

	OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467
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DIN-20240871ML000000C5BD

A	File No.	GEN/ADJ/ADC/351/2023-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADC/RSS/17/2024-25
C	Passed by	Ram Singh Shekhawat Additional Commissioner of Customs, Custom House, Kandla.
D	Date of Order	02.08.2024
E	Date of Issue	02.08.2024
F	SCN No. & Date	F.No. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla dated 08.02.2023
G	Noticee / Party / Importer / Exporter	M/s. Neman Shipping INC & Others

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

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

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 12 8A के अंतर्गत प्रपत्र सीए- 1-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

“सीमाशुल्क आयुक्त (अपील),

वीं 7 मंजिल, मृदुलटावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद-380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS),

Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

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

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्यप्रति जिस पर अनुसूची-1 के अनुसार न्यायालयशुल्क अधिनियम-1870 के मद्दसं-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

6. अपील प्रस्तुत करते समय, सीमा शुल्क) अपील (नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्कया शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief Facts of the Case:

Specific intelligence was gathered by SIIB, Custom House Kandla indicating that Vessel MV Kabul (IMO No 9122473) had arrived at Kandla Port as its first port of call but they had mis-declared the Port of Loading in respect of its cargo (containers loaded with the various commodities). M/s. Master Logitech Pvt. Ltd, the shipping agent had filed the IGM No 2303229 dated 04.02.2022 indicating the Port of Loading as Jabel Ali (UAE). On scrutiny of the documents retrieved from the Master of the Vessel, MV Kabul, it was found that actual port of loading was Bandar Abbas, Iran and Country of Origin (COO) of the goods was IRAN which was mis-declared as Jabel Ali, UAE in the documents filed before the Custom Authorities at Kandla Port. Further, there were 27 Bills of Lading for which IGM had been filed by the Vessel Agent, M/s. Master Logitech Pvt. Ltd. showing the port of loading as Jabel Ali, UAE but as per the documents retrieved, the actual port of loading was Bandar Abbas, Iran. It appeared that the vessel agent, M/s. Master Logitech Pvt. Ltd had mis-declared the port of loading as Jabel Ali, UAE in respect of those 23 Bills of Lading out of 27 Bills of Lading filed before the Customs Authorities at Kandla Port under the IGM 2303229 dated 04.02.2022.

1.2 There were total 23 Bills of lading out of 27 Bills of Lading, the cargo of which were to be discharged at the Kandla Port in which mis-declaration was found in respect of the Port of Loading. The details of those 23 Bills of Lading in which port of loading was mis-declared as Jable Ali, UAE instead of Bandar Abbas Port, Iran are as under:

TABLE-1

Sr. No	B/L No	B/L Date	Cargo Description	Name of the Importer	Container No
1	ATSJEAIXY2201200	02.02.2022	Bitumen	Velon Petrochem Pvt. Ltd.	25
2	ATSJEAIXY2201207	02.02.2022	Bitumen	Everge Smart India Pvt. Ltd.	50
3	ADME002328	02.02.2022	Bitumen	JK Alamdar Trading Company	25
4	ATSJEAIXY2201226	02.02.2022	Sodium Silicate Lumps	Chemicals India	40
5	ADME002326	02.02.2022	Bitumen	Vvelon Petrochem Pvt. Ltd.	25
6	ATSJEAAPAP2201229	02.02.2022	Natural Asphalt	Tinna Rubber and Infrastructure	5
7	JEAIXY7171	02.02.2022	Bitumen	Premium Petro Products	25
8	JEAIXY3237	02.02.2022	Bitumen	Premium Petro Products	25
9	23490017630	02.02.2022	Bitumen	GWC Impex	25
10	23490017631	02.02.2022	Bitumen	GWC Impex	25
11	9844JEAIXY	02.02.2022	Base Oil	Ocean Petroleum	10
12	DRGNJEAIXY220114	02.02.2022	Bitumen	Neptune Petrochemicals Pvt. Ltd	25
13	EMAJEAIXY32722	02.02.2022	Bitumen	Catalyst Petrochem LLP	20
14	EMAJEAIXY32822	02.02.2022	Bitumen	Catalyst Petrochem LLP	20
15	EMAJEAIXY33822	02.02.2022	Carbon Black	Catalyst Petrochem LLP	6
16	EMAJEAIXY38222	02.02.2022	Carbon Black	Catalyst Petrochem LLP	1

17	B331921	02.02.2022	Base Oil	Vardhman Trading Company	20
18	B1143221	02.02.2022	Bitumen	Premium Petro Products	25
19	B1143321	02.02.2022	Bitumen	Everge Smart India Pvt. Ltd.	25
20	JEAIXY21023614	02.02.2022	Residue Wax	Excellent Traders India	2
21	JEAIXY22020055	02.02.2022	Bitumen	Madhusudan Organics Limited	25
22	JEAIXY22020056	02.02.2022	Bitumen	Madhusudan Organics Limited	25
23	SEACROSSJEAIXY	03.02.2022	Hexamine	Shri Gopal Trading Company	2

INQUIRY CONDUCTED AT THE VESSEL MV KABUL

2. Acting on the intelligence gathered, the officers of Special Investigation & Intelligence Branch (SIIB), Custom House Kandla (hereinafter referred to as 'officers'), boarded the Vessel MV KABUL on 06.02.2022 along with the boarding officers for conducting inquiry regarding Country of Origin of the goods as well as Port of loading. The whole proceedings carried out at the Vessel was recorded in the Panchnama dated 06 & 07.02.2022. During the inquiry conducted at the vessel, it was found that the Vessel had not visited any Iranian Port during the Voyage No 72 i.e. current voyage of this vessel. The Master of the vessel, Mr. B. Ghandian also confirmed the same during the course of his statement tendered before the competent authority.

2.1. During the Course of the inquiry conducted at the vessel MV KABUL, the statement of the Captain of the Vessel MV Kabul (RUD-1) was recorded on 07.02.2022 under section 108 of the Customs Act, 1962. While tendering the statement, he submitted some documents to the customs officers boarded there.

From the documents submitted by the captain of the vessel and statement tendered before the custom authorities by Mr. B. Ghandian, it appeared that the cargo were loaded from the Bandar Abbas, Iran and Vessel had also started its voyage directly from the Bandar Abbas, Iran rather than Jabel Ali Port as declared in the IGM No. 2303229 dated 04.02.2022 and the Vessel MV Kabul had not visited the Jabel Ali, UAE port during its voyage no 72 and all the cargo loaded in this vessel were not loaded from the Jabel Ali, UAE port as wrongly declared in the IGM No 2303229 dated 04.02.2022.

3. During the course of investigation, the officers simultaneously searched the office premises of M/s. Master Logitech Pvt. Ltd., Gandhidham (the Vessel Agent) on 06.02.2022 and the office premises of all the container lines, whose containers were carrying the cargo in vessel MV Kabul and to be discharged at Kandla Port and proceedings were recorded under Panchnama dated 06.02.2022. *During the course of search, some of the copies of Bills of Lading were retrieved, wherein Port of Loading was mentioned as Bandar Abbas alongwith the copies of corresponding altered Bills of Lading, wherein Port of Loading was mentioned as Jabel Ali, UAE.*

4. Further, during the course of inquiry, the copy of IGM filed at Nhava Sheva Port by the Vessel Agent for the same vessel MV KABUL was retrieved and on going through the IGM filed at Nhava Sheva Port for 259 containers covered under 79 Bills of Lading, it came to notice that the Vessel Agent had also mis-declared the bottom cargo to be discharged at Nhava Sheva Port. It was ascertained from IGM No. 2303158 dated 04.02.2022 filed at Nhava Sheva Port that the port of loading was mis-declared in 22 (Twenty Two) Bills of Lading, out of total 79 Bills of Lading (as detailed in Table-2 below) and contravened the provisions of the Sea Cargo Manifest and Transshipment Regulations (SCMTR) prescribed under the Customs Act, 1962.

TABLE-2

Sr.No	B/L No	B/L Date	Cargo Description	Importer	Container
1	PSPBNDNSA1925	02.02.2022	Apple Fruit	Green Horizon Farmers Producers Co	1

2	BJEINS1851094	31.01.2022	Paraformaldehyde 96 %	Agarwal Chemicals Survey	4
3	NAVJEANSA2200859	02.02.2022	Fresh Apple Fruit	Hari Agro Products	2
4	MJEANSA2202836	1.02.2022	Fresh Apple Fruit	RGS Exim Pro	2
5	NUKJEANSA2200830	02.02.2022	Wet Date	Pujan Enterprise	1
6	NUKJEANSA2200863	02.02.2022	Pistachio in shell	Hemal International	1
7	VDXJEANSA2200880	02.02.2022	Apple	Chevas Imports Exports Pvt Ltd.	2
8	CSLNHS0188	02.02.2022	Pistachio in shell	Arissa International	1
9	MNJJEANSA21000727	02.02.2022	Date	Dang Enterprise	1
10	RTMJEANSA220018	02.02.2022	Date	Ruhaan Impex Pvt. Ltd.	1
11	ASNNHS00170	02.02.2022	Bright Yellow Crude Granular Sulphur	Seaco Enterprise	24
12	SWLNSH220009	02.02.2022	Urea Prilled Technical Grade for Industrial Use	BH Enterprise	10
13	SWLNSH220017	02.02.2022	Urea Prilled Technical Grade for Industrial Use	BH Enterprise	12
14	DXB280336NSA11	02.02.2022	Wet Date	Vrushti Impex	1
15	BSLNHS138606	02.02.2022	Paraffin Wax	Gomti International	2
16	COLNSA220006	02.02.2022	Apple	Shanus Impex	5
17	23190017633	02.02.2022	Pistachio Kernel	Raja Dry Fruit	1
18	23190017634	02.02.2022	Pistachio Kernel	Raja Dry Fruit	1
19	23190017683	02.02.2022	Inshell Pistachio	HK Impex	1
20	BSLNHS138656	02.02.2022	Apple	Radha Krishan Fruit Company	1
21	BSLNHS138664	02.02.2022	Apple	Radha Krishan Fruit Company	10
22	BSLNHS138672	02.02.2022	Apple	Chevas Imports Exports Pvt Ltd.	5

5. The goods unloaded at Kandla port covered under above mentioned 23 Bills of lading (Table-1) mis-declared in respect of Port of Loading and Origin of Goods and the same was to be considered in violation of provisions of the Customs Act, 1962. Therefore, the same goods were liable for confiscation under Section 111(d), 111(f) & 111(m) of the Customs Act, 1962. Accordingly, those goods covered under the 23 Bills of Lading as details given in Table-1 along with the containers (476 containers) were placed under seizure vide seizure memo dated 10 & 11.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla.

5.2 Further, the goods/containers to be unloaded at Nhava Seva Port covered in 22 Bills of lading (89 Containers) the port of loading was mis-declared as Jabel Ali, UAE whereas the actual port of loading was Bandar Abbas, IRAN and the same has also to be considered in violation of provisions of the Customs Act, 1962. Thereafter, in respect of bottom cargo to be unloaded at Nhava Sheva Port found mis-declared in respect of port of loading and therefore the IGM of these 22 BL as mentioned in table 2 were amended and the cargo was unloaded at Kandla port. Therefore, the same goods were also liable for confiscation under Section 111(d), 111(f) & 111(m) of the Customs Act, 1962. Accordingly, those goods covered under the 22 Bills of Lading as details given in Table-2 along with the containers (89 containers) were placed under seizure vide seizure memo dated 10 & 11.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla.

5.3 The vessel MV KABUL had been used as a means of transport of the Mis-declared goods liable for confiscation under section 111(d), 111(f) and 111(m) of the Customs Act, 1962. Therefore, the vessel MV KABUL was also liable for confiscation under the provisions of Section 115(2) of the Customs Act, 1962. The said vessel MV Kabul (IMO No. 9122473) along with on board tools and tackles anchored at OTB

(Outer Tuna Buoy) outside Kandla Port having Insured Value USD 55,00,000 and in Indian Rupees (@ Rs. 75.75 USD) Rs. 41,66,25,000/- (Rupees Forty-One Crore, Sixty-Six Lakh, Twenty-Five Thousand only) was seized on 10.02.2022 vide seizure memo F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla under the provisions of Section 110(1) of Customs Act, 1962 on the reasonable belief that the same was liable for confiscation under Section 115(2) of the Customs Act, 1962 and the same was handed over to Shri Rajubha Sodha, Operation Manager, M/s. Master Logistics Pvt. Ltd., Gandhidham under the Supratnama dated 10.02.2022.

Examination of goods and provisional release

6. The vessel agent M/s. Master Logitech Pvt. Ltd vide letter dated 12.02.2022 requested to release the vessel MV KABUL (IMO No. 9122473) which was seized vide seizure memo F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla dated 10.02.2022.

6.1 As the vessel MV Kabul was used as a means of transport in the Mis-declared goods and the said goods were liable for confiscation under section 111(d), 111(f) and 111(m) of the Customs Act, 1962. Further, the vessel MV KABUL was also liable for confiscation under the provisions of Section 115(2) of the Customs Act, 1962. As per the order of the competent authority, the vessel was ordered to be released provisionally under section 110A of the Custom Act 1962 on execution of Bond for the full insured value of the vessel and against appropriate bank Guarantee, equivalent to 10% of the bond value. Accordingly after submission of the Bond for the full insured value of the vessel and against bank Guarantee, equivalent to 10% of the bond value, the goods were released provisionally vide letter dated 28.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla.

6.2 The goods unloaded at Kandla port covered under above mentioned 23 Bills of lading (Table-1) mis-declared in respect of Port of Loading and Origin of Goods along with the containers (**476 containers**) were placed under seizure vide seizure memo dated 10.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla.

Further, the goods/containers to be unloaded at Nhava Seva Port covered in 22 Bills of lading (89 Containers) the port of loading was mis-declared as Jabel Ali, UAE whereas the actual port of loading was Bandar Abbas, those goods covered under the 22 Bills of Lading as details given in Table-2 along with the containers (**89 containers**) were placed under seizure vide seizure memo dated 10.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla.

In light of the above, necessary change in IGM were done by the concerned authority in respect of port of discharge in all those Bills of Lading whose cargo was seized and wherein the port of loading was other than Kandla Port.

6.2.1 Importers as mentioned in the Table 1 & 2 vide their letter requested to release the goods provisionally which were seized on 10 & 11.02.2022. As per the order of the competent authority, the goods were ordered to be released subject to furnishing Bond for the full value of the goods and against appropriate bank Guarantee, equivalent to 10% of the bond value. Necessary examination of those cargo was done and after submission of the Bond for the full value of the goods and against appropriate bank Guarantee, equivalent to 10% of the bond value, goods were released provisionally.

6.2.2 However, in respect of following Bills of Lading, the goods were not released as the importer failed to submit the Bond and Bank guarantee thereon.

TABLE-3

Sr. No.	Name of the Importer	Bill of Lading No.	Container No.	Cargo Description
1	GREEN HORIZON FARMERS PRODUCER CO. LTD	SCLJEANHV000014	MYRU4508363	FRESH APPLE FRUITS
2	HARI AGRO PRODUCTS	NAVJEANSA2200859	HDMU5511129	FRESH APPLE
			TRIU8442260	FRESH APPLE

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3	RGS EXIM PRO	MJEANSA2202836	PMLU8903975	FRESH APPLE FRUITS
			SZLU9008345	FRESH APPLE FRUITS

Above mentioned importers in Table-3 named as M/s. Hari Agro products, Delhi, M/s. RGS Exim Pro and M/s. Green Horizon Farmers Producer Co. Ltd failed to submit the appropriate Bond and Bank Guarantee and they had not paid the applicable duty in respect of import made by them and also refused to take clearance of the goods. Accordingly, goods were disposed off by the disposal section of this office.

6.3 The containers of the goods covered under the Table 1 & Table 2 were placed under seizure vide seizure memo dated 10 & 11.02.2023 along with the goods covered in those respective Bills of Lading. The container lines requested to release their containers citing the shortage of the containers at the international level and the goods of those containers were already ordered to be released provisionally. On similar lines, the importers of those goods imported through the vessel MV KABUL which were seized by the competent authority also requested to release the goods imported citing the perishable nature of the cargo and the local demand of those imported goods as well as nearing the deadline for those imported goods for delivery to the traders/manufacturers/others.

The competent authority agreed and ordered to release those containers subject to furnishing the Bond for the full value of the containers and against appropriate bank Guarantee, equivalent to 10% of the bond value and after submission of the Bond for the full value of the containers and against bank Guarantee, equivalent to 10% of the bond value, containers were released provisionally.

Further, the competent authority also ordered to release those seized imported goods subject to furnishing the Bond for the full value of the goods and against appropriate Bank Guarantee, equivalent to 10% of the bond value. After submission of the Bond for the full value of the goods and against bank Guarantee, equivalent to 10% of the bond value, goods were released provisionally.

However, in respect of the following Bills of Lading, the containers could not be released as the goods in those containers could not be released as the importers refused to take the clearance of those goods.

