.2025, pending cancellation of the FMS/SFMS Scrips, in terms of DO Letter/Circular F. No. 334/1/2012-TRU dated 01.06.2012. Subsequently, upon issuance of the Office Memorandum dated 19.01.2026 by the Deputy Director General of Foreign Trade, the matter was considered fit for retrieval from the Call Book. Accordingly, the aforesaid SCN was retrieved from the Call Book on 01.06.2026, and the adjudication proceedings were taken up for further consideration.

20. In compliance with Section 28(8) and Section 153 of the Customs Act, 1962 and the principles of natural justice, sufficient opportunities were afforded to the Noticee to file replies and appear for personal hearing. The Noticee failed participate despite due service of personal hearing notices. Such non-cooperation cannot be allowed to delay a time-bound adjudication, particularly in a matter involving recovery of Government dues. I therefore hold that the principles of natural justice have been duly complied with and proceed to adjudicate the case ex-parte against the Noticee on the basis of evidence available on record. The present proceeding emanates from Show Cause Notice No. No. GEN/ADJ/COMM/85/2023-Adjn dated 08-05-2023. After having carefully gone through the Show Cause Notice and the relied upon documents available on record, I now proceed to decide the case on merit. The main issues involved in the case which are required to be decided in the present adjudication are as below:

(i) the Customs duty of **Rs. 2,00,00,377/- (Rupees Two Crore Three Hundred Seventy Seven Only)** relatable to utilisation of the fraudulently obtained FMS scrips as **detailed in Table-3 above**, should not be demanded and recovered from them under Section 28 AAA of the Customs Act, 1962 along with interest in terms of Section 28AA of the Customs Act, 1962.

(ii) the goods with declared FOB value of **Rs. 50,00,97,091/-** exported and landed at Dubai, as detailed in **Table-3 above**, should not be held liable for confiscation under Section 113 (i) of the Customs Act, 1962 and penalty should not be imposed on them under Section 114 (iii) of the Customs Act, 1962;

(iii) penalty should not be imposed on them under Section 114AB and Section 114AA of the Customs Act, 1962.

21. I find that with a view to enhance India's export competitiveness, the Ministry of Commerce and Industry had launched "Focus Market Scheme" w.e.f. 01.04.2006, under which exporters of all products were entitled for duty credit scrip equivalent to 3% of FOB value of exports for goods exported to notified countries (as listed in Appendix 37C of HBP vol.1 of Foreign Trade Policy). Further, Special Focus Market Scheme was introduced w.e.f. 01.04.2011 with a view to increase the competitiveness of exports with geographical targeting. The markets were categorized into three groups, namely Latin American, African and 07 CIS countries viz. Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan & Uzbekistan and if a commodity covered under SFMS was exported to the countries listed under SFMS, the total duty credit available would be @ 4% of the FOB value of exports.

22. Present Show Cause Notice indicated that M/s. Aryan International had fraudulently availed Focus Market Scheme benefits by deliberately mis-declaring the consignee country. It was gathered that M/s. Aryan International had adopted this modus operandi mainly in respect of purported exports to Ethiopia. However, the goods had never travelled to the destination shown on the export documents but were diverted to countries not covered under the Focus Market Scheme.

I find that the Shipping Bills enumerated in Table-1 above were originally filed with the port of discharge declared as Awassa and the country of final destination declared as Ethiopia. The electronic records available on ICEGATE also continue to reflect Awassa as the port of discharge and Ethiopia as the country of final destination. However, upon examination of the TR-1/TR-2 copies of the said Shipping Bills obtained from Mundra Customs, I find that the particulars relating to the port of discharge and country of destination have been manually altered to read as 'Jebel Ali' and 'Dubai', respectively. These alterations are accompanied by a stamp and signature purportedly bearing those of the Superintendent of Customs, Export Shed, ICD Tughlakabad.