TABLE-4

Sr. N.o.	Container Lines	Name of the Importer	Bill of Lading No.	Container No.	Cargo Description
1	M/s. SC lines Shipping & Logistics Pvt. Ltd.	GREEN HORIZON FARMERS PRODUCER CO. LTD	SCLJEAN HV000014	MYRU4508363	FRESH APPLE FRUITS
2	M/s. Navio shipping Pvt. Ltd.	HARI AGRO PRODUCTS	NAVJEAN SA2200859	HDMU5511129	FRESH APPLE
				TRIU8442260	FRESH APPLE
3	M/s. Intergulf Shipping Line Private Limited	RGS EXIM PRO	MJEANSA 2202836	PMLU8903975	FRESH APPLE FRUITS
				SZLU9008345	FRESH APPLE FRUITS

Further investigation and recording of statement of Key Person:

7. Search was conducted at the premise of vessel agent, M/s. Master Logitech Pvt. Ltd., Office No. R-1 & R-2, 2nd Floor, Plot No. 233, Ward 12-B, Near Kutch Kala, Opp. Atmaram Circle, Gandhidham -370201 and proceeding were recorded under Panchnama dated 06.02.2022 and few documents which were found relevant for further investigation were seized.

Further, summon was issued dated 28.02.2022 to M/s. Master Logitech Pvt. Ltd., Office No. R-1 & R-2, 2nd Floor, Plot No. 233, Ward 12-B, Near Kutch Kala, Opp. Atmaram Circle, Gandhidham -370201 to appear before the authority. Shri Rajubha Sodha, Operation Manager, M/s. Master Logitech Pvt. Ltd., Gandhidham appeared before the superintendent (SIIB), and tendered his statement (RUD-2).

7.1. As per the statement tendered by the Mr. Rajubha Sodha, Operation Manager, M/s. Master Logitech Pvt. Ltd., Gandhidham, it was clear that the vessel agent was well aware about the starting of the voyage of the vessel MV KABUL from Bandar Abbas Port, Iran to Kandla Port and further, on the scrutiny of the documents collected from the office of the vessel agent, M/s. Master Logitech Pvt. Ltd, it was noticed that in one of the mail sent from the Vivek Gurbani (Assistant Manager, Master Logitech Pvt. Ltd) to multiple container lines having the subject as "ARRIVAL NOTICE PER M.V. KABUL -072K AT KANDLA ON 05.02.2022-V21312" Mr. Vivek Gurbani clearly mentioned that vessel sailed from the Bandar Abbas.

From the above said mail forwarded to containers lines and statement produced, it was clear that the vessel MV Kabul (IMO 9122473) in its voyage no 72 started its journey from the Bandar Abbas to having the first port of call as Kandla Port.

7.2 During the course of investigation, the officers searched the office premises of the all the containers Lines whose containers were carrying the cargo in vessel MV Kabul and to be discharged at Kandla Port/Nhava Sheva which were seized vide seizure memo dated 10/11.02.2022. During the course of search, some of the copies of Bills of Lading were retrieved, wherein Port of Loading was mentioned as Bandar Abbas alongwith the copies of corresponding altered Bills of Lading, wherein Port of Loading was mentioned as Jebel Ali, UAE.

7.3 Thereafter, summons were issued to all the containers lines whose containers were carrying the cargo in vessel MV Kabul and to be discharged at Kandla Port/Nhava Sheva which were seized by this office vide seizure memo dated 10/11.02.2022. The details related to Container Lines, Importers and CHAs in respect of the cargo imported through vessel MV KABUL which were seized vide seizure memo dated 10th and 11th Feb 2022 are as follows:

TABLE-5

Sr. No	Container Line	BL No	Importer	Cargo description	CHA Name
1	M/s. Casto Shipping Line LLP	CSL/NHS/0188	Arissa International	Pistachio	Purshottam C Thakkar
2	M/s. SAG Transline Pvt. Ltd.	BJEINS185/1094	Agarwal Chemicals	Paraformaldehyde 96 % Min. Powder	Jaiswal Import Cargo Services Ltd.
3	M/s. ASN Shipping Agencies Pvt. Ltd	ASN/NHS/00170	Seaco Enterprise	Yellow Crude Granular Sulphur	Jaiswal Import Cargo Services Ltd.

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Cargo Services
Ltd.

4	M/s. ASN Shipping Agencies Pvt. Ltd	SWL/NSH-220017	BH Enterprise	Urea Prilled Technical Grade for industrial use	Jaiswal Import Cargo Services Ltd.
5	M/s. ASN Shipping Agencies Pvt. Ltd	SWL/NSH/220009	BH Enterprise	Urea Prilled Technical Grade for industrial use	Jaiswal Import Cargo Services Ltd.
6	M/s. Intergulf Shipping Line Private Limited	MJEANSA2202836	RGS Exim PRO	RF Fresh Apple	Jaiswal Import Cargo Services Ltd.
7	M/s. Bilander Logistics Pvt. Ltd.	NUK/JEA/IXY/22008 63	Hemal International	Pistachio Inshell	Purshottam C Thakkar
8	M/s. Bilander Logistics Pvt. Ltd.	NUK/JEA/IXY/22008 30	Pujan Enterprise	Wet Dates	Effiel Logistics Private Limited
9	M/s. Bilander Logistics Pvt. Ltd.	VDX/JEA/IXY/20088 0	Chevas Imports Exports Pvt. Ltd.	Apple	Jaiswal Import Cargo Services Ltd.
10	M/s. Bilander Logistics Pvt. Ltd.	JEA/IXY/3237	Premium Petro Products	Bitumen	Effiel Logistics Private Limited
11	M/s. Bilander Logistics Pvt. Ltd.	JEA/IXY/7171	Premium Petro Products	Bitumen	Effiel Logistics Private Limited
12	M/s. SC lines Shipping & Logistics Pvt. Ltd.	SCLJEANHV000014	Green Horizon Farmers Producer Company Limited	Apple	Jaiswal Import Cargo Services Ltd.
13	M/s. Econship Tech Pvt. Ltd.	DXB280336NSA-1-1	Vrushti Impex	Wet Dates	Purshottam C Thakkar
14	M/s. Sea Marine Logistics Pvt. Ltd.	MNJ/JEA/NSA/2100 0727	Dang International	Dates	Jaiswal Import Cargo Services Ltd.
15	M/s. Winwin Maritime Limited	COL-NSA-220006	Shanus Impex	Apple	Jaiswal Import Cargo Services Ltd.
16	M/s. Winwin Maritime Limited	BSL/NHS/138606	Gomti International	Parafin wax	Rishi Kiran Logistics Private Limited

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17	M/s. Goodrich Maritime Pvt. Ltd.	BSLNHS138664	Radha Krishna Fruit Company	Apple	Jaiswal Import Cargo Services Ltd.
18	M/s. Goodrich Maritime Pvt. Ltd.	BSLNHS138672	Chevas Imports Exports Pvt. Ltd.	Apple	Jaiswal Import Cargo Services Ltd.
19	M/s. Goodrich Maritime Pvt. Ltd.	BSLNHS138656	Radha Krishna Fruit Company	Apple	Jaiswal Import Cargo Services Ltd.
20	M/s. Efficient Marine Services LLP	23190017633	Raja Dry Fruits	Pistachio Kernel	ACT Infraport Limited
21	M/s. Efficient Marine Services LLP	23190017634	California Agri Nuts Corporation	Pistachio Kernel	ACT Infraport Limited
22	M/s. Efficient Marine Services LLP	23190017683	H K Impex	Pistachio Kernel	ACT Infraport Limited
23	M/s. Navio shipping Pvt. Ltd.	NAVJEANSA2200859	Hari Agro Products	Apple	Jaiswal Import Cargo Services Ltd.
24	M/s. GIL shipping services pvt. Ltd.	ADME002328*	JK Alamdar Trading Company	Bitumen	Effiel Logistics Private Limited
25	M/s. GIL shipping services pvt. Ltd.	ADME002326*	Velelon Petrcochem Pvt. Ltd.	Bitumen	Effiel Logistics Private Limited
26	M/s. Radian Maritime India Pvt. Ltd.	ATSJEAIXY2201200	Velelon Petrcochem Pvt. Ltd.	Bitumen	Effiel Logistics Private Limited
27	M/s. Radian Maritime India Pvt. Ltd.	ATSJEAIXY2201207	Everge Smart India P. Ltd.	Bitumen	Bhavya Shipping
28	M/s. Radian Maritime India Pvt. Ltd.	ADME002328*	JK Alamdar Trading Company	Bitumen	Effiel Logistics Private Limited

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29	M/s. Radian Maritime India Pvt. Ltd.	ADME002326*	Vevelon Petrochem Pvt. Ltd.	Bitumen	Effiel Logistics Private Limited
30	M/s. Radian Maritime India Pvt. Ltd.	ATSJEAIXY2201226	Chemicals India	Sodium Silicate Lumps	M/s. AD Mehta Clearing Agency
31	M/s. Radian Maritime India Pvt. Ltd.	ATSJEAIXY2201229	Tinna Rubber and Infrastructure Limited	Natural Asphalt	Jaiswal Import Cargo Services Ltd.
32	M/s. Efficient Marine Services LLP	23490017630	GWC Impex	Bitumen	Bright Shiptrans Private Limited
33	M/s. Efficient Marine Services LLP	23490017631	GWC Impex	Bitumen	Bright Shiptrans Private Limited
34	M/s. Seacross Shipping LLP	SEACROSSJEAIXY009	M/s. Shivam Additives Pvt. Ltd.	Hexamethylene Tetramine /Hexamine Unstabilized	Purshottam C Thakkar
35	M/s. Majestic Maritime Pvt. Ltd.	JEAIXY21023614	Excellent Traders India	Residue Wax	Bright Shiptrans Private Limited
36	M/s. Majestic Maritime Pvt. Ltd.	JEAIXY22020055	Madhusudan Organics Limited	Bitumen	Bright Shiptrans Private Limited
37	M/s. Majestic Maritime Pvt. Ltd.	JEAIXY22020056	Madhusudan Organics Limited	Bitumen	Bright Shiptrans Private Limited
38	M/s. Omega Liners(India) Private Limited	9844JEAIXY	Ocean Petroleum	Base Oil	Saarthee Shipping Co.
39	M/s. Goodrich Maritime Pvt. Ltd.	DRGNJEAIXY220114	Neptune Petrochemicals Pvt. Ltd.	Bitumen	Swayam Shipping
40	M/s. Hub & Links Logistics (I) Private Limited	B331921	Vardhman Trading Company	Base Oil	Bright Shiptrans Private Limited
41	M/s. Hub & Links Logistics (I) Private Limited	B1143221	Premium Petro Products	Bitumen	Effiel Logistics Private Limited

42	M/s. Hub & Links Logistics (I) Private Limited	B1143321	Everge Smart India P. Ltd.	Bitumen	Bhavya Shipping
43	M/s. Winwin Maritime Limited	EMAJEAIXY32722	Catalyst Petrochem LLP	Bitumen	Bright Shiptrans Private Limited
44	M/s. Winwin Maritime Limited	EMAJEAIXY32822	Catalyst Petrochem LLP	Bitumen	Bright Shiptrans Private Limited
45	M/s. Winwin Maritime Limited	EMAJEAIXY33822	Catalyst Petrochem LLP	Carbon Black	Bright Shiptrans Private Limited
46	M/s. Winwin Maritime Limited	EMAJEAIXY38222	M/s. Asha Rubber Industries	Carbon Black	Daksh Shipping
47	M/s. ASN Shipping Agencies Pvt. Ltd	RTM/JEA/NSA/2200 0018	Ruhaan Impex Pvt. Ltd.	Wet Dates	Purshottam C Thakkar

- The GIL Shipping Services Private Limited worked as forwarder in respect of the cargo covered under the Bill of Lading No ADME002328 & ADME002326 and they had forwarded the documents as received from Dubai office to M/s. Radiant Maritime India Pvt. Ltd..

From the statement of the authorized persons of the Container Lines, it is evident that they have switched the B/L at the Jabel Ali, Port for the consignment loaded against those Bills of Ladings as mentioned in the Table 1 & Table 2. They (Container Lines) were clearly aware that the goods are loading from Bandar Abbas, Iran and they deliberately issued the forge B/L having the port of loading as Jabel Ali, UAE for all the cargo mentioned in the Table 1 & Table 2 as stated above. All the container Lines accepted those forgery and agreed that the said goods were loaded from the Bandar Abbas, Iran and had misdeclared the same by issuing the forge B/L having POL (Port of Loading) as Jabel Ali, Port UAE.

7.4 Importers:-

Thereafter, summons were issued to all the importers who imported the cargo in vessel MV Kabul and to be discharged at Kandla Port/Nhava Sheva Port which were seized by this office vide seizure memo dated 10/11.02.2022.

The details of all the cargo imported and all the bill of entries filed by the Customs Brokers on behalf of the importers along with the details of the assessable value of the cargo which were seized vide seizure memo dated 10th & 11th Feb 2022 are as under :

TABLE-6

Sr. No	BL No	Importer	Cargo description	BE No	BE Date	Assessable Value
1	CSL/NHS/0 188	Arissa International	Pistachio	7851456	14.03.2022	7738929

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2	BJEINS185/1094	Agarwal Chemicals	Paraformaldehyde 96 % Min. Powder	8045299	28.03.2022	5388911
3	ASN/NHS/00170	Seaco Enterprise	Yellow Crude Granular Sulphur	7694955	01.03.2022	12320107
4	SWL/NSH-220017	BH Enterprise	Urea Prilled Technical Grade for industrial use	7858013	14.03.2022	17070338
5	SWL/NSH/20009	BH Enterprise	Urea Prilled Technical Grade for industrial use	7858031	14.03.2022	14197113
6	MJEANSA2202836	RGS Exim PRO	RF Fresh Apple	7807124	10.03.2022	1523713
7	NUK/JEA/IXY/2200863	Hemal International	Pistachio Inshell	7903253	17.03.2022	4946036
8	NUK/JEA/IXY/2200830	Pujan Enterprise	Wet Dates	8015156	25.03.2022	967710
9	VDX/JEA/IXY/200880	Chevaz Imports Exports Pvt. Ltd.	Apple	7807123	10.03.2022	1386075
10	JEA/IXY/3237	Premium Petro Products	Bitumen	7379776	05.02.2022	16010114
11	JEA/IXY/7171	Premium Petro Products	Bitumen	7379022	05.02.2022	16013024
12	SCLJEANHV000014	Green Horizon Farmers Producer Company Limited	Apple	7823379	11.03.2022	777150
13	DXB280336NSA-1-1	Vrushti Impex	Wet Dates	7851463	14.03.2022	797588
14	MNJ/JEA/NSA/21000727	Dang International	Dates	7851457	14.03.2022	666764
15	COL-NSA-220006	Shanus Impex	Apple	7807121	10.03.2022	3941180
16	BSL/NHS/138606	Gomti International	Parafin wax	7903263	17.03.2022	3746639
17	BSLNHS138664	Radha Krishna Fruit Company	Apple	7823374	11.03.2022	7091482
18	BSLNHS138672	Chevaz Imports Exports Pvt. Ltd.	Apple	7823378	11.03.2022	3287485

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19	BSLNHS138 656	Radha Krishna Fruit Company	Apple	7823380	11..03.2022	685503
20	2319001763 3	Raja Dry Fruits	Pistachio Kernel	7961595	22.03.2022	3999890
21	2319001763 4	California Agri Nuts Corporation	Pistachio Kernel	7961602	22.03.2022	3924432
22	2319001768 3	H K Impex	Pistachio Kernel	7961589	22.03.2022	5204821
23	NAVJEANSA 2200859	Hari Agro Products	Apple	7851466	14.03.2022	1816684
24	ADME00232 8	JK Alamdar Trading Company	Bitumen	7375784	05.02.2022	15707202
25	ADME00232 6	Vevelon Petrcochem Pvt. Ltd.	Bitumen	7382862	05.02.2022	15939098
26	ATSJEAIXY2 201200	Vevelon Petrcochem Pvt. Ltd.	Bitumen	7412978	08.02.2022	16163294
27	ATSJEAIXY2 201207	Everge Smart India P. Ltd.	Bitumen	7428690	09.02.2022	25740725
28	ATSJEAIXY2 201226	Chemicals India	Sodium Silicate Lumps	7398614	07.02.2022	18359140
29	ATSJEAIXY2 201229	Tinna Rubber and Infrastructure Limited	Natural Asphalt	000002	06.04.2022	2569900
30	2349001763 0	GWC Impex	Bitumen	7379566	05.02.2022	13692236
31	2349001763 1	GWC Impex	Bitumen	7377797	05.02.2022	13731883
32	SEACROSSJ EAIXY009	M/s. Shivam Additives Pvt. Ltd.	Hexamethylen e Tetramine /Hexamine Unstabilized	7400560	07.02.2022	3468797
33	JEAIXY2102 3614	Excellent Traders India	Residue Wax	7369721	04.02.2022	2569261
34	JEAIXY2202 0055	Madhusudan Organics Limited	Bitumen	7369717	04.02.2022	17391990
35	JEAIXY2202 0056	Madhusudan Organics Limited	Bitumen	7369664	04.02.2022	14945758
36	9844JEAIXY	Ocean Petroleum	Base Oil	7379054	05.02.2022	10427445
37	DRGNJEAIX Y220114	Neptune Petrochemicals Pvt. Ltd.	Bitumen	7506991	15.02.2022	15068163
38	B331921	Vardhman Trading Company	Base Oil	7379291	05.02.2022	27634002
39	B1143221	Premium Petro Products	Bitumen	7383464	05.02.2022	15352215

40	B1143321	Everge Smart India P. Ltd.	Bitumen	7389617	07.02.2022	16477036
41	EMAJEAIXY 32722	Catalyst Petrochem LLP	Bitumen	7369149	04.02.2022	15720498
42	EMAJEAIXY 32822	Catalyst Petrochem LLP	Bitumen	7368832	04.02.2022	15797239
43	EMAJEAIXY 33822	Catalyst Petrochem LLP	Carbon Black	7368979	04.02.2022	7690004
44	EMAJEAIXY 38222	M/s. Asha Rubber Industries	Carbon Black	7387755	06.02.2022	1511142
45	RTM/JEA/N SA/2200001 8	Ruhaan Impex Pvt. Ltd.	Wet Dates	7978648	23.03.2022	894585

All the importers vide their statement had submitted that they were not aware about the said ongoing forgery of documents done by the container lines in corroboration with the vessel agent, charterer/owner of the vessel MV KABUL & Container Lines. From their statement, it appeared that they were just trying to evade their responsibility towards the Custom Authority. It was their responsibility to obtain the correct information from the container lines and shippers and submit those correct details as envisaged in the section 46 of the customs Act, 1962. Merely saying that they were not aware about the forgery, they cannot escape from their liability/duty/responsibility to furnish the correct details to the Custom Authority. While doing the agreement with the shipper, they should ensure the correctness of the description and importing/exporting the goods as were required but they failed to do so and it appeared that either they had not taken due diligence or they were colluding with the shipper in the said forgery citing the restriction imposed on the Iran.