The discrepancy between the particulars recorded in the electronic ICEGATE data and those appearing in the manually altered TR-1/TR-2 copies is material and significant. In this regard, I have also examined the copy of Shipping Bill No. 2939698 dated 26.05.2014, corresponding to Sr. No. 12 of Table-1, reproduced at Para 7(i) of this Order. The said document clearly evidences the manual alteration of the port of discharge from 'Awassa' to 'Jebel Ali' and the country of destination from 'Ethiopia' to 'Dubai', along with the aforesaid stamp and signature. Thus, the documentary evidence on record establishes that the particulars relating to the port of discharge and country of destination appearing in the TR-1/TR-2 copies are materially different from those originally declared in the Shipping Bills and reflected in the electronic records maintained in ICEGATE.

I further find that the particulars furnished by the respective shipping lines in respect of the Master Bills of Lading also corroborate the fact that the port of discharge and country of destination were 'Jebel Ali' and 'Dubai', respectively, as detailed in Table-1 above. In this regard, I have examined the copy of Master Bill of Lading No. APLU501063635 dated 20.06.2014, issued by M/s APL (India) Pvt. Ltd., reproduced at Para 7(ii) of this Order, in respect of the goods covered under Shipping Bill No. 2939698 dated 26.05.2014. The said Master Bill of Lading clearly indicates Jebel Ali as the port of discharge and Dubai, UAE, as the country of destination, thereby establishing that the goods were discharged at Jebel Ali Port and delivered to the consignee based in Dubai, UAE, and not transported to Ethiopia as declared in the corresponding Shipping Bill.

23. Further I find that during the investigation, Noticee was summoned 25.04.2019 (for 07.05.2019), 12.06.2019 (for 08.07.2019) and 15.06.2021 (for 08.07.2021) to give a statement and produce export documents, however no one appeared on behalf of the noticee neither any documents provided in support of claim of FMS scrips.

24. I find that Shipper in the Bill of lading in this case is mentioned as M/s Concorde Shipping & Logistics India, proprietorship firm of Shri Imran Mirza. During the statement on 15.03.2017, recorded in a similar case of fraudulent availment of FMS/SFMS benefits by M/s New Era Trading Pvt. Ltd., Shri Imran Mirza accepted the manipulation and amendments of port of discharge' and ‘country of destination in the shipping bills in his office on the directions of the exporter to fraudulently avail the undue benefits of the Focus

Market Scheme (FMS)/ Special Focus Market Scheme (SFMS) at the rate of 4% of FOB for exports made to the countries as initially mentioned on those shipping bills. He also accepted that amendments in the shipping bills and the signature and stamp of the Customs officers were forged in the shipping bills by his employee, as per his instruction. Shri Imran Mirza also issued a Landing certificate to be further submitted to DGFT and to process for issuance of FMS scrips even after knowing that the said export goods have never gone to the country as mentioned in the primed shipping bills filed at the time of customs clearance at ICD.

25. It is clear that the eligibility for FMS/SFMS benefit turns on the destination of the goods, as set out in Appendix 37C of HBP Vol. 1. It does not turn merely on whether an export took place. Even if the goods were physically exported and proceeds realised, shipment to the UAE, which is not a notified country, gives no entitlement. I therefore find that goods exported under all 100 shipping bills were shipped to and discharged at Jebel Ali, UAE, and not to Ethiopia, and that the FMS Scrips were claimed fraudulently by the Noticee by making false declaration in respect of country of destination under Section 50(2) of the Customs Act, 1962 as to destination.

26. Quantification of duty :

26.1 I find that the total 9 FMS authorization Scrip issued to the noticee for export of readymade garments under shipping bills **as detailed in Table- 1** by showing exports to Ethiopia, the countries listed in Focus Market Scheme for amount Rs. 2,00,00,440/-. The details of FMS authorizations issued to the Noticee are as detailed in Table-2:

TABLE-2

Sl. No.	FMS Authorisation No./Dt.	No. of S/B	FOB utilised for FMS (Rs.)	Duty credit (Rs.)
1	0519008277 dtd 22.09.2014	16	73120108	2924795
2	0519031472 dtd 17.07.2015	21	110266807	4410664
3	0519031777 dtd 23.07.2015	21	105781190	4231235
4	0519032506 dtd 30.07.2015	4	19170710	766827
5	0519032719 dtd 03.08.2015	7	39305086	1572200
6	0519032720 dtd 03.08.2015	13	63613304	2541131
7	0519032822 dtd 03.08.2015	7	34399717	1375986
8	0519033023 dtd 04.08.2015	9	44672018	1786877
9	0519034010 dtd 19.08.2015	2	9768151	390725
	TOTAL		**500097091**	**20000440**

26.2 Further the Noticee sold these free transferrable scrips for utilization to Chambal Fertilisers & Chemicals Ltd., (IEC-1390000028), Posco-India Delhi Steel Processing Centre Pvt. Ltd (IEC-507015215), Baldeo Metals Pvt. Ltd. (IEC-597033056), Metline Houseware (IEC-509009263) and Intex Technologies India Ltd (IEC- 597011231). The details of the fraudulently obtained FMS Scrips which were sold to said importers and subsequently utilized by them for the payment of the Customs duty are in Table-3 below:

Table-3

S. No	FMS Authorisation No./Dt. Issued to M/s Aryan International, Delhi **(A)**	FOB utilised for FMS (Rs.) **(B)**	Duty credit (Rs.) against the FMS Authorisation fraudulently obtained by M/s Aryan International, Delhi which was subsequently transferred **(C)**	Details of Importer to whom the fraudulent FMS duty credit was transferred for utilization **(D)**	Port where the duty was debited by the importer **(E)**	Port wise Duty debited against the FMS Licence **(F)**
1	0519008277 dtd 22.09.2014	73120108	2924795	CHAMBAL FERTILISERS & CHEMICALS LTD., (IEC-1390000028)	**INMUN1**	2924795
2	0519032719 dtd 03.08.2015	39305086	1572200	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INMUN1**	1572199
3	0519032822 dtd 03.08.2015	34399717	1375986	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INMUN1**	1375984
4	0519033023 dtd 04.08.2015	44672018	1786877	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INMUN1**	1786875
	TOTAL	***191496929***		***TOTAL***		***7659853***
5	0519031472 dtd 17.07.2015	110266807	4410664	BALDEO METALS PVT.LTD. (IEC-597033056)	**INTKD6**	4410664
6	0519034010 dtd 19.08.2015	9768151	390725	METLINE HOUSEWARE (IEC-509009263)	**INTKD6**	390725
	TOTAL	***120034958***		***TOTAL***		***4801389***
7	0519031777 dtd 23.07.2015	105781190	4231235	INTEX TECHNOLOGIES INDIA LTD (IEC-597011231)	**INDEL4**	4231183
	TOTAL	***105781190***		***TOTAL***		***4231183***

8	0519032506 dtd 30.07.2015	19170710	766827	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INIXY1**	766821
9	0519032720 dtd 03.08.2015	63613304	2541131	POSCO-INDIA DELHI STEEL PROCESSING CENTRE PVT.LTD (IEC-507015215)	**INIXY1**	2541121
	TOTAL	***82784014***		***TOTAL***		***3307952***

From the above I find that the FMS scrips issued to the notice was utilised towards customs duty debit of **Rs. 2,00,00,377/-** by M/s Chambal Fertilisers & Chemicals Ltd., M/s Posco-India Delhi Steel Processing Centre Pvt. Ltd., M/s Baldeo Metals Pvt. Ltd., M/s Metline Houseware and M/s Intex Technologies India Ltd. The proviso to Section 28AAA(1) states that the duty relatable to utilisation of such instrument shall be recovered from the person to whom the said instrument was issued. The duty is therefore recoverable from the Noticee, the person to whom the instruments were issued in terms of Section 28AAA of the Customs Act, 1962.

Relevant portion of Section 28AAA is reproduced below for ready reference:

> *"28AAA. Recovery of duties in certain cases. —(1) Where an instrument issued to a person has been obtained by him by means of —*
> *(a) collusion; or*
> *(b) wilful misstatement; or*
> *(c) suppression of facts,*
> *for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules or regulations made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued :*
> *Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28..*
>
> ……
>
> *(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty.*

27. <u>Interest:</u>

I find that, in terms of Section 28AAA(2) of the Customs Act, 1962, the person from whom the duty is recoverable is statutorily liable to pay interest at the rate specified under Section 28AA of the Act, for the period commencing from the date of utilisation of the instrument and ending on the date of recovery of the duty. The liability to pay such interest is consequential to the recovery of duty and is mandatory in nature. Accordingly, I hold that the noticee is liable to pay applicable interest under Section 28AAA(2) read with Section 28AA of the Customs Act, 1962.