7.5. Custom Brokers:

Summons were issued to the Custom Brokers (C.B.)/Custom House Agents (C.H.A.) to record their statement and for submission of documents in case of imports done through Vessel MV KABUL.

From the statement of the Custom Brokers, it appeared that they had taken the required documents from their respective importers and on the basis of those document, they had filed the Bills Of Entry before the Custom Authority. They had done all the work as required by them to fulfill their responsibility as Custom Brokers but they had not taken the required diligence while obtaining the said documents and details from their respective importer as envisaged in the Customs Broker Licensing Rules 2018 as amended and inadvertently, they had filed the Bills of Entry with the incorrect details i.e. port of loading as Jabel Ali, Port, UAE rather than Bandar Abbas Port, Iran.

8. CONTRAVICTION BY CHARTERER/VESSEL OWNER, VESSEL AGENT, CONTAINER LINES, IMPORTERS AND CUSTOM BROKERS.

Charterer/Owner of the vessel:

During the course of investigation, statement of the captain, Mr. B Ghandian were recorded under the provisions of the section 108 of the Customs Act, 962 on 07.02.2022. From the statement recorded and documents retrieved from the vessel, it was evident that the said goods as mentioned in the Table 1 & Table 2 as stated earlier, were loaded from the Bandar Abbas Port, Iran and the Vessel started its voyage no. 072 from the Bandar Abbas Port, Iran and its first port of call was Kandla Port. The Vessel MV Kabul had not visited the Jabel Ali Port, UAE during the voyage no 072.

Thus, the said Vessel MV Kabul was liable for confiscation under the section 115(2) of the Customs Act 1962 as the said vessel MV KABUL was *used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods.*

The Captain of the vessel MV KABUL, Mr. B. Ghandian followed the instruction given by his charterer/ owner M/s. Neman Shipping INC, Panama. The vessel MV KABUL was used as the means of transportation of the smuggled goods and had failed to comply with the provisions of this act with which the Vessel, MV KABUL along with on board tools and tackles anchored at OTB (Outer Tuna Buoy) outside Kandla Port having Insured Value USD 55,00,000 and in Indian Rupees (@ Rs. 75.75 USD) Rs. 41,66,25,000/- (Rupees Forty-One Crore, Sixty-Six Lakh, Twenty-Five Thousand only) which was seized on 10.02.2022 vide seizure memo F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla under the provisions of Section 110(1) of Customs Act, 1962 on the reasonable belief that the same was liable for confiscation under Section 115(2) of the Customs Act, 1962.

Further, investigations had pointed that the Owner/charterer of the Vessel MV KABUL, M/s. Neman Shipping INC, Panama, had knowingly and intentionally had not taken due precaution while transacting business by his vessel agent, M/s. Master Logitech Pvt. Ltd. Gandhidham in submission of documents and other details to the Custom Authorities.

As per the Sea Cargo Manifest And Transhipment Regulations 2018 as amended states the authorized carrier as "authorised carrier" means an authorised sea carrier, authorised train operator or a custodian, registered under regulation 3 and postal authority; and authorized sea carrier as "authorised sea carrier" means the master of the vessel carrying imported goods, export goods and coastal goods or his agent, or any other person notified by the Central Government.

In the instant case, the owner/charterer of the vessel, M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama appointed M/s. Master Logitech Pvt. Ltd. Gandhidham as his vessel agent to transact the customs related business with the custom, authorities. As the IGM filed by the M/s. Master Logitech Pvt. Ltd. Gandhidham, vessel agent mis-declared the imported cargo in respect of the Country of their Origin. It was their duty (Owner/Charterer of the vessel) to bring this contravention before the Deputy/Assistant Commissioner of the Customs but they failed to do so.

From the above facts, it appeared that the Owner/Charterer of the vessel M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama failed to intimate the contravention and thus contravened the provisions of the Sea Cargo Manifest And Transhipment Regulations 2018 and with the collusion of his agents, Container Lines and other stakeholders, they remained silent on the forgery done by the container lines and other persons in issuing the forge Bills of Lading by declaring the port of loading as Jabel Ali, UAE at the place of the Bandar Abbas Port, Iran.

It is clear that the Owner/Charterer of the vessel M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama was equal partner in this forgery done by the container lines by remaining silent and let the vessel agent, M/s. Master Logitech Pvt. Ltd. Gandhidham to file the incorrect IGM with the mis-declared port of loading of the imported goods. Thus they should also be penalized under section 114AA of the Customs Act, 1962 for knowingly or intentionally making, signing or using, or **causing to be made**, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of his business for the purposes of this Act.

Vessel Agent:

During the search conducted on the vessel agent M/s. Master Logitech Pvt. Ltd Office No. R-1 and R-2, 2nd Floor, Plot No. 233, Ward 12-B, Near Kutch Kala, Opp. Atmaram Circle, Gandhidham-370201, few documents were retrieved from their premise and proceeding were recorded under the Panchnama dated 06.02.2022 drawn at premises of M/s Master Logitech Pvt. Ltd. Further, a mail (image of the same mentioned in Para 7 of SCN) was sent by the Vivek Gurbani (Assistant Manager, Master Logitech Pvt. Ltd) to container lines having the subject as "ARRIVAL NOTICE

PER M.V. KABUL -072K AT KANDLA ON 05.02.2022-V21312" where **Mr. Vivek Gurbani clearly mentioned that vessel sailed from the Bandar Abbas.**

In light of the above, it was clearly visible that the vessel agent was well in knowledge, that the vessel MV Kabul had departed from the Bandar Abbas Port, Iran having the first port of call as Kandla Port and while filing the IGM No 2303229 dated 04.02.2022 have hidden those information and mis-declared the POL(Port of Loading) in respect of the cargo as mentioned in the Table 1 & 2. Accordingly, they contravened the provisions of the Indian Custom Act 1962.

As the vessel agent had contravened the provisions of Rule 10 (1)(h) of the sea cargo manifest and mis-declared the POL in the IGM 2303229 dated 04.02.2022, was liable for penalty under Rule 13 of the Sea Cargo Manifest and transshipment Regulations 2018. In addition to this, the vessel agent had also contravened the provision of the Customs Act by providing the incorrect details before the customs authority so the vessel agent was liable for penalty under section 114AA of the Customs Act 1962.

Further, as the vessel agent, M/s. Master Logitech Pvt. Ltd works as agent of the person in charge of the conveyance i.e. Vessel MV Kabul so by the virtue of the Section 148 of the Customs Act 1962, the vessel agent was liable for the fulfillment in respect of the matter in question of all the obligation imposed on the Charterer/Owner of the vessel.

CONTAINER LINES:

Statement of the all the container lines were recorded under section 108 of the Customs Act 1962 in which they had accepted that the port of loading was Bandar Abbas, Iran and due to their principle line agent instruction and the shipper request, they had changed the original Bills of Lading and issued the false Bills of Lading mentioning the POL as Jabel Ali, UAE even though they were aware of the same.

Merely accepting the forgery done by them does not mitigate the gravity of the act of commission done by them. It is their duty to abide by the rules and regulation under which they were doing their business but they have ignored the provisions of the customs act 1962 intentionally and issued the forged bill of lading to the vessel agent and the importers. This should be considered as a gross violation of the provisions of the Custom Act 1962. As they have forged the documents and submitted the incorrect details by issuing false B/L, renders the said containers liable for confiscation under section 111(d), 111(f) and 111(m) of the Customs Act 1962.

Further, the forgery done by all container line with the collusion of the charterer/owner of the vessel, captain of the vessel and other stake holders was gross in nature and while tendering the statement, they (all container lines) followed the instruction given by the principal container line/shipper and they forgot that there is an act (Custom Act 1962) which is in force and they should also follow the provisions of the act but they failed to do so.

Thus all the containers lines whose containers were seized vide seizure memo dated 10 & 11th February 2022 should be liable for the penalty under section 114AA of the Customs Act 1962 as they knowingly issued the false B/L having the details of the POL as Jabel Ali Port, UAE even when they were clearly aware that the port of loading in the instant case was Bandar Abbas, Iran.

Further the decision taken by the container lines by following the instruction of their principal container lines and keeping the custom act in abeyance renders themselves personally liable and hence they should be personally penalized under section 117 of the Custom Act 1962 in addition to the penal provision imposed under section 114AA of the Custom Act 1962.

IMPORTERS:-

All the importer vide their statement have inter-alia submitted that they were not aware about the said ongoing forgery of documents done by the container lines in corroboration with the vessel agent but they were just to evade the responsibility of theirs. Merely saying that they have placed the order with their overseas shipper and the container lines comes under the scope of the shipper does not reduce their responsibility and due diligence. It was their responsibility to obtain the correct

information from the container lines and shippers and submit those correct details as envisaged in the section 46 of the customs Act, 1962. Merely saying that they were not aware about the forgery, they cannot escape from their liability/duty/responsibility to furnish the correct details to the Custom Authority. While doing the agreement with the shipper, they should have ensured the correctness of the description and importing/exporting the goods as were required but they failed to do so and it appeared that either they have not taken due diligence or they were colluding with the shipper in the said forgery citing the restriction imposed on the Iran.

Thus the responsibility lies with the importer to declare the correct details while filing the Bill of Entry before the Customs Authority and the section 46 (4A) also provides that the importers who presents the bill of **entry shall 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 but they have failed to do so and submitted the incorrect details to the customs but all the importers have not followed the provisions of the custom Act 1962 and they were just trying to hide their responsibility by passing the ball of responsibility to the court of the overseas shipper and container lines. Accordingly all the importers whose goods were seized should be liable for confiscation by the virtue of the section 111(d), 111(f) and 111(m) of the Customs Act 1962 and all the importer (mentioned in table 1, 2 & 6) who have failed to provide the correct information before the customs authority and misdeclared the port of loading as Bandar Abbas, Iran rather Jabel Ali port, UAE in respect of the cargo covered under the Table 1 & Table (mentioned before) have contravened the provisions of the Customs Act and thus they have rendered themselves liable for the penalty under section 114AA of the Customs Act 1962.

In the instant case, the importer (as mentioned in table -6) have declared Jabel Ali, Port as port of loading of goods but as per the investigation carried out so far suggests that the goods were actually loaded from the Bandar Abbas so in this case the assessable value declared before the custom authority are incorrect. The importers in this instant case have termed the payment as CFR (Cost and Freight) or CIF (Cost, Insurance and freight). This shows that whatever freight or insurance are calculated and covered under the assessable value are from the mis-declared port of loading i.e. Jabel Ali Port, UAE but as per the investigation, this should be from actual port of loading i.e. Bandar Abbas Port, Iran. Accordingly, the freight difference between Bandar Abbas to Kandla & Jabel Ali to Kandla is required to be added in the declared assessable value and differential duty (Annexure- B) is required to be recovered under section 28 of the Custom Act, 1962 from the importers.

The importers (as mentioned in Table -6) have not followed the provisions of section 14 of the Customs Act in its true sense. Accordingly, all the importers as mentioned in Table -6 Should be liable for penalty under section 112a, 112b(ii) of the Customs Act, 1962.

The freight has been ascertained based on email (RUD -69) dated 08.02.2023 received from the vessel agent office and accordingly, the differential duty has been arrived.

CUSTOM BROKERS:

From the statement of the Custom Brokers, it appears that they have taken the required documents from their respective importers and on the basis of those documents; they have filed the Bills Of Entry before the Custom Authority. They have done all the work as required by them to fulfill their responsibility as Custom Brokers but they have not taken the required diligence while obtaining the said documents and details from their respective importer as envisaged in the Customs Broker Licensing Rules 2018 as amended and inadvertently they have filed the Bills of Entry with the incorrect details i.e port of loading as Jabel Ali, Port, UAE rather Bandar Abbas Port, Iran on behalf of the importer contravening the provisions of the Customs Act 1962 & Customs Broker Licensing Rules 2018 as amended.

The custom brokers have not exercised the due diligence to ascertain the correctness of the information provided to them by their respective importer accordingly they have not fulfilled the obligation parameter as mentioned in the Brokers Licensing Regulations 2018 as amended. Further they have also not followed the provisions of the section 46 of the Custom Act 1962.

As the bill of entry filed with the incorrect details, the custom brokers have contravened the provisions of the section 46 of the Customs Act 1962 and provisions of the Custom Brokers Licensing Regulations 2018 as amended which will make themselves liable for the penalty under section 117 of the Custom Act 1962. It was custom brokers' failure from their own part in submitting those incorrect details before custom authority without verifying the said facts and figures provided to them by their respective importers in respect of the cargo imported through the Vessel MV Kabul and which were seized vide seizure memo dated 10th and 11th Feb 2022. It makes all the customs brokers personally liable for the penalty under section 117 of the Customs Act 1962.

9. Therefore, **M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama** were issued SCN vide F.No. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla dated 08.02.2023 as to why:-

(a) The vessel MV KABUL along with on board tools and tackles anchored at OTB (Outer Tuna Buoy) outside Kandla Port having Insured Value USD 55,00,000 and in Indian Rupees (@ Rs. 75.75 USD) Rs. 41,66,25,000/- (Rupees Forty-One Crore, Sixty-Six Lakh, Twenty-Five Thousand only) which was seized on 10.02.2022 vide seizure memo F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla under the provisions of Section 110(1) of Customs Act, 1962 on the reasonable belief should not be confiscated under Section 115(2) of the Customs Act, 1962

(b) Penalty should not be imposed under section 114AA of the Customs Act 1962.

9.1 Therefore, Vessel Agent of the vessel MV Kabul, **Mr. Master Logitech Private Limited**, Office No. R-1 & 2, 2- Floor, Plat No. 233, Ward 12-B, Near Kutch Kala, Opp. Atmaram Circle, Gandhidham were called upon to show cause as to why:-

(a) penalty should not be imposed under the provision of the Sea Cargo Manifest and Transshipment Regulations, 2018 as amended .
(b) penalty should not be imposed under section 114AA of the Customs Act 1962.

9.2 Therefore, **all the container lines** whose containers were seized along with the goods under seizure memo dated 10th and 11th Feb 2022 and whose details are given in the TABLE-5 were issued SCN as to why:-

(a) the containers as seized vide seizure memo dated 10th and 11th feb 2022 should not be confiscated under section 111(d), 111(f) and 111(m) of the Customs Act 1962.
(b) penalty should not be imposed under section 114AA of the Customs Act 1962.
(c) Penalty should not be imposed under section 117 of the Customs Act, 1962

9.3 Therefore, **all the importers** whose goods were seized under seizure memo dated 10th and 11th Feb 2022 and whose details are given in the TABLE- 6 were issued as to why:-

(a) the goods as seized vide seizure memo dated 10th and 11th February 2022 should not be confiscated under section 111(d), 111(f) and 111(m) of the Customs Act 1962.
(b) Port of loading declared as Jabel Ali, UAE in their respective bill of entry should not be rejected and Bandar Abbas, Iran should not be considered as port of loading.
(c) Country of origin of the goods declared as UAE/otherwise in respect of Bill of entry filed should not be rejected and Iran should not be considered as Country of origin of goods.
(d) The duty should not be demanded and recovered as per the detail given in Annexure – B to this notice.

- (e) penalty should not be imposed under section 114AA of the Customs Act 1962.
- (f) Penalty should not be imposed under section 112a, 112b(ii) of the Customs Act, 1962.

9.4 Therefore, **all the Custom Brokers** who filed the respective Bill of Entry on behalf of their respective importers in respect of the goods seized under seizure memo dated 10th and 11th Feb 2022 and whose details are given in the TABLE- 5 were issued SCN as to why:-

- (a) penalty should not be imposed under section 117 of the Customs Act 1962.

9.5 The Show cause notice could not be adjudicated, because of change in adjudicating authority, within the stipulated time as provided under Section 28(9)(b) of the Customs Act, 1962 therefore the time limit for issuance of Order-in-Original in the instant matter was extended by one more year in terms of proviso to Section 28(9)(b) of the Customs Act, 1962 by the competent authority.