28. Confiscation under Section 113(i)

SCN has alleged that the goods are liable for confiscation under Section 113(i) of the Customs Act, 1962. The relevant legal provisions of Section 113(i) of the Customs Act, 1962 are reproduced below:

> *"(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;"*

On plain reading of the above provisions of the Section 113(i) of the Customs Act, 1962, it is clear that any goods, which are entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act, will be liable to confiscation.

In the instant case, upon examination of the facts and evidence on record, I find that the goods covered under the 100 Shipping Bills, as detailed in Table-1, were declared to have been exported to Ethiopia, whereas the investigation has conclusively established that the said goods were, in fact, shipped to and discharged at Jebel Ali Port, UAE. I find that the country of destination and the port of discharge are material particulars of an export declaration, particularly in the present case, where the entitlement to export incentives is dependent upon the correctness of such particulars. Further, in terms of Section 50(2) of the Customs Act, 1962, the exporter is under a statutory obligation to subscribe to the truth and accuracy of the particulars declared in the Shipping Bill. In the present case, the declaration with regard to the country of destination and port of discharge has been established to be false and contrary to the actual course of export. Thus, I hold that the goods covered under the aforesaid 100 Shipping Bills, having a total FOB value of Rs. 50,00,97,091/-, did not correspond, in respect of a material particular, with the entry made under the Customs Act, 1962. Accordingly, I hold that the said goods are liable to confiscation under Section 113(i) of the Customs Act, 1962.

29. As the impugned goods are found to be liable for confiscation under Section 113(i) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation. I find that, in the present case, the subject goods are not physically available for confiscation at this

stage. The goods have already been exported and are no longer under the control of Customs. Therefore, physical confiscation of the goods is not feasible. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of M/s. Van Oord India Pvt. Ltd. Vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this points were already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]. Para 23 of the said Judgment is as follows:

''23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section(2) of Section 125,fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under subsection(1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125,"Whenever confiscation of any goods is authorised by this act…", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant the redemption fine is in fact to avoid such consequences flowing the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No.(iii)".

30. I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the above discussion and relying on the above judgements. I find that goods are liable for confiscation and redemption fine can be imposed.

31. <u>Imposition of Penalties on M/s Aryan International</u>

31.1. As regards imposition of penalty on M/s Aryan International, I find that by availing ineligible FMS credit scrips amount Rs. 2,00,00,440/- by altering the details of port of discharge and country of destination in shipping bills after clearance, the Noticee did and omitted acts which rendered the goods liable to confiscation under Section 113(i). By their above acts, they have also rendered themselves liable to penalty up to the value of the goods declared by the exporter, i.e. up to Rs. 50,00,97,091/-under Section 114(iii).

SCN also proposes Penalty under **Section 114AA on M/s Aryan International.** Section 114AA applies to a person who knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document that is false or incorrect in any material particular. The Noticee declared Ethiopia as the destination, and caused or allowed the use of altered country of destination as Dubai, U.A.E in shipping bills and landing certificates to obtain FMS authorisations. This was knowingly and intentionally done to avail ineligible FMS credit scrips. By their above acts, they have also rendered themselves liable to penal action Section 114AA.

Further the SCN also proposes penalty under Section 114AB, which provides for penalty where an instrument obtained by fraud is utilised by someone other than the holder. I find that Section 114AB was inserted into the Customs Act by the Finance Act, 2019 [23 of 2019] . The conduct in question took place in 2014 and 2015, and the scrips were issued and utilised in 2014–2016. A penal provision creating a new liability cannot be applied to events preceding its commencement, unless the legislature has expressly said so. The legislature has not done so. I therefore hold that penalty under Section 114AB cannot be imposed in this case, and the proposal to that extent is dropped.