Defense Submission:

10.1 Shri Santosh Upadhyay, Advocate submitted their written submission, on behalf of the following noticee container lines:

- (i) M/s. Radiant Maritime India Pvt. Ltd.
- (ii) M/s. Gill Shipping Services Pvt. Ltd.
- (iii) M/s. Bilander Logistics Pvt. Ltd.
- (iv) M/s. Majestic Maritime Pvt. Ltd.
- (v) M/s. Navio Shipping Pvt. Ltd.
- (vi) M/s. ASN Agencies Pvt. Ltd.
- (vii) M/s. Hub & Links Logistics India Pvt. Ltd.
- (viii) M/s. Efficient Marine Services LLP
- (ix) M/s. Omega Liners (I) Pvt. Ltd.
- (x) M/s. Sea Marine Logistics Pvt. Ltd.
- (xi) M/s. Seacross Shipping LLP

Submitted that:

(i) That they provided their services to their principal Shipping Line and that they don't have any role in the mis-declaration of port of loading in the current shipment. They neither worked nor dealt with the exporter and importer of these imports directly.

(ii) that as per India's bilateral relations with Iran, it is ascertained that ever since the United States of America has imposed sanctions on Iran, India could not engage in dollar- denominated trade with Iran. Despite the Reserve Bank of India (RBI) has allowed the use of third-party currency for trading with Iran, Indian importers/exporters are facing difficulties as Iran is unable to make / receive direct payments in dollar or euros. The third-party currency payment is fraught with delays and additional costs and because of which the Iranian Banks are unable to transact in these currencies and therefore, have to route it through a third party. Besides, Indian Banks are also not accepting currencies to/from Iran directly so it has to be routed through a third party – who may not be the actual buyer in Iran.

(iii) The importers holding the B/L of our client have denied their involvement in mis-declaration of port of loading, however, they have confirmed that the payments for the subject consignments were made by them to the supplier in Dubai. This establishes the fact that due to payment restrictions to/from Iran, the Switch Bills of Lading mentioning the port of loading as Jebel Ali is requested by the supplier of the importer to enable smooth functioning of forex transactions.

(iv) Concerning the allegations levelled against them pertaining to the Switch Bill of Lading issued in the current shipments, a Switch Bill of Lading is simply the second set of Bill of Lading issued by the carrier or its agent to substitute the Original Bills of Lading issued at the time of the shipment, even though it technically deals with the same cargo. To emphasize in detail, switch Bills of Lading are issued for replacement of certain details specified as below:

I. *When there has been a change in the original trading conditions;*

II. *Goods have been resold (probably high-seas sale) and the discharge port has now changed to another port ;*

III. *The seller (who could be an indenting agent) does not wish the name of the actual exporter to be known to the consignee in case the consignee strikes a deal with the exporter directly;*

IV. ***The seller does not want to know the buyer to know the actual country of origin of the cargo so he requests that the port of loading be shown as some port other than the one the cargo was loaded from.***

(v) It is pertinent to note that for the subject import shipment, the first leg of Bill of Lading was issued in Bandar Abbas and second leg of Bill of Lading has been issued from the principal Shipping Line. However, their client received only the second leg bill of Lading and accordingly the Import General Manifest (**IGM**) is filed at destination port by our client, based on the information given in the second leg of Bill of Lading. Our clients are provided with only the final leg Bill of Lading to file IGM which enables our clients to issue the delivery order to the respective consignee(s) at destination. For all import consignments, it is outside the jurisdiction and authority of our clients to inspect the contents of the goods stuffed inside the container and verify its origin. Our clients can only rely upon the load port documents and Bills of Lading to ascertain the contents of the container and its port of loading details to file the Import General Manifest (**IGM**) at the destination port. **Consequently, on this ground it is submitted that our clients are not liable for any penalty under Section 111(d), 111(f), 111(m), 114AA and 117 of the Customs Act, 1962**

(vi) The request for issuance of switch bills of lading can be made either by the shipper or the consignee. The port of discharge agent has no role to play in issuance of switch bills of lading. Therefore, the allegation related to violations of the provisions of the Indian Customs Act, 1962, must be raised on the importers and further demand of differential freight payment along with the confiscation of goods and penalty should be demanded from them only.

(vii) that no evidence has been put on table related to conspiracy or orchestrating by their client, for this alleged crime. Their clients are not a party to the alleged scheme of mis- declaration of port of loading under the alleged Switch Bills of Lading which has been issued by their principal Shipping Line.

(viii) that our clients are agent of the shipping line in the subject case.

- a. That, our clients is a shipping and logistics company in the field of Container/NVOCC/Projects/Bulk/Special equipment's.
- b. That, our client acts as an agent for different foreign container lines.
- c. That, as an agent, our client is responsible for handling containers of particular lines for clearance from port.
- d. That, in the subject import case, our client has acted as an agent at the port of discharge for filing the IGM.
- e. That, all communications related to the subject imports were received from the principal Shipping Line.
- f. That our client received all documents from their principal Shipping Line, and that our client did not correspond with either the Consignee, Shipper or the Customs Broker.

(ix) that the shipping line agents are not required to look into the authenticity of the contents of the Bills of lading, certificate of origin and they need to only declare information as it is received from principal Shipping Line. Further, it is also not required at shipping agent's end to verify each and every container no. from any other website to track the origin. This is operationally not possible and legally also not required to be done. This is the responsibility of the owner to ensure the correctness of documents and declarations. It is also the importer's responsibility to verify the authenticity of the origin of goods.

(x) that Section 111 (d), 111(f) and 111(m) is not applicable to our clients since they have not done anything which will render the containers of import to be confiscated. In respect of the containers, IGM has been filed as per the switch Bills of Lading received from the principal Shipping Line and no mis-declaration of value of goods has been alleged in this case. The finding of confiscability of containers was unsustainable and consequently the penalty on our client is not sustainable. The Bank Guarantee taken was equal to the fine and penalty subsequently imposed. It shows that the adjudicating authority had decided in advance the penalties to be imposed which were in violation of principles of natural justice. When the fine was imposed without ascertaining margin of profit it reflected non application of mind. Our client acted in a bonafide manner in relation to port of discharge procedures for subject consignment. We have also provided detailed submission against the same in the above paragraphs.

(xi) Further, section 114AA & section 117 are also not applicable as our client is not responsible for any mis-declarations in the subject consignment. The importer is solely responsible for payment of all applicable customs levies by declaring correct details of the consignment in the bill of entry. Further, our client has not used any false and incorrect material for filling of IGM intentionally. Our client was under bonafide belief that documents provided by their foreign agent are correct. Therefore, these penalties under section 114AA and under section 117 are not applicable to our client.

(xii) that our clients are an agent of the principal Shipping Line, thus, Article IV (2) of the Indian Carriage of Goods by Sea Act, 1925 and more specifically Article IV (2) (i), discharges the carrier from any and / or all liabilities and / or losses, arising due to any act or omission of the Shipper or the owner of the goods, his agent, or representative. On this ground alone, it is submitted that our client is not liable for any mis-declaration on the part of the shipper / consignee and neither have they attributed their support in import by mis-declaration of port of loading.

Judicial Pronouncements:

(a) Chennai CESTAT ruling in the case of **Commissioner of Customs Vs Kutty Impex (CESTAT Chennai) CESTAT Chennai** held that when goods are held not confiscatable under Section 111(d) of the Customs Act, 1962, then it can be reasonably held that the import was not prohibited.

(b) Supreme Court in the case of **Commissioner of Customs, Mumbai vs. Aban Loyd Chiles Offshore Ltd., [2017] 78 taxmann.com 25(SC)**, more particularly, the observations made in paragraphs 13 and 14 respectively.

(xiii) that the containers are not subject matter of investigation and as such they cannot be detained. The containers cannot be confiscated even if there is a violation of the Customs Act, 1962 by the importer or the shipping company. It is only the goods that can be confiscated. The containers are imported containers and as such in terms of the declaration, they cannot be detained beyond six months. Thus, the containers cannot be confiscated under section 111(d), 111(f) and 111(m). They also referred CBIC circular no. 31/2005 dated 25.07.2005.

(xiv) that the ruling of **M/s Chakiat Agencies vs Commissioner of Customs (Exports) 2023 TAXSCAN (CESTAT) 175**. In the current case as well, our client as port of discharge agent is not expected to examine the origin of goods by checking it on any s/line websites. They simply proceed as per the documentation provided to them by their principal Shipping Line. Thus, they have not played any role in mis-declaration of port of loading in discussion.

(xv) that during the IGM filing process of the subject consignment, our client was not aware whether the switch B/L was issued to conceal the name of the exporter in Bandar Abbas or for the banking purpose of the importer. The department has also not provided any strong evidence suggesting that our client actively and intentionally supported mis-declaration of the origin of goods for the purpose of evasion of any custom duties. Our client is the agent in clearance of this consignment, and they have no active or passive role in this alleged violation of law. They also do not have any motive to do this transaction. Only **the importer** has motive to do this mis-declaration intentionally for their banking purpose due to the sanctions imposed on Iran. Hence, only **the importer** should be penalized, and our client must be granted relief in the subject matter.

(xvi) that the **Principal bench of Delhi CESTAT in the case of PURUSHOTTAM KUMAR JAIN vs COMMISSIONER OF CUSTOMS (PREVENTIVE) JODHPUR 2022 TAXSCAN (CESTAT)567** has observed that the agent deliberately and intentionally has not provided any such information which was false or incorrect. As such, the penalty under section 114AA of the Customs Act, 1962 is not imposable on the agent.

(xvii) that the **Ludhiana CESTAT in the case of M/s M S Exim Services Vs Commissioner of Customs, Ludhiana 2021 (CESTAT) 14** has observed that the appellant had no mens rea and filed the documents being a bona fide facilitator and in view of the same no penalty was imposable upon the appellant Customs broker, therefore, the penalty imposed on the appellant under Section 112 along with 114AA of the Customs Act, 1962, was set aside.

(xviii) Therefore, in the instant case, our client being a bona fide facilitator and acting in the capacity of an agent of a principal shipping line, filed the IGM as per the Bills of Lading received from their principal Shipping Line and thus, is not responsible for checking the origin of the goods and the authenticity of the contents of the bills of lading provided by their principal Shipping Line.

Other than the shipping lines / Container Lines mentioned above, M/s. Winwin Maritime Limited, M/s. Econship Tech Pvt. Ltd., M/s. SC Lines Shipping & Logistics Pvt. Ltd., M/s. Goodrich Maritime Limited, M/s. Goodrich Logistics Ltd., M/s. Intergulf Shipping Line Pvt. Ltd. also submitted the similar facts while submitting written submission as stated above.

10.2 M/s. R B Vaghela, Advocate submitted written submission dated 05.07.2023 on behalf of **M/s. Neman Shipping INC, Panama (Owner of the vessel) and M/s. Master Logistics Pvt. Ltd.**, wherein it was submitted that:

(i) that goods were not liable for confiscation under S 111(d) or S111(f) or under S 111(m) of the Customs Act at all. Goods are liable to confiscation under S 111(d) only when the "goods are imported or attempted to be imported within the Indian Customs waters contrary to any prohibition imposed by or under this Act or any other law for time being in force". The department has not relied upon any provision of law under which goods have been prohibited from being imported. In fact goods have been permitted to be cleared by the importers.

(ii) that goods are not liable to be confiscated under S 111(f) of the Act in as much under this provision goods are liable for confiscation only if

- "dutiable or prohibited goods are not Mentioned in the arrival or import
- manifest" Goods have been mentioned in the arrival /import manifest.

(iii) Under S 111(m) of the Act goods would be liable for confiscation only if goods do not correspond in respect of value or in any other particularly with entry made under this Act". Entry in this pro-vision *would refer to Bill of Entry as defined under S 16 of the Customs Act. In-this connection, reliance is placed upon the decision of the Hon'ble Customs Tribunal in the case of "Kabul Textiles V Commissioner of Central Excise Goa", wherein it was held that:

"Novation and notations made on the manifest by the shipping Agent and amendments thereof sought and granted by the Proper officer .underS 30(1) &530(2)of the Customs Act ,1962are not the "entry" envisaged to be.made under Section 111(m)Of the Act. Since

it is not an "entry" made or altered on a Bill of Entry: Therefore, even if malafides exist in altering the description on the invoice issued by an -exploiter abroad, and .on the Bill of Lading at the port of loading or discharge in the manifest filed, as found by the adjudicator, that ipso facto will not cause and call for a confiscation liability of the goods under Section 111(m) of the Customs Act, 1962,--

(iv) Similarly the Hon'ble Tribunal in Ocean Shipping Services V Commissioner of Customs, Ahmedabad has held thus: .

- The word "entry made' in Section 111(m) of the Customs Act,1962 refer to BE or postal declaration when read with Section 2(16) of the Customs Act 1962. Therefore for the entry made in the IGM no. liability to confiscation under 111(m) cannot arise. As regards liability under 111(f), the quantity entry is made and is not a case of any dutiable or prohibited goods required to be mentioned-under the regulation in the import manifest &import report which are not so mentioned. The import manifest (vessels) Regulation,1971 and the forms do not provide for and raise any reason to conclude there were some goods left to be mentioned in this case. The goods have been mentioned, the mention by description may not be acceptable or be mistaken but that cannot be a reason to bring in liability to confiscation under 111(f).

(v) Statement of the Master has been recorded under S 108 of the Customs Act. His statement is exculpatory. Master has truly and correctly filed "the last port-of call as-Bandar Abbas in the Entry Inwards. While Obtaining "Entry Inwards" for the vessel, Master has also filed :Vessel & cargo particulars" in which it has been categorically, mentioned that "last port of call" as IRBND"ie Iran -Port of 'Bandar Abbas. Unless there exist personal knowledge on the part of the Master no penalty cannot be imposed. There-can be no vicarious liability upon the Owners of the vessel for the alleged act not mentioning the correct, port of loading in the manifest by the agents. Penalty cannot be imposed upon the owners under S 114AA as Master has not filed any false declaration as alleged or at all. In support of this submission a decision --of the Tribunal' Commissioner of C.Ex, HyderabadV SAB-NIFE Power Systems Ltd.

(vi) that whether the goods are imported from Iran or Jebel Ali,-Customs duty remains the same. Fact is importers have paid freight for the Ocean vessel for the voyage from Bandar-Abbas to Kandla. It is submitted that there is no loss of revenue to the department. If there is no loss of revenue, goods cannot be confiscated S 111(m) of the Custorns Act. In support of this submission a decision of the Hon'ble Tribunal in Phil Corporation V Commissioner of Central Excise, Goa.

(vii) that they have not monetarily benefitted in any manner whatsoever. Statement of Mr. Rajubha Soudha, Operation Manager of Master Logitech Pvt Ltd recorded under S 108 of the Customs Act is also exculpatory. Master Logitech Pvt Ltd also filed "online declaration of the vessel clearly indicating the "last port of call as "Bandar Abbas".

(viii) that M/s. Neman Shipping Panama are the owners of the vessel. The vessel was chartered on a Time Charterer by one Lubeck Shipping LLC by a Charter Party 1.08.20, initially for a period of 6 months and thereafter the same has been extended from time to time. At the material time, the charter party was in force. Clause 17 of the Charter part permitted the charterer and their agents to issue. Bills of lading.

(ix) A separate set of entire Bills of lading issued at the load port of Bandar Abbas by Lubeck Shipping LLC and or their agents have been filed separately. These Bills of Lading are called "service Bills of lading" in as much as in all the Bills of Lading the Containers Lines who own the containers and who are called NVOCC(' Non Vessel owning common carrier) have been mentioned in the column "shipper" and in the column "consignee' the agents or the counter part of the container lines have been mentioned.

(x) If one peruses this Bill of lading the name of.....has been mentioned in the column of the "shipper" and they are-the Container lines(NVOCC) who had booked those containers with Lubeck Shipping LLC and in the column "consignee" the name of is mentioned who are the agents/counter part of the Container Lines in India. Thus Lubeck shipping has no privity of contract with actual shipper who is unknown and similarly Lubeckshipping would not know as who the actual consignee is.

(xi) At the port of discharge, Lubeck Shipping Co /their agents Master Logitech Pvt Ltd ensure that all the containers are discharged /handed over to the agents of the Container lines. Therefore at the load port the Container lines often do not collect these service Bills &lading from Lubeck Shipping LLC at all in as much as they do not need these Bills of Lading as their agents at the port of discharge would take steps to - deliver the containers to the actual consignee. Master Logitech has filed names of the consignee and other details in the IGM based on the inputs received in the online system from those container lines.

(xii) The agents / counter part-of the container lines whose name appears in the "consignee column" takes steps to deliver the relevant container upon receiving the "switch bills of lading " from the actual 'consignee. As already pointed out-the switch Bills of lading are issued - .', by the Container Lines atthe load port indicating port of loading as "Jebel Ali" and the very same Bills of lading are presented by the actual consignee at the port of discharge . Thus the privity of contract is between the container lines and the actual consignee.

(xiii) In case 'of loss of goods or damage to the cargo, the actual consignee would lodge claim with the container lines and not with Lubeeck Shipping (Time Charterer) or Neman shipping Panama (Owners of the vessel). The Container Lines may then lodge their claim with --'Lubeck shipping/ Newman Shipping The, actual consignee/importer at the port, of discharge at Kandla files Bills of Entry based on the information Obtained from these "switch - Bills of Lading" which had been issued by the Container Lines at the Port of Bandar Abbas.

(xiv) that it would thus be noticed Newman Shipping Panama are the-owners of the vessel. The vessel owner receives fixed sum of payment from the Charterer(hirer) ie Lubeck Shipping LLC for the period the vessel is • Chartered /hired. The various Container lines (NVOCC)_book space for certain number of containers to be loaded on board the vessel. Lubeck Shipping LLC collects the entire freight for the voyage from the container lines(not the actual shipper). Lubeck shipping then issues-service bills of lading" indicating "container Lines as "shipper" as they who have entrusted the containers to Lubeck Shipping LLC Containers. lines-in turn issue their own Bills of Lading which is presented by the actual consignee at the port of discharge to the Agents of the Container.

(xv) Thus, the Owner of the Vessel Neman Shipping, Panama or the Charterers of the vessel Lubeck Shipping LLC and Master Logitech Pvt Ltd have nothing to do with the delivery of the containers to the actual consignee. Based on the Booking of the Containers by the Container Lines, the obligation of Lubeck shipping / Newman Shipping / Master Logitech is over once the containers are discharged or handed over to the agents of the container Lines atthe portof discharge.

(xvi) that all the Bills of Lading relied upon by the department have been issued by the Container lines. They have issued Switch Bills of lading. The statements of the representative of the agents of all the Container Lines have confirmed having issued Switch Bills of lading indicating port of loading as "Jebel Ali".

(xvii) that in the circumstances it is humbly submitted that the show cause notice against both my clients be discharged, the bank guarantee furnished be returned duly cancelled, and the bond furnished may also be returned duly cancelled.

10.3 All the following Custom Brokers Noticee submitted in their defense submission that:

- M/s Rishi Kiran Logistics Pvt. Ltd.
- M/s Jaiswal Import Cargo Services Ltd.
- M/s ACT Inraport Limited
- M/s Purshottam C Thacker
- M/s A.D. Mehta Clearing Agency
- M/s Daksh Shipping Services Private Limited
- M/s Swayam Shipping Services
- M/s Bhavya Shipping
- M/s Bright Shiptrans Private Limited
- M/s Eiffel Logistics Private Limited
- M/s Saarthee Shipping Co.

(i) All 11 Customs Brokers (hereinafter referred to "**the Noticees**"), filed the Bill of Entry on the basis of the documents provided by the Importer, which was provided to them by the Supplier, wherein Port of Loading was mentioned as Jabel Ali, UAE. Even the Certificate of Origin mentioned the origin of goods as UAE.

(ii) Section 117 of the Act imposes penalty in case of any contravention of any provisions of the Act or abetment in any such contravention. The Department has not brought any evidence to show that there has been any contravention or positive act by the Noticee which will constitute as abetment.

(iii) None of the Co-noticees have alleged any involvement of the Noticee in the alleged mis declaration. The investigating authority has not adduced any evidence to show that the Noticee had prior knowledge regarding alleged mis-declaration.

(iv) If there is no evidence of aiding and abetting against the Customs Broker, then penalty cannot be imposed on CB. Reliance is placed upon the decision in the case of **M/s Schenker India Pvt Ltd v Commissioner of Customs** reported in 2019-TIOL-2741-CESTAT-BANG.

(v) Mere failure by the Custom Broker to carry out his duties in accordance with law by itself is not sufficient ground to impose personal penalty under Section 117 of the Customs Act, 1962 unless there is evidence to show that the failure was on account of mala fide intention. Reliance is placed upon the decision in the case of **Syndicate Shipping Services (P.) Ltd. v. Commissioner of Customs, Chennai** reported in [2003] 154 ELT 756 (CEGAT- Chennai).

(vi) Further, the Noticees have relied upon the following case laws:

- i. Yogesh Kumar Vs. CC, reported in 2016 (344) ELT 1042 (Tri-Del)
- ii. M/s Diamond Shipping Agencies Pvt Ltd v Commissioner of Customs, Tiruchirappallireported in 2017-TIOL-4151-CESTAT-MAD
- iii. M.J. Joshy Vs. CC reported in 2010 (258) ELT 460 (Tri-Chennai)
- iv. Jeena& Co. Vs. Commissioner of Customs – 2021 (378) ELT 528
- v. M/S Hazel Mercantile Ltd v CC, Kandla reported in 2011-TIOL-1167-CESTAT-AHM

10.4. The importers submitted that they ordered for import of goods from UAE's supplier and based on the documents received, they filed bill of entries through their Custom Brokers. They further submitted that they declared true country of origin or / and port of loading in their Bill of Entries. Therefore, goods imported by them are not liable for confiscation under Section 111(m), 111(d) and 111(f) of the Customs Act, 1962.

As regards confiscation under Section 111(d) of the Customs Act, 1962, it is submitted that no prohibition is under force for the goods imported by them, therefore goods are not liable for confiscation under the said provision.

As regards confiscation of the goods under section 111(m) of the Customs Act, 1962, it is submitted by the importers that they filed the Bill of Entries and declared true port of loading and country of origin, therefore, no mis-declaration on their part in the bill of entry reflects, therefore goods cannot be confiscated under section 111(m) of the Customs Act, 1962.

As regards confiscation of the goods under section 111(f) of the Customs Act, 1962, it is submitted that goods were declared in the Import General Manifest, therefore the said provision is not invokable.

As regards the duty demand made from the importers, it was submitted by them that goods were imported by them on CF/CIF terms, therefore even if the goods were loaded from Bandar Abbas, Iran, their freight / cost was not at all affected, therefore, demand of duty is not sustainable.

Some importers vide their submission stated that they are ready to pay the differential duty amount, therefore no penalty or minimum penalty should be imposed upon them.

One importer **M/s. Shivam Additives** paid the differential duty demand of Rs. 17,847/- along with interest amount of Rs. 4,163/- vide challan no. 224 dated 25.07.2023 and requested to waive the personal hearing and show cause notice.

One importer **M/s. Hari Agro Products**, New Delhi Submitted that they never requested for release of the goods since their goods being of perishable nature. Further, they did not clear the goods, therefore duty cannot be demanded from them.

RECORD OF PERSONAL HEARINGS:

Personal Hearing in the matter was given to all the noticees on 07.06.2023, 16.06.2023, 27.06.2023, 13/14.07.2023. However, as per the availability of the noticees, personal hearing was scheduled on other dates also.

11.1 Personal Hearing in respect of M/s. Neman Shipping INC (Owner of the vessel MV Kabul) and vessel agent M/s. Master Logistics Pvt. Ltd.:

Shri V.K. Ramabhadran, Senior Advocate attended the personal hearing virtually and Shri R.B.Vaghela, Advocate attended the personal hearing physically on 27.06.2023 on behalf of M/s. Neman Shipping INC, Panama (Owner of Vessel MV Kabul) and M/s. Master Logitech Pvt. Ltd, Gandhidham. During the course of personal hearing, they briefed the charges levelled against the noticees and reiterated the facts stated in their written submission. He stated that Master of vessel filed all the documents viz. B/L correctly and declared country of origin and port of loading as Bandar Abbas, Iran. He further stated that the main culprits in the case are container lines and the importers who wanted to save from the US sanctions imposed upon Iran. They further stated that the maximum penalty under Sea Cargo Manifest and Transshipment Regulations, 2018 can be imposed upon them which is Rs. 50,000/-.

11.2 Personal Hearing in respect of all the Custom Brokers: Ms. Shweta Garge, Advocate attended the personal hearing virtually on 07.07.2023, on behalf of all the Custom Brokers. She stated that Section 117 of the Act imposes penalty in case of any contravention of any provisions of the Act or abetment in any such contravention. The Department has not brought any evidence to show that there has been any contravention or positive act by the Noticee which will constitute as abetment. And none of the Co-noticees have alleged any involvement of the custom brokers in the alleged mis declaration. The investigating authority has not adduced any evidence to show that the Noticee had prior knowledge regarding alleged mis-declaration. If there is no evidence of aiding and abetting against the Customs Broker, then penalty cannot be imposed on CB. Reliance was placed upon the decision in the case of **M/s Schenker India Pvt Ltd v Commissioner of Customs** reported in 2019-TIOL-2741-CESTAT-BANG. She also stated that mere failure by the Custom Broker to carry out his duties in accordance with law by itself is not sufficient ground to impose personal penalty under Section 117 of the Customs Act, 1962 unless there is evidence to show that the failure was on account of mala fide intention. Reliance was placed upon the decision in the case of **Syndicate Shipping Services (P.) Ltd. v. Commissioner of Customs, Chennai** reported in [2003] 154 ELT 756 (CEGAT- Chennai).

11.3.1 PH record in respect of the following container lines:

- (i) M/s. Radiant Maritime India Pvt. Ltd.
- (ii) M/s. Majestic Maritime Pvt. Ltd.
- (iii) M/s. Navio Shipping Pvt. Ltd.
- (iv) M/s. ASN Agencies Pvt. Ltd.
- (v) M/s. Hub & Links Logistics India Pvt. Ltd.
- (vi) M/s. Efficient Marine Services LLP
- (vii) M/s. Omega Liners (I) Pvt. Ltd.

Shri Santosh Upadhyay, Advocate and Ms. Deepti Upadhyay attended the personal hearing on 07.06.2023. He reiterated the facts stated in their written submission. They mainly emphasized on the Hon'ble Supreme Court decision in the case of Commissioner of Customs Vs. M/s. Abaon Lloyd Chiles Offshore Ltd (2017) on the issue of detention and seizure of containers. Second issue they highlighted was of switch BL on the basis of definition given in Bill of Lading Act, 1860.

11.3.2 PH record in respect of the following container lines:

- (i) M/s. Gil Shipping Services Pvt. Ltd.
- (ii) M/s. Bilander Logistics Pvt. Ltd.:

Shri Santosh Upadhyay, Advocate and Ms. Deepti Upadhyay attended the personal hearing on 27.06.2023 virtually. He reiterated the facts and submission, made in their written submission. He placed emphasis on para 7 of page para 8 of the page 10 of their written reply about the switch BL issue. He further requested to not rely on the B/L act of 1861 which was mentioned by them in their written reply.

11.3.3 PH record in respect of the following container lines:

- (i) M/s. Sea Marine Logistics Pvt. Ltd
- (ii) M/s. Sea Cross Shipping LLC:
- (iii) M/s. Majestic Maritime Pvt. Ltd., Gandhidham
- (iv) M/s. Navio Shipping Pvt Ltd., Navi Mumbai
- (v) M/s. ASN Shipping Agencies Pvt. Ltd, Mumbai
- (vi) M/s. Hub & Links Logistics India Pvt Ltd., Gandhidham
- (vii) M/s. Efficient Marine Services LLP, Gandhidham
- (viii) M/s. Radiant Maritime India Pvt Ltd, Gandhidham
- (ix) M/s. Omega Liners (I) Pvt Ltd., Gandhidham

Shri Santosh Upadhyay, Advocate and Ms. Deepti Upadhyay attended the personal hearing on 07.06.2023, wherein facts submitted in their defense submission were reiterated by them.

11.3.4 PH record in respect of the following container lines:

- (i) M/s. Goodrich Maritime Limited
- (ii) M/s. Goodrich Logistics Ltd.
- (iii) M/s. Intergulf Shipping Line Pvt. Ltd.

Ms. Phull Taranjeet Sanjeev Kumar, Advocate attended the personal hearing on first 27.06.2023, wherein she requested for further time as the RUD's to the SCN was not available with them. However, same was provided to them. Further, on 13.07.2023, she attended the personal hearing virtually and re-iterated the facts submitted in their defense submission.

11.3.5 PH Record in respect of M/s. Econship Tech Pvt. Ltd.: Ms. Zarin Ansari, Assistant Manager (Legal) attended the PH virtually on 07.06.2023, and she re-iterated the facts stated in the written submission.

11.3.6 M/s. PH Record in respect of M/s. SC Lines Shipping & Logistics Pvt. Ltd.: Shri Rakesh Maheshwari, Senior Executive – Operation and Documentation attended the personal hearing on 07.06.2023. During the course of PH, he reiterated the facts submitted in defense submission dated 10.03.2023.

11.3.7 M/s. Winwin Maritime Ltd, M/s. Pujan Enterprise, M/s. Arissa International, M/s. Hemal International, M/s. Vrushti Impex and M/s. Ruhaan Impex requested for waiver of personal hearing.

Further, Due to change in the adjudicating Authority in Sep-2023, personal hearing in the matter issued on 18.12.2023, 08.01.2024, 28.02.2024, 20.03.2024, 20.05.2024, 20.06.2024 and 20.07.2024 to all noticees. However following representatives have presented their submission.

- Shri Amal Dave have attended the PH on 28.02.2024 on behalf of following Noticees:-

 - (i) M/s. Neptune Petrochemicals Pvt. Ltd.,
 - (ii) M/s. Premium Petro Products,
 - (iii) M/s. Madhusudan Organics Ltd.,
 - (iv) M/s. GWC Impex,
 - (v) M/s. Excellent Traders India,
 - (vi) M/s. Vardhman Trading Co.,

- (vii) M/s. Catalyst Petrochem LLP,
- (viii) M/s. J K Alamdar Trading Co.
- (ix) M/s. Vevelon Petrochem Pvt. Ltd.

He reiterated the defense reply submitted on 26.06.2023 through mail.

- Shri C.M. Sharma appeared on 28.02.2024 for following Noticees.
 - (i) M/s Raja Dry Fruits
 - (ii) M/s H.K. Impex.

Shri C.M. Sharma, Consultant & Authorised Representative represented the above mentioned Noticees and attended PH through Video conferencing and reiterated the facts of their earlier submissions dated 03-06-2023 to the SCN and also to the 'Synopsis of Submissions' and 'Record of Hearing' dated 27-06-2023.

He further stated that their contract with the foreign supplier was on CIF basis, so there would be no impact on value of goods and on freight from change of port of loading.

He also submitted that they have filed the documents – B/L on the basis of the documents received from the foreign supplier and shipping agent. Hence no mis-declaration was done by them.

He also submitted that he will give his written submission on the extension granted for the adjudication of the said matter.

- Shri V.K. Rambhadran, Advocate appeared on 28.02.2024 for following Noticees
 - 1. M/s Neman Shipping INC
 - 2. M/s Master Logistics Private Ltd.

During the PH, he briefed the charges leveled against above mentioned Noticees and re-iterated the facts stated in their written submission dated 13.03.2023 and 05.07.2023. He emphasized on para1, para6 and para7.3.2 of SCN dated 08.02.2023. He also submitted that statement of Rajubhai Sodha was exculpatory.

He further stated that Master of vessel filed all the documents viz. B/L correctly and declared Country of origin and Port of loading as Bandar Abbas, Iran. He further stated that the main culprits in the case are Container lines and Importers.

He also submitted that confiscation under section 111(d) is not applicable as there is no prohibition and under section 111(f) is not applicable as all goods were declared correctly and also under section 111(m) not applicable as they filed all the details correctly in IGM. He also stated that seizure of vessel U/s 115(2) is also not applicable as there were no contraband goods.

He also added that the maximum penalty under Sea Cargo manifest and Transshipment Regulations, 2018 (SMT Rules, 2018) can be imposed upon them which is Rs. 50,000/-.

- Shri Santosh Upadhyay appeared on 28.02.2024 for following Noticees-
 - 1. M/s. ASN Shipping Agencies Pvt. Ltd.
 - 2. M/s. Bilander Logistics Pvt. Ltd.
 - 3. M/s. Sea Marine Logistics Pvt. Ltd.

4. M/s. Efficient Marine Services LLP.
5. M/s. Navio Shipping Pvt. Ltd.
6. M/s. Gil Shipping Services Pvt. Ltd.
7. M/s. Radiant Maritime India Pvt. Ltd.
8. M/s. Seacross Shipping LLP.
9. M/s. Efficient Marine Services LLP.
10. M/s. Majestic Maritime Pvt. Ltd.
11. M/s. Omega Liners (India) Pvt. Ltd.
12. M/s. Hub & Links Logistics (I) Pvt. Ltd.

Shri Santosh Upadhyay attended the P.H. through VC and reiterated the facts and submission made in their various written submission dated 06.06.23, 07.06.2023, 14.06.2023, 26.06.2023. He placed emphasis on Para 7 and para 8 of page 10 of their written submission. He also submitted the about the switch B/L issue on the basis of definition given in the B/L Act, 1860. During PH, He further requested to drop the proceedings.

- Ms. Shweta Garge appeared on 28.02.2024 for following Noticees

1. M/s. Rishi Kiran Logistics Pvt. Ltd.
2. M/s. Jaiswal Import Cargo Services Ltd.
3. M/s. ACT Inraport Limited,
4. M/s. Purshottam C Thacker,
5. M/s. A.D. Mehta Clearing Agency ,
6. M/s. Daksh Shipping Services Private Limited,
7. M/s. Swayam Shipping Services
8. M/s. Bhavya Shipping,
9. M/s. Bright Shiptrans Private Limited,
10. M/s. Eiffel Logistics Private Limited,
11. M/s. Saarthee Shipping Co.,
12. M./s Ocean Petroleoum.

Ms. Shweta Garge represented 1 case of importer (Sr. no. 12 as above) and attended the PH through virtual mode and reiterated the facts given in their defense reply dated 12.07.2023 sent through mail.

She also represented case of all 11 Customs Croker (Sr. No. 1 to 11 as above) in the present matter and relied on various case laws. She requested not to impose penalty and drop the proceedings as there is no evidence to show that the failure was on account of mala-fide intention.

- Ms Taranjeet Phull, Advocate appeared on 28.02.2024 for following Noticees.

1. M/s. Goodrich Maritime Private Limited.

2. M/s Intergulf Shipping Line Pvt. Ltd.

Ms. Taranjeet Phull represented the said Noticees and reiterated the facts as per their written submission dated 26/27.06.2023.

- Shri Surender Solanki, Manager Exim appeared on 20.06.2024 for M/s Tina Rubbers & Infrastructures Ltd.

He re-iterated their earlier submission dated 04.07.2023 and requested to drop the proceedings.