31.2 <u>Penalties on Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India</u>

As regards imposition of penalty on Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India, I find that the role of Shri Imran Mirza in the entire transaction stands established from the evidence available on record, including the statements recorded during the course of investigation. It is evident that M/s Concorde Shipping & Logistics India was reflected as the shipper in the Bills of Lading issued by the shipping lines in respect of the consignments of the noticee and that the alterations and amendments in the country of destination and port of discharge in the corresponding Shipping Bills were carried out at its office.

Further, I find that Shri Imran Mirza, in his voluntary statement, admitted that the destination particulars were changed on the instructions of the exporter; that the Customs stamps and signatures were forged by his employee at his direction; that he arranged the containers and facilitated their shipment to Jebel Ali, UAE; and that he issued landing certificates despite being aware that the goods had not reached the countries declared in the respective Shipping Bills. These admissions, read in conjunction with the other evidence available on record, clearly establish his active and conscious involvement in the acts and omissions leading to the improper export of the goods.

I, therefore, find that the role of Shri Imran Mirza was not merely incidental or facilitative, but involved active participation in the acts resulting in the goods becoming liable to confiscation under Section 113(i) of the Customs Act, 1962. By knowingly dealing with the said goods and facilitating their improper export, he rendered himself liable to penalty under Section 114(iii) of the Customs Act, 1962. Further, his conscious involvement in alteration of

shipping bills, use of these forged and falls shipping bills, including the forgery of Customs endorsements and issuance of landing certificates despite knowledge of the actual destination of the goods, attracts the penal provisions of Section 114AA of the Customs Act, 1962. Accordingly, I hold that Shri Imran Mirza is liable to penalty under Sections 114(iii) and 114AA of the Customs Act, 1962.

32. In view of the discussion and findings supra, I hereby pass the following order:

ORDER

(i) I confirm the demand of Customs duty of **Rs. 2,00,00,377/- (Rupees Two Crore, Three Hundred Seventy-Seven only)**, relatable to the utilisation of the nine FMS authorisations obtained by M/s Aryan International (details in Table-3 of the SCN), and order to recover the same from **M/s Aryan International** under Section 28AAA of the Customs Act, 1962 along with interest in terms of Section 28AA of the Customs Act, 1962.

(ii) I hold the goods exported under the 100 shipping bills listed in Table-1 of the SCN, having declared FOB value of **Rs. 50,00,97,091/-**, liable to confiscation under Section 113(i) of the Customs Act, 1962. Since the goods are not available for confiscation, I impose a redemption fine of Rs. 50,00,000/- (Rupees Fifty Lakh Only) under Section 125 of the Customs Act, 1962.

(iii) I impose a penalty of **Rs.** 50,00,000/- (Rupees Fifty Lakh Only) on **M/s Aryan International** under Section 114(iii) of the Customs Act, 1962.

(iv) I impose a penalty of **Rs.** 10,00,000/- (Rupees Ten Lakh Only) on **M/s Aryan International** under Section 114AA of the Customs Act, 1962.

(v) I do not impose any penalty on **M/s Aryan International** under Section 114AB of the Customs Act, 1962.

(vi) I impose a penalty of **Rs.** 10,00,000/- (Rupees Ten Lakh Only)**.** on **Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India**, under Section 114(iii) of the Customs Act, 1962.

(vii) I impose a penalty of **Rs.** 5,00,000/- (Rupees Five Lakh Only) on **Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India**, under Section 114AA of the Customs Act, 1962.

Digitally signed by
Nitin Saini
Date: 19-11-2026
14:20:22

(Nitin Saini)
Commissioner of Customs
Custom House, Mundra

BY SPEED POST:

1. M/s. Aryan International, 340, Vardhman Premier Mall, Outer ring road, Deepali Chowk, Pitampura, New Delhi- 110034 (IEC No. 0512091528)

2. Shri Imran Mirza, Proprietor of M/s Concorde Shipping & Logistics India, 184, 3rd Floor, Jeewan Nagar, Maharani Bagh Chowk, New Delhi-110014.

Copy to:

1. The Additional / Joint Director, DRI, Ludhiana Zonal Unit, 213, Rani Jhansi Road, Ludhiana, for information please.

2. The Director General, Central Economic Intelligence Bureau (CEIB), 6th Floor, 'B' Wing, Janpath Bhavan, New Delhi for information please.