Discussion & Findings:

12. I have gone through the Show Cause Notice, defense submission, records of personal hearing and the facts available on records, the main issue to be decided in the present case is whether there is mis-declaration of country of origin / Port of Loading in the Bill of entries filed by the importer through Custom Brokers and if yes, whether they are liable for payment of differential duty on the additional freight.

13. Specific intelligence was gathered by SIIB, Custom House Kandla indicating that Vessel MV Kabul (IMO No 9122473) arrived at Kandla Port as its first port of call but they have mis-declared the Port of Loading in respect of its cargo (containers loaded with the various commodities). M/s. Master Logitech Pvt. Ltd, the shipping agent had filed the IGM No 2303229 dated 04.02.2022 indicating the Port of Loading as Jabel Ali (UAE). On scrutiny of the documents retrieved from the Master of the Vessel, MV Kabul, it was found that actual port of loading was Bandar Abbas, Iran and Country of Origin (COO) of the goods was IRAN which was mis-declared as Jabel Ali, UAE in the documents filed before the Custom Authorities at Kandla Port. There were 27 Bills of Lading for which IGM had been filed by the Vessel Agent, M/s. Master Logitech Pvt. Ltd. showing the port of loading as Jabel Ali, UAE but as per the documents retrieved, the actual port of loading was Bandar Abbas, Iran.

14. It is alleged in the SCN that Owner/Charterer of the vessel M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama failed to intimate the contravention and thus contravened the provisions of the Sea Cargo Manifest And Transshipment Regulations 2018 and with the collusion of his agents, Container Lines and other stakeholders, they remained silent on the forgery done by the container lines and other persons in issuing the forged Bills of Lading by declaring the port of loading as Jabel Ali, UAE at the place of the Bandar Abbas Port, Iran. Further, M/s. Neman Shipping INC is equal partner in this forgery done by the container lines by remaining silent and let the vessel agent M/s. Master Logitech Pvt. Ltd. Gandhidham filed the incorrect IGM with the mis-declared port of loading of the imported goods. Therefore, vessel should be confiscated under Section 115(2) of the Customs Act, 1962.

15. I find that the goods unloaded at Kandla port covered under 23 Bills of lading (Table-1 of the SCN) mis-declared in respect of Port of Loading and Origin of Goods; and the goods/containers to be unloaded at Nhava Seva Port covered in 22 Bills of lading (89 Containers) the port of loading was mis-declared as Jabel Ali, UAE whereas the actual port of loading was Bandar Abbas, IRAN, under reasonable belief that same were liable for confiscation under Section 111(m), 111(f) and 111(d) of the Customs Act, 1962, (476 containers) were placed under seizure vide seizure memo dated 10 & 11.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla and (89 containers) were placed under seizure vide seizure memo dated 10 & 11.02.2022 having F.N. CUS/SIIB/INT/159/2022-SIIB-O/o Commr-Cus-Kandla respectively.

16. I also find from facts available on records, importers as mentioned in the Table 1 & 2 of the show cause notice, vide their letters requested to release the goods provisionally which were seized on 10 & 11.02.2022. As per the order of the competent authority, the goods were ordered to be released subject to furnishing Bond for the full value of the goods and against appropriate bank Guarantee, equivalent to 10% of the bond value. Necessary examination of those cargos was done and after submission of the Bond for the full value of the goods and against appropriate bank Guarantee, equivalent to 10% of the bond value, goods were released provisionally.

16.1 However, in respect of following Bills of Lading, I find that the goods were not released as the importer failed to submit the Bond and bank guarantee thereon.

TABLE-3 (of SCN)

Sr. No.	Name of the Importer	Bill of Lading No.	Container No.	Cargo Description
1	GREEN HORIZON FARMERS PRODUCER CO. LTD	SCLJEANHV000014	MYRU4508363	FRESH APPLE FRUITS
2	HARI AGRO PRODUCTS	NAVJEANSA2200859	HDMU5511129	FRESH APPLE
			TRIU8442260	FRESH APPLE
3	RGS EXIM PRO	MJEANSA2202836	PMLU8903975	FRESH APPLE FRUITS
			SZLU9008345	FRESH APPLE FRUITS

Above mentioned importers in Table-3 named as M/s. Hari Agro products, Delhi, M/s. RGS Exim Pro and M/s. Green Horizon Farmers Producer Co. Ltd failed to submit the appropriate Bond and bank Guarantee and they had not paid the applicable duty in respect of import made by them and also refused to take clearance of the goods. I find that the said unclaimed/uncleared goods have been disposed off by the disposal section of this office.

17. I find that the container lines requested to release their containers citing the shortage of the containers at the international level and the goods of those containers were already ordered to be released provisionally. On similar lines, the importers of those goods imported through the vessel MV KABUL which were seized by the competent authority also requested to release the goods imported citing the perishable nature of the cargo and the local demand of those imported goods as well as the nearing the deadline for those imported goods for delivery to the traders/manufacturers/others.

17.1 Further, the competent authority also ordered to release those seized containers subject to furnishing the Bond for the full value of the goods and against appropriate Bank Guarantee equivalent to 10% of the bond value. After submission of the Bond for the full value of the goods and against bank Guarantee equivalent to 10% of the bond value, containers were released provisionally. However, in respect of following Bills of Lading, the containers could not be released as the goods in those containers could not be released as the importers refused to take the clearance of those goods.

TABLE-4 (of the SCN)

Sr. No.	Container Lines	Name of the Importer	Bill of Lading No.	Container No.	Cargo Description
1	M/s. SC lines Shipping & Logistics Pvt. Ltd.	GREEN HORIZON FARMERS PRODUCER CO. LTD	SCLJEANHV000014	MYRU4508363	FRESH APPLE FRUITS
2	M/s. Navio shipping Pvt. Ltd.	HARI AGRO PRODUCTS	NAVJEANSA2200859	HDMU5511129	FRESH APPLE
				TRIU8442260	FRESH APPLE
3	M/s. Intergulf Shipping Line Private Limited	RGS EXIM PRO	MJEANSA2202836	PMLU8903975	FRESH APPLE FRUITS
				SZLU9008345	FRESH APPLE FRUITS

However the above mentioned goods have been disposed off by the disposal section of this office.

VESSEL OWNER/VESSEL AGENT:-

18. Further, it is alleged in the show cause notice that vessel MV KABUL along with on board tools and tackles anchored at OTB (Outer Tuna Buoy) outside Kandla Port having Insured Value USD 55,00,000 and in Indian Rupees (@ Rs. 75.75 USD) **Rs. 41,66,25,000/-** should be confiscated under Section 115(2) of the Customs Act, 1962. Further, it is alleged in the show cause notice that by mis-declaration of port of loading in the IGM, M/s. Master Logistics are liable for penalty under the provision of the Sea Cargo Manifest and Transshipment Regulations, 2018 and under section 114AA of the customs Act, 1962.

19. M/s. R.B. Vaghela on behalf of M/s. Neman Shipping INC and M/s. Master Logistics Pvt. Ltd. submitted that M/s. Neman Shipping Panama is the owner of the vessel. The vessel was chartered on a Time Charter by M/s. Lubeck Shipping LLC. M/s. Lubeck Shipping LLC issued service bill of Lading wherein Port of Loading was declared as "Bandar Abbas, Iran". Therefore, they did not do any forgery. Further, it is submitted that goods cannot be confiscated under section 111(m), 111(d) and 111(f) of the Customs Act, 1962.

20.1 To appreciate the same, the provisions of Section 111(m) are reproduced here:-

"111. Confiscation of improperly imported goods, etc.—The following goods brought from a place outside India shall be liable to confiscation:—

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54]"

I find that as per section 111(m) of the Customs Act, 1962, it is clear that any goods which do not correspond in respect of value or in any other material particular are liable to confiscation. In the present case, IGM, the document under Section 30 of the Customs Act, 1962 has been filed with mis-declaration in respect of Port of Loading. The noticee also relied upon the judgments of Tribunal in the case of "Kabul Textiles V Commissioner of Central Excise Goa" and Tribunal in case of "Ocean Shipping Services V Commissioner of Customs, Ahmedabad". However, these judgments only deal with the entry made in IGM. In the bills of entries filed by the importers, port of loading/country of origin has also been mis-declared as Jabel Ali, UAE. Therefore, section 111(m) of the Customs Act, 1962 has been correctly invoked for confiscation.

20.2 Section 111(f) states that goods are required to be mentioned in import manifest. I find that all the goods which were being imported in vessel MV Kabul had been declared in the IGM filed by vessel agent M/s. Master Logistics Pvt. Ltd. Therefore, I do not hold the imported goods liable for confiscation under Section 111(f) of the Customs Act, 1962.

20.3 As regards confiscation under Section 111(d) of the customs Act, 1962, it is submitted by the Noticee that department has not relied upon any provision of law under which goods have been prohibited from being imported. I also agree with this contention as the show cause notice is silent on the grounds on which goods have been proposed for confiscation under Section 111(d) of the Customs Act, 1962.

20.4 Further, it is pertinent to note that Non-Tariff Barriers (NTBs) also assume greater significance in an era of growing international trade. NTBs are a matter of great concern for the WCO and WTO; restrictions are imposed for ensuring greater objectives like health, social security, financial security, nuclear threats, national security, conservation and bio diversity etc., subsequent to the issue of the Circular No. 31(RBI/2010-11/235) dated 27.12.2010, the eligible account transactions with Iran were to be settled in any permitted currency outside the Asian Clearing Union (ACU); as a result, Indian banks needed to open LC with the designated focal point

bank in India to deal with the focal point European Bank, which will get a certificate from competent European Authority and release Euros.

20.5 The act of mis-declaration of Country of Origin is a serious offence. It is a settled law that mens rea is not an essential pre-requisite for holding goods liable for confiscation under Section 111(m) of the Act and imposing penalty under Section 112 of the Act. Hon'ble Supreme Court in the case of Jain Exports Pvt. Ltd. Versus UOI as reported in 1993(64) E.L.T.4(S.C.) and in the case of Pine Chemical Industries Versus Collector of Customs as reported in 1993(67)E.L.T.25(S.C.) has laid down that the question of mens rea is not relevant for liability to confiscation and penalty when the goods were found to mis-declared.

20.6 In this regard, I further rely on the decision of Hon'ble CESTAT, South Zonal Bench, Bangalore rendered vide its Final Order Nos. A/20332-20224/2020 dated 13.03.2020 in Appeal Nos. C/23591 and C/23620/2014 in the matter of GSEC Ltd. Vs. Commr. Of Central Excise & Service Tax, Mangalore, wherein the similar issue of mis-declaration of country of origin was decided among other issues. The Hon'ble Tribunal, in their decision, at Para 33, discussed the issue of mis-declaration of country of origin and observed as under:

“.....We find that the department was well within its right to seize the goods for such mis-declaration and impose penalties under section 112 of Customs Act, 1962, notwithstanding the fact that the appellants had nothing to gain financially by such an action as there was no differential duty involved. We find that mens rea is not an essential prerequisite for action under section 111(m) and Section 112 (a) of the Customs Act, 1962.....”

20.7 As regards confiscation of conveyance under Section 115 (2) of the Customs Act, first, the extract of the said section is reproduced below:

Section 115. Confiscation of conveyances.-

(2) Any conveyance or animal used as a means of transport in the **smuggling** of any goods or in the carriage of **any smuggled goods** shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal 1 [***].

It is clear from the language of the above section 115(2) that if any conveyance is used for smuggling of the goods and if the conveyance owner or agent has the knowledge, the conveyance is liable for confiscation under Section 115(2) of the Customs Act, 1962. As per Section 2(39), "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". Since in my view, goods are liable for confiscation under section 111(m) of the Customs Act, 1962, the goods are ultimately to be treated as "Smuggled goods".

21. The vessel owner has submitted that whatever documents being signed by Master of the vessel were having true and correct information regarding port of loading and country of origin viz. "vessel and cargo particulars", wherein last port of call was declared as "IRBND i.e. Port of Bandar Abbas" and filed "Arrival Report" wherein it is clearly mentioned that vessel began her voyage from Bandar Abbas indicating that cargo loaded from Bandar Abbas to Kandla, India. Also during the course of recording of statement, he stated correct information.

22. In their written submission, it is stated that M/s. Master Logistics has filed IGM based on the inputs received in the online system from the container lines and they have nothing to do with the delivery of the containers to the consignee. They remained silent on wrong filing of IGM. I find that Shri Rajubha Soudha, Operation Manager of M/s. Master Logistics Pvt. Ltd. admitted the fact that they were aware of the true port of loading and also during the search at the premises of M/s. Master Logistics Pvt. Ltd., copies of original Bills of Lading were retrieved wherein port of loading was correctly mentioned as "Bandar Abbas, Iran". It infers that M/s. Master Logistic was well aware of the true facts, however, they knowingly and intentionally mis-declared the port of loading as "Jabel Ali, UAE" while filing IGM. In view of this, I find that even after having knowledge of the true facts, they decided to file IGM with false

information. Since the vessel agent M/s. Master Logistics Pvt. Ltd. was having knowledge of true port of loading and country of origin, I hold the vessel liable for confiscation under section 115(2) of the Customs Act, 1962. Since the vessel was released on execution of bank guarantee and bond, relying on the judgement/decisions in the case of *Weston Components Ltd. — 2000 (115) ELT 278 (SC); M/s. Raja Impex — 2008 (229) ELT 185 (P&H); Pregna International Ltd. - 2010 (262) ELT 391; R.D. Metal & Co. — 2008 (232) ELT 464 (Tri-Ahmd) and Amartex inds Ltd. — 2009 (240) ELT 391*, I find it apt to impose redemption fine under Section 125(1) of the Customs Act, 1962, in lieu of confiscation of the vessel.

23. As regards penalty under section 114AA imposed upon M/s. Neman Shipping, it is submitted by the noticee, that they had not produced any false information, hence were not liable for any penalty. I find that Section 114AA of the Customs Act, 1962 is imposed for knowingly or intentionally making, signing or using, or causing to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of his business for the purposes of this Act.

23.1 In this regard, I find that investigations have clearly brought forward that the Owner/charterer of the Vessel MV KABUL, M/s. Neman Shipping INC, Panama, have knowingly and intentionally not taken due precautions while transacting business by his vessel agent, M/s. Master Logitech Pvt. Ltd. Gandhidham in submission of documents and other details to the Custom Authorities. It is apparent that Section 147(2) mandates that the any thing done by the agent of the owner of any goods (vessel here) shall be deemed to have been done with the knowledge and consent of such owner of the goods. Further the said section mandates that the owner of the goods *shall also be liable*, in any proceedings under this Act, as if the thing had been done by himself. Therefore, the said provisions cast a liability not only on the agent but also on the owner of the goods. The relevant extract of Section 147(2) is reproduced below:-

“147. Liability of principal and agent.—(1) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent.

(2) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.”

23.2 As per the Sea Cargo Manifest And Transhipment Regulations, 2018, as amended, the authorized carrier means an authorised sea carrier, authorised train operator or a custodian, registered under regulation 3 and postal authority; and authorized sea carrier as "authorised sea carrier" means the master of the vessel carrying imported goods, export goods and coastal goods or his agent, or any other person notified by the Central Government.

23.3 As per the definitions given in the Sea Cargo Manifest and Transhipment Regulations 2018, the captain of the vessel appoints the vessel agent to transact his custom related business. In this matter, if any lapse or contravention is done by the vessel agent, the owner/charterer of the vessel who appoints the captain of the vessel and who gives instruction to his captain of the vessel and captain due to his call of duty abide those instructions given by the charterer/owner. Hence the owner/charterer of the Vessel is equally responsible for his act done on behalf of him. In this instant case, I find that M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama is responsible for the act of omission/commission done by the captain, agent and on behalf of captain, the act done by the vessel agent.

23.4 Rule 10 of the Sea Cargo Manifest and Transhipment Regulations 2018 provides the responsibilities of the authorized carrier under the regulations. Rule 10 (h) of the Sea Cargo Manifest and Transhipment Regulations 2018 further provides that the authorized carrier advises his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner or Assistant Commissioner of Customs as the case may be.

23.5 In the instant case, the owner/charterer of the vessel, M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama appointed the M/s. Master Logitech Pvt. Ltd. Gandhidham as his vessel agent to transact the customs related business with the custom, authorities. As the IGM filed by the M/s. Master Logitech Pvt. Ltd. Gandhidham, vessel agent mis-declared the imported cargo in respect of the Country of their Origin. It was their duty (Owner/Charterer of the vessel) to bring this contravention before the Deputy/Assistant Commissioner of the Customs but they failed to do so.

23.6 From the above facts, it is apparent that the Owner/Charterer of the vessel M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama failed to intimate the contravention and thus contravened the provisions of the Sea Cargo Manifest And Transhipment Regulations, 2018 and with the collusion of his agents, Container Lines and other stakeholders, they remained silent on the forgery done by the container lines and other persons in issuing the forged Bills of Lading by declaring the port of loading as Jabel Ali, UAE at the place of the Bandar Abbas Port, Iran.

23.7 It is clear that the Owner/Charterer of the vessel M/s. Neman Shipping INC, 50 Street, Global Plaza Building, 20, Floor, Office E, Panama City, Panama is equal partner in this forgery done by the container lines by remaining silent and let the vessel agent, M/s. Master Logitech Pvt. Ltd. Gandhidham filed the incorrect IGM with the mis-declared port of loading of the imported goods.

In view of the above, I hold that M/s. Neman Shipping INC, vessel has rendered themselves liable for penal action under Section 114AA of the Customs Act, 1962.

23.8 Further, as discussed in para supra, M/s. Master Logistics Pvt. Ltd. knowingly and intentionally filed the IGM with false information regarding port of loading. Further, it is seen that double (one with actual port of loading and other with wrong Port of Loading) Bills of Lading have been found during search at their premises. Their acts of omission and commission have rendered them liable for penalties under the provision of the Sea Cargo Manifest and Transhipment Regulations, 2018 and under section 114AA of the customs Act, 1962.

CONTAINER LINES:-

24. As regards all the noticee container lines, it is alleged in the show cause notice that they forged the documents and submitted the incorrect details by issuing false B/L (switch BL) and therefore liable for confiscation of the containers under section 111(d), 111(f), 111(m) of the Customs Act, 1962 and thereby liable for penalty under section 114AA and 117 of the customs act, 1962.

24.1 Similar replies were filed by the container lines. The Noticee-container lines submitted that for the subject import shipment, the first leg of Bill of Lading was issued in Bandar Abbas, Iran and second leg of Bill of Lading was issued from the principal Shipping Line/ foreign counterpart; However, they received only the second leg bill of Lading and accordingly the Import General Manifest (**IGM**) was filed at destination port, based on the information given in the second leg of Bill of Lading; therefore, not liable for confiscation of containers under section 111(m), (d) and (f) of the Customs Act, 1962 along with penalty under section 114AA and 117 of the Customs Act, 1962. I find that during investigation proceedings, all the container lines accepted that they were aware of the original Bill of Lading and also aware about the actual port of loading which was Bandar Abbas. Even after having knowledge about the true facts, they let the IGM wrongly filed having incorrect information. Therefore, their contention that they were only having second leg of Bill of Lading is not acceptable.

25. The noticee further submitted that the port of discharge agent has no role to play in issuance of switch bills of lading. Therefore, the allegation related to violations of the provisions of the Indian Customs Act, 1962, must be raised on the importers and further demand of differential freight payment along with the confiscation of goods and penalty should be demanded from them only. I agree with their contention that port of discharge agent has no role in issuing switch bill of lading but whatever true information they are having, it is their legal binding to follow / comply with the provisions of Customs Act, 1962 and for this they failed to do so and chose to remain silent and let the vessel agent / importer filed documents with false / incorrect

particulars. They could inform the custom department about wrongdoing by their foreign counterpart and by the importers, however, they ultimately chose the wrong path and associated with the importers to circumvent the sanctions imposed upon Iran and let them do the business transaction in erroneous way.

26. The notice-container lines have submitted that no evidence has been put on table related to conspiracy or orchestrating by them, for this alleged crime. They are not a party to the alleged scheme of mis- declaration of port of loading under the alleged Switch Bills of Lading which has been issued by their principal Shipping Line.

I find that the show cause has relied upon the statements recorded of the representatives/agents of the notice-container lines. The statements itself are the evidences as in their submission the facts stated by them are not denied. In this regard, I rely on the following judgements wherein the Hon'ble Supreme court has held the evidentiary value of statements recorded under Section 108 and demand of duty on the basis of such statement:-

- a. The Hon'ble Supreme Court in the judgement in the case of Bhana Khalpa Bhai Patel v. Asstt. Collector of Customs, Bulsar-1997 (96) E.L.T 211(S.C) has held as under:-
"7. An attempt was made to contest the admissibility of the said statements in evidence. **It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence** vide Ramesh Chandra v. State of West Bengal, AIR 1970 SC 940 and K.I Pavunny v. Asstt. Collector (HQ), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C) = (1997) 3 SCC 721."
- b. The Hon'ble Supreme Court has observed in the case of Naresh J. Sukhwani Vs Union of India reported as 1996 (83) E.L.T 258 and held as under :-

"4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs official under Section 108 of the Customs Act, 1962. That material incriminates the petitioner inculpating him in contraventions of the provisions of the Customs Act. The material can certainly be used to connect the petitioner in the contravention as much as Mr. Dudani's statement clearly inculpates not only himself but also the petitioner. It can, therefore, be used as substantive evidence connecting the petitioner with the contravention by exporting foreign currency out of India. Therefore, we don't think that there is any illegality in the order of confiscation of foreign currency and imposition penalty. There is no ground warranting reduction of fine."

27. Noticee submitted that the shipping line agents are not required to look into the authenticity of the contents of the Bills of lading, certificate of origin and they need to only declare information as it is received from principal Shipping Line. Further, it is also not required at shipping agent's end to verify each and every container no. from any other website to track the origin. This is operationally not possible and legally also not required to be done. This is the responsibility of the owner to ensure the correctness of documents and declarations. It is also the importer's responsibility to verify the authenticity of the origin of goods. I find that whatever facts stated here are totally acceptable if anyhow the shipping lines were not having knowledge about switch bill of lading or about actual port of loading but this is not the case. The Noticees are very well aware about the correct/ true facts, hence, these contentions are denied in *toto*.

28. Noticee further submitted that Section 111 (d), 111(f) and 111(m) is not applicable to them. In respect of the containers, IGM has been filed as per the switch Bills of Lading received from the principal Shipping Line and no mis-declaration of value of goods has been alleged in this case. The finding of confiscability of containers was unsustainable and consequently the penalty on our clients not sustainable. The Bank Guarantee taken was equal to the fine and penalty subsequently imposed. It shows that the adjudicating authority had decided in advance the penalties to be imposed which were in violation of principles of natural justice. When the fine was imposed without ascertaining margin of profit, it reflected non application of mind. Our client acted in a bonafide manner in relation to port of discharge procedures for subject consignment.

29. I find that section 111(m) provides for mis-declaration in any material particular, not only for value of goods. In the present case, there is mis-declaration of port of loading and of country of origin of the goods as well as containers as the

containers never visited the Jabel Ali Port, UAE. Therefore, confiscation under section 111(m) has been correctly imposed. However, as already discussed in above paras, confiscation under section 111(d) and Section 111(f) are not invokable. As regards determination of fine / penalty for release of containers having biased view and without ascertaining profit margin, I find that to initiate any investigation, reasonable belief or some doubt should have in existense. On reasonable belief and as per the veracity of the case, Bank guarantee value for provisional release is determined and the Customs Act, 1962 does not provide any specific formula to calculate the fine penalty, it is prerogative of the competent authority, therefore, I do not find any significance in the given contention. Accordingly, I hold the containers which were seized by the department, liable for confiscation under Section 111(m) of the Customs Act, 1962. Further, the containers were released on Bank Guarantee and/or Bond, relying on the judgement/decisions in the case of *Weston Components Ltd. — 2000 (115) ELT 278 (SC); M/s. Raja Impex — 2008 (229) ELT 185 (P&H); Pregna International Ltd. - 2010 (262) ELT 391; R.D. Metal & Co. — 2008 (232) ELT 464 (Tri-Ahmd) and Amartex inds Ltd. — 2009 (240) ELT 391*, I am going to impose redemption fine under Section 125(1) of the Customs Act, 1962, in lieu of confiscation of the containers.

30. Noticee-container lines have further submitted that section 114AA & section 117 are also not applicable as they are not responsible for any mis-declarations in the subject consignment. They have not used any false and incorrect material for filling of IGM intentionally. I find that as per the records available with this case, no document was issued by the Indian shipping/container lines. The foreign counterpart/principal shipping/container agent issued the switched bill of lading and provided the same to their Indian counterparts. The forgery was done by the foreign container lines by issuing the switched bill of lading wherein port of loading and country of origin were mis-declared as Jabel Ali, UAE. These forged documents were used and supplied to vessel agent for filing of IGM. In this regard, as discussed earlier, an agent is liable for act of their principal as per Section 147 of the Customs Act, 1962. Therefore, by using the switched bill of lading having false information, knowingly and intentionally, I hold that the shipping line/container lines have rendered themselves liable for penalty under section 114AA of the Customs Act, 1962.

Further the decision taken by the container lines by following the instruction of their principal container lines and keeping the custom act in abeyance has rendered themselves personally liable under section 117 of the Custom Act 1962 in addition to the penal provision imposed under section 114AA of the Custom Act 1962.

31. The noticee referred CBIC circular no. 31/2005 dated 25.07.2005 and submitted that containers cannot be confiscated. This circular provides that the containers used for importing goods should be re-exported within 06 months and the containers were being exempted from payment of Custom Duty. The said circular is silent on the containers which are part of the investigation, therefore cannot be relied upon for this case.

32. Further, for confiscability of containers, the Noticee relied upon the observations made in paragraphs 13 and 14 respectively of Supreme Court in the case of **Commissioner of Customs, Mumbai vs. Aban Loyd Chiles Offshore Ltd., [2017] 78 25(SC)**. The said judgment mainly focuses on the taxability on rig brought into India for repairs and taken out after the repairs, however, no findings are made in respect of containers. The findings in Para 13 and 14 are reproduced below:-

"13. To appreciate the controversy, it is necessary to understand certain concepts as envisaged under the Act. 'Goods' for the purpose of the Act includes vessels, aircrafts and vehicles as defined in sub-section (22) to Section 2, yet the distinction has to be recognized between a vessel or an aircraft as a mere good and when the vessel or an aircraft comes to India as a conveyance carrying imported goods. When a vessel or an aircraft is imported into India as a good, customs duty is payable thereon. However, when a vessel is used as a conveyance of an imported good, the position would be different. In this context, reference to Section 43 of the Act would be profitable. It reads as under:-

"43. Exemption of certain classes of conveyances from certain provisions of this Chapter.-

(1) The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants.

(2) The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this Chapter—
 (a) conveyances belonging to the Government or any foreign Government;
 (b) vessels and aircrafts which temporarily enter India by reason of any emergency."

14. As per the said provision, Sections 30, 41 and 42 shall not apply to a vehicle, which carries no goods other than the luggage of the occupants. The term 'vehicle' as defined in sub-section (42) to Section 2 means conveyance of any type used on land. As a logical corollary, it would not include a ship or vessel. Sub-section (2) to Section 43 states that the Central Government may by notification in the Official Gazette exempt the different classes of conveyances from all or any other provisions of the Act. However, we do find some difficulty as taxation or taxability of the 'foreign going vessels' when they enter Indian territorial waters is not directly addressed in the fasciculus of the Sections from 29 to 43 of the Act. These provisions do make a distinction between goods imported to be unloaded at the port for India and those which are not to be unloaded and in transit. The said aspect shall be elucidated at a subsequent stage."

Thus, the referred case law is not applicable to the present case.

33. The noticee referred Article IV(2)(i) of the Indian Carriage of Goods by Sea Act, 1925, "discharges the carrier from any and / or all liabilities and / or losses, arising due to any act or omission of the Shipper or the owner of the goods, his agent, or representative". I find that the noticee is wrongly stating the wordings of the said Act. The correct wording is reproduced below:

ARTICLE IV.—Rights and Immunities.

1.....
 2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—
 (a).....
 (b).....

(i) act or omission of the shipper or owner of the goods, his agent, or representative:

From the above act wordings, liability word is nowhere mentioned and the above said article only stands for any loss or damage. Therefore, I out rightly reject this contention.

34. Noticee further relied upon ruling of *M/s Chakiat Agencies vs Commissioner of Customs (Exports) 2023 TAXSCAN (CESTAT) 175, Principal bench of Delhi CESTAT in the case of PURUSHOTTAM KUMAR JAIN vs COMMISSIONER OF CUSTOMS (PREVENTIVE) JODHPUR 2022 TAXSCAN (CESTAT)567 and Ludhiana CESTAT in the case of M/s M S Exim Services Vs Commissioner of Customs, Ludhiana 2021 (CESTAT) 14*. I find that in the said judgments, facts are different from the present case. In the instant case, the noticee container lines were aware about the wrongdoings, in spite of this they remained silent and let the improper importation happened. Thus, the said rulings are not applicable in the present case.

IMPORTERS:-

35. Similar replies have been filed by the importers. It is alleged in the show cause notice that the importers while filing Bill of Entries through their custom brokers, mis-declared the port of loading and in some case country of origin was also mis-declared. Mis-declaration acted on their part rendered their goods liable for confiscation under section 111(m), 111(d) and 111(f) of the Customs Act, 1962. Further, it is also alleged that since the goods were loaded from Bandar Abbas, Iran, duty should be calculated on the freight paid / payable from Bandar Abbas to Kandla Port.

36. I find from the facts of the case that in the vessel MV Kabul, first, the IGM was filed for clearance of goods on Kandla Port as well as on Nhava Sheva Port. When intelligence gathered that there was also mis-declaration regarding country of origin / load port in respect of goods which were imported for clearance on Nhava Sheva Port, the same were also seized on reasonable belief that goods were liable for confiscation under Section 111 of the Customs Act, 1962.

37. The importers submitted that they ordered for import of goods from UAE's supplier and based on the documents received, they filed bill of entries through their Custom Brokers. They further submitted that they declared true country of origin or / and port of loading in their Bill of Entries. Therefore, goods imported by them are not liable for confiscation under Section 111(m), 111(d) and 111(f) of the Customs Act, 1962. I find that it is the responsibility of the importers to file the documents with true information.

37.1 As regards confiscation of the goods imported, under Section 111(d) of the Customs Act, 1962, it is submitted by the noticees that no prohibition is under force for the goods imported by them, therefore goods are not liable for confiscation under the said provision. I also find that the goods which were imported by them, does not fall under any restriction or prohibition under Customs Act, 1962 or any act / law being in force. Further, it is nowhere alleged in the SCN that why the goods are liable for confiscation under section 111(d) of the Customs Act, 1962. Therefore, I also find the goods imported are not liable for confiscation under section 111(d) of the Customs Act, 1962.

37.2 As regards confiscation of the goods under section 111(m) of the Customs Act, 1962, it is submitted by the importers that they filed the Bill of Entries and declared true port of loading and country of origin as per the data/information available with them and if anyhow goods were loaded from Bandar Abbas, Iran instead of Jabel ali, UAE, it does not loss to the revenue. I find that during investigation, it came into notice of the department that importers have mis-declared the port of loading and country of origin while filing Bill of Entries. In some cases, country of origin was correctly declared as Iran, however, port of loading was mis-declared as Jabel Ali, UAE. Since it has been established that they have mis-declared the port of loading / country of origin in the bill of entry, goods should be confiscated under section 111(m) of the Customs Act, 1962. Accordingly, I hold the goods liable for confiscation under Section 111(m) of the Customs Act, 1962. Further, some of the goods were released on execution of Bank Guarantee and/or Bond, relying on the judgement/decisions in the case of *Weston Components Ltd. — 2000 (115) ELT 278 (SC); M/s. Raja Impex — 2008 (229) ELT 185 (P&H); Pregna International Ltd. - 2010 (262) ELT 391; R.D. Metal & Co. — 2008 (232) ELT 464 (Tri-Ahmd) and Amartex inds Ltd. — 2009 (240) ELT 391*, I am going to impose redemption fine under Section 125(1) of the Customs Act, 1962, in lieu of confiscation of the goods imported.

As regards confiscation of the goods under section 111(f) of the Customs Act, 1962, I find that goods were declared in the Import General Menifest, goods are not liable for confiscation under the said provision of the Customs Act, 1962.

37.3 Since the goods imported by the importer-noticees are liable for confiscation under Section 111(m) of the customs Act, 1962, penalty under section 112(a) and Section 112(b) of the Customs Act, 1962 has been proposed upon them. In this regard, it is apparent that the importers have not followed the provisions of section 14 of the Customs Act, 1962 in its true sense by declaring the wrong assessable value of the goods. They have knowingly and intentionally mis-declared the Country of Origin and Port of Loading in the Bills of Entry filed by them while importing the subject goods., Their acts have rendered the goods liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I hold that they are liable for penal actions under Section 112(a)(ii) as well as 112(b)(ii) of the Customs Act, 1962.

38. As regards the differential duty demand made from the importers, it was submitted by the importers that goods were imported by them on CF/CIF terms, therefore even if the goods were loaded from Bandar Abbas, Iran, their freight/cost was not at all affected, therefore, demand of duty is not sustainable.

In this regard, Section 14 of the Custom Act, 1962 talks about the valuation of the goods. It further states that for the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or, as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

PROVIDED that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services including commissions and brokerage, engineering, design work, royalties and licence fees, **costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf.**

I find that the supplier situated at UAE has manipulated the documents where Country of Origin and Port of Loading has been mis-declared. Further, when the delivery term is CIF then the CIF should include insurance and freight amount from Port of Loading to Port of discharge. In the current case, the Port of Loading has been wrongly mentioned in the invoice, therefore to arrive at correct CIF value, the freight amount from actual Port of Loading to actual Port of discharge need to be added to arrive at the actual custom duty to be paid. Hence, the transaction value declared by the importer-noticees, is liable to be rejected under the provisions of Rule 12 of the Customs Valuation Rules, 2007 and the same needs to be re-determined. Therefore, I agree with the proposal made in the Show cause Notice regarding methodology adopted in calculation of differential freight amount as the same vessel arrived initially from Bandar Abbas, Iran and then to Kandla and accordingly, the differential Customs duty as given in Annexure-B to the SCN is required to be recovered from them under the provisions of Section 28(4) of the Customs Act, 1962.

39. I find that importer **M/s. Shivam Additives** has paid the differential duty demand of Rs. 17,847/- along with interest amount of Rs. 4,163/- vide challan no. 224 dated 25.07.2023 and same needs to be appropriated against their duty liability.

40. Importer **M/s. Hari Agro Products**, New Delhi Submitted that they never requested for release of the goods since their goods being of perishable nature. Further, as they did not clear the goods, therefore duty cannot be demanded from them. I find the M/s. Hari Agro Products filed the bill of entry 7851466 dated 14.03.2022, wherein they mis-declared the country of origin and port of loading. Even if they did not clear the goods, however, they were about to clear the goods mis-declaring the country of origin / port of loading.

41. I find that all the importer vide their statement have submitted that they were not aware about the said ongoing forgery of documents done by the container lines in corroboration with the vessel agent, charterer/owner of the vessel MV KABUL & Container Lines. From their statement, I find that they were just trying to evade their responsibility towards the Custom Authority. It was their responsibility to obtain the correct information from the container lines and shippers and submit those correct details as envisaged in the section 46 of the customs Act, 1962. Merely saying that they were not aware about the forgery, they cannot escape from their liability/duty/responsibility to furnish the correct details to the Custom Authority. While doing the agreement with the shipper, they should have ensured the correctness of the description and importing the goods but they failed to do so and either they have not taken due diligence or they were colluding with the shipper in the said forgery citing the restriction imposed on the Iran.

42. The importers argued that they had no *mala-fide* intention, wilful mis-statement or suppression of the facts and moreover, they have not knowingly or intentionally signed or used any declaration or document which is false or incorrect in any particular in the transaction of any business and therefore, penalty under Section 114AA cannot be imposed. I find that the importers have filed the Bills of Entry on the basis of the documents submitted by the Shipping Agent or supplier. I find that in the entire event, mis-declaration of the Port of Loading was done by not showing Bandar Abbas, Iran as Port of Loading. Being an ex-bond bill of entry filer or the end user of goods, the main beneficiary in the entire event are the importers. The country Iran was removed from all the documents as there were USA embargo for business transaction with Iran as discussed in para supra. Since the main beneficiary in the entire event is the importer of the goods, their role in wilful mis-statement and in collusion with the supplier and the Shipping Agent cannot be simply ruled out. Since they are the main beneficiary in mis-declaration of Port of Loading by way of removing, Iran from their documents, I find that the importer used the documents like Bills of Lading, invoices etc. which is incorrect with regard to the Port of Loading and Country of Origin. Therefore, they are liable to be penalized under Section 114AA of the Customs Act, 1962.

CUSTOM BROKERS:-

43. It is alleged in the Show Cause notice that the custom brokers have not exercised the due diligence to ascertain the correctness of the information provided to them by their respective importer accordingly they have not fulfilled the obligation parameter as mentioned in the Brokers Licensing Regulations 2018 as amended. Further they have also not followed the provisions of the section 46 of the Custom Act 1962.

43.1 I find that all the 11 Customs Brokers (hereinafter referred to “**the Noticees**”), had filed the Bill of Entry on the basis of the documents provided by the Importer, which was provided to them by the Supplier, wherein Port of Loading was mentioned as Jabel Ali, UAE. Even the Certificate of Origin mentioned the origin of goods as UAE. It is submitted by them that the department has not brought any evidence to show that there has been any contravention or positive act by the Noticee which will constitute as abetment and none of the Co-noticees have alleged any involvement for mis-declaration. They have relied upon the decision in the case of M/s Schenker India Pvt Ltd v Commissioner of Customs reported in 2019-TIOL-2741-CESTAT-BANG and the decision in the case of Syndicate Shipping Services (P.) Ltd. v. Commissioner of Customs, Chennai reported in [2003] 154 ELT 756 (CEGAT- Chennai).

43.2 In this regard, I find that in the era of trade facilitation and where majority of the goods are RMS facilitated, the Customs Broker has assumed a very important role with respect to the correct documentation and clearances of the import/export consignment. This role has been well defined in the form of various obligations, under Rule 10 of the Customs Broker Licence Regulation, 2018. The relevant extract of the said Rule is given below:-

“10. Obligations of Customs Broker.—A Customs Broker shall —

- (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;
- (m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;”

43.3 Clearly, the Customs Broker is duty bound to be well aware of all the requirements and compliances required in respect of the imported goods. The argument of the Customs brokers that they file the import documents (Bills of Entry) on the basis of documents provided by the importers has no merit and I reject the same. The Customs brokers either knowingly filed the wrong Bills of Entry having the incorrect details i.e. port of loading as Jabel Ali, Port, UAE rather than Bandar Abbas Port, Iran or had acted in very negligent and callous manner. The role and responsibilities of Customs Brokers are well defined in the CBLR, 2018. They are not entrusted with the task of mere data entry or document filing. They are licensed persons under CBLR, 2018 to act as an agent on behalf of the importer and with such licence comes greater responsibilities as obligations enshrined under Rule 10 as discussed above. They act as an important link between the importers/exporters and the custom authorities. The law mandates that they should be abreast with all the latest information/compliances regarding custom clearances and also to impart the knowledge to their client.

43.4 In view of the above, I am of the considerate view that the Customs Broker can't shy away from the responsibilities and obligations cast upon them under Regulation 10 of CBLR, 2018.

In this regard, I rely upon various judgements:-

- (i) Hon'ble CESTAT, Mumbai in the case of M/s. Eagle Transport Services Vs. Commissioner of Customs, Mumbai in 1997 (96) E.L.T.469(Tribunal) wherein though the matter was different yet the ration of judgement can be applied to the present case. In this case, the Hon'ble CESTAT, Mumbai has held at Para no. 7 (relevant portion) that
“A Custom House Agent has a significant role to play in the clearance of goods through Customs and Port Trust. Such clearance involves

application of either specialised laws and detailed procedures often conduct complexed. It is not possible for every layman to have the requisite knowledge and the time to personally undertake such clearances. It is for this reason that Custom House Agents have been licensed. The Regulations of 1984 provide for stringent conditions to be fulfilled before a person is appointed as licensee. The applicant must be financially sound. He must have experience of clearance through Customs. Before he is granted permanent licence he has to qualify an examination in which his knowledge of relevant procedures is vested. Regulation 14 places various obligations on a Custom House Agent. The object of these to ensure that the Custom House Agent acts honestly and efficiently in the conduct of his business. It is not difficult to foresee the consequences that would aim the Custom House Agent does not co-act in such a manner. The Custom House Agent makes various representations before the Custom House on behalf of the importer and exporter relating to the nature of the goods conditions under which they were imported their value etc. The statements that he makes and the information that he provide are crucial for assessing the goods to duty and deciding whether the import is prohibited or not. The Custom House Agent thus can the status of a professionally qualified person akin to an advocate, Chartered Accountant or number of other professions which requires a minimum standards of knowledge for minimum standards of conduct. If the Custom House Agent acts negligently or dishonestly, the Custom House can be defrauded money due to the Government, and in good faith permit import or export of prohibited goods."

(ii) The Hon'ble Supreme Court in the case of Commissioner of Customs Vs. K.M. Ganatra and Co. in civil appeal no. 2940 of 2008 upheld the observation of Hon'ble CESTAT Mumbai in M/s. Noble Agency vs. Commissioner of Customs, Mumbai that:

"A Custom Broker occupies a very important position in the Customs Houses and was supposed to safeguard the interests of both the importers and the Customs department. A lot of trust is kept in CHA by the importers as well as by the Government agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 (now Rule 10) of the CHA Licensing Regulations lists out obligations of the CHA. **Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations.** Any deliberate contravention of the law has to be dealt with most seriously."

(iii) The Hon'ble CESTAT Delhi in case of M/s. Rubal Logistics Pvt. Ltd Versus Commissioner of Customs (General) 2019-TIOL-2073-CESTAT-DEL wherein the Hon'ble Tribunal (in Para 6.1) opined that:-

"Para 6.1. These provisions requires the Customs Brokers to exercise due diligence to ascertain the correctness of any information and to advice the client accordingly. Though the CHA was accepted as having no mens rea of the noticed mis-declaration but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CHA definitely has committed violation of the above mentioned Regulations. These regulations caused a mandatory duty upon the CHA, who is an important link between the customs Authorities and the importer/exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein."

43.5 In a regime of trade facilitation, a lot of trust is being placed on the Customs Broker who directly deals with the importers/exporters. Failure to comply with the regulations by the Customs Broker mandated in CBLR, 2018 gives room for unscrupulous persons to get away with import-export violations and revenue frauds. The CBs deliberately and knowingly indulged themselves in the clearance of imported goods by mis-declaring the port of loading. They have also violated section 46 of the Customs Act, 1962. Therefore, their acts of commission and omission, all the Customs Brokers are held liable for penal action as proposed in the Show cause notice.

44. As the vessel agent, M/s. Master Logitech Pvt. Ltd works as agent of the person in charge of the conveyance i.e. Vessel MV Kabul so by the virtue of the Section 148 of the Customs Act 1962, the vessel agent is liable for the fulfillment in respect of the matter in question of all the obligations, including fine/penalties imposed on the Charterer/Owner of the vessel, on account of confiscation under Section 111 of the Customs Act, 1962.

45. In view of the above discussion and findings, I hereby pass the following order:

--ORDER--

A. M/s. Neman Shipping INC, Panama:

(i) I hold the **vessel MV KABUL** along with on board tools and tackles anchored at OTB (Outer Tuna Buoy) outside Kandla Port having Insured Value USD 55,00,000 and in Indian Rupees (@ Rs. 75.75 USD) **Rs. 41,66,25,000/-** (Rupees Forty-One Crore, Sixty-Six Lakh, Twenty-Five Thousand only) which was seized on 10.02.2022 vide seizure memo F.N. CUS/SIIB/INT/159/2022-SIIB-O/o-Commr-Cus-Kandla under the provisions of Section 110(1) of Customs Act, 1962, liable for confiscation under Section 115(2) of the Customs Act, 1962. I impose redemption fine of Rs. 4,16,62,500/- (Rupees Four Crore, Sixteen Lakh Sixty Two Thousand and Five Hundred only) under Section 125 of the Customs Act, 1962, in lieu of confiscation of the conveyance released provisionally.

(ii) I impose penalty of Rs. 1,00,00,000/- (Rupees One Crore only) under section 114AA of the Customs Act 1962 upon M/s. Neman Shipping INC, Panama.

(iii) I order to enforce the Bank guarantee No. OGT0341220063543 dated 28.02.2022 having value of Rs. 4,16,62,500/- and Bond value of Rs. 41,66,25,000/- submitted by M/s. Master Logistics Pvt. Ltd at the time of provisional release of the vessel, towards the liability confirmed at above (i) & (ii).

(iv) In respect of the above fine and penalties imposed upon M/s. Neman Shipping, the vessel agent, M/s. Master Logitech Pvt. Ltd. is liable for the all the fulfillment of all the obligation and pay the fine/penalties imposed above under the provisions of section 148(2) of the Customs Act 1962.

B. Vessel Agent of the vessel MV Kabul, M/s. Master Logitech Private Limited, Gandhidham:

(i) I impose penalty of Rs. 50,000/- (Rupees Fifty Thousands only) upon M/s. Master Logistics Private Limited, under the provision of the Sea Cargo Manifest and Transhipment Regulations, 2018 as amended.

(ii) I impose penalty of Rs. 4,00,00,000/- (Rupees Four Crore only) upon M/s. Master Logistics Private Limited under section 114AA of the Customs Act 1962.

C. All the container lines:

(i) I hold the containers liable for confiscation under section 111(m) of the Customs Act, 1962 which were seized vide seizure memo dated 10th and 11th Feb 2022 as detailed in Table-5 of the Show Cause Notice. I impose redemption fine under Section 125 of the Customs Act, 1962, upon the container lines as mentioned in table below, in lieu of confiscation of the containers.

(ii) I impose penalty under sections 117 and 114AA of the Customs Act 1962, upon the container lines as mentioned below:-

Sr. No	Container Line	Redemption Fine (in Rs.)	Penalty under Section 114AA (in Rs.)	Penalty under Section 117
1	M/s. GIL shipping services pvt. Ltd.	4,50,000/-	40,00,000/-	2,00,000/-
2	M/s. ASN Shipping Agencies Pvt. Ltd	3,62,000/-	30,00,000/-	2,00,000/-
3	M/s. Bilander Logistics Pvt. Ltd.	4,77,000/-	40,00,000/-	2,00,000/-
4	M/s. Casto Shipping Line LLP	40,000/-	4,00,000/-	2,00,000/-
5	M/s. Econship Tech Pvt. Ltd.	40,000/-	4,00,000/-	2,00,000/-

Sr. No	Container Line	Redemption Fine (in Rs.)	Penalty under Section 114AA (in Rs.)	Penalty under Section 117
6	M/s. Efficient Marine Services LLP, Kerela	3,71,000/-	32,00,000/-	2,00,000/-
7	M/s. Efficient Marine Services LLP, Gandhidham	4,50,000/-	40,00,000/-	2,00,000/-
8	M/s. Goodrich Maritime Pvt. Ltd.	6,40,000/-	60,00,000/-	2,00,000/-
9	M/s. Goodrich Logistics Pvt. Ltd.	32,75,000/-	3,00,00,000/-	2,00,000/-
10	M/s. Hub & Links Logistics (I) Private Limited	4,90,000/-	50,00,000/-	2,00,000/-
11	M/s. Intergulf Shipping Line Private Limited	1,00,000/-	10,00,000/-	2,00,000/-
12	M/s. Majestic Maritime Pvt. Ltd.	3,78,000/-	37,00,000/-	2,00,000/-
13	M/s. Navio shipping Pvt. Ltd.	50,000/-	5,00,000/-	2,00,000/-
14	M/s. Omega Liners(India) Private Limited	1,00,000/-	10,00,000/-	2,00,000/-
15	M/s. Radiant Maritime India Pvt. Ltd.	12,00,000/-	1,20,00,000/-	2,00,000/-
16	M/s. SAG Transline Pvt. Ltd.	50,000/-	5,00,000/-	2,00,000/-
17	M/s. SC lines Shipping & Logistics Pvt. Ltd.	50,000/-	5,00,000/-	2,00,000/-
18	M/s. Sea Marine Logistics Pvt. Ltd.	50,000/-	5,00,000/-	2,00,000/-
19	M/s. Seacross Shipping LLP	1,00,000/-	10,00,000/-	2,00,000/-
20	M/s. Winwin Maritime Limited	8,50,000/-	84,00,000/-	2,00,000/-

(iii) I order to enforce the Bank guarantee and Bonds submitted by the Container Lines at the time of provisional release of the containers seized, against the liability confirmed above.

D. The Importers:

(i) I hold the goods imported by the importers, seized under seizure memo dated 10th and 11th Feb 2022 as detailed in TABLE- 6 of the Show Cause notice, liable for confiscation under section 111(m) of the Customs Act 1962.

I impose redemption fine under Section 125 of the Customs Act, 1962, upon the importers as mentioned in the table below, in lieu of confiscation of the imported goods.

(ii) I reject the declaration made by the importers in respect of Port of Loading and Country of Origin which were mis-declared as "Jabel Ali, UAE" and "UAE" or otherwise, respectively and order to re-assess the Bill of entries considering Port of loading as "Bandar Abbas, Iran" and Country of Origin as "Iran".

(iii) I order to recover the differential duty from the importers, as mentioned against their names in Table below, under the provisions of Section 28 of the Customs Act, 1962.

(iv) I order to appropriate the duty of Rs. 17,847/- along with interest amount of Rs. 4,163/- paid by the importer M/s. Shivam Additives vide challan no. 224 dated 25.07.2023 against the duty liability confirmed at para (iii) above.

(v) I impose penalty upon the importers under Sections 112(a)(ii), 112(b)(ii) and 114AA of the Customs Act, 1962, as mentioned below against their names:-

TABLE:-

Sr. No	Importer	Total Differential Duty to be recovered	Revised Assessable Value	Redemption Fine	Penalty under Section 112(a)(ii)	(Amount in Rs.)	
						Penalty under Section 112(b)(ii)	Penalty under Section 114AA
1	Arissa International	15659	7803315	780331	1565	1565	7803315
2	Agarwal Chemicals	36235	5519556	551955	3623	3623	5519556
3	Seaco Enterprise	60903	13092257	1309225	6090	6090	13092257
4	BH Enterprise	94609	17456654	1745665	9460	9460	17456654
5	BH Enterprise	78841	14519043	1451904	7884	7884	14519043
6	RGS Exim PRO	65110	1653934	165393	6511	6511	1653934
7	Hemal International	7917	4978591	497859	791	791	4978591
8	Pujan Enterprise	23668	1032306	103230	2366	2366	1032306
9	Chevaz Imports Exports Pvt. Ltd.	65110	1516296	151629	6511	6511	1516296
10	Premium Petro Products	194787	16805489	1680548	19478	19478	16805489
11	Premium Petro Products	194787	16808399	1680839	19478	19478	16808399
12	Green Horizon Farmers Producer Company Limited	32555	842260	84226	3255	3255	842260
13	Vrushti Impex	23856	862698	86269	2385	2385	862698
14	Dang International	23591	731150	73115	2359	2359	731150
15	Shanus Impex	162776	4266732	426673	16277	16277	4266732
16	Gomti International	15946	3811749	381174	1594	1594	3811749
17	Radha Krishna Fruit Company	325552	7742585	774258	32555	32555	7742585
18	Chevaz Imports Exports Pvt. Ltd.	162776	3613037	361303	16277	16277	3613037
19	Radha Krishna Fruit Company	32555	750613	75061	3255	3255	750613
20	Raja Dry Fruits	7943	4032551	403255	794	794	4032551
21	California Agri Nuts Corporation	7943	3957093	395709	794	794	3957093
22	H K Impex	7943	5237482	523748	794	794	5237482
23	Hari Agro Products	65110	1946905	194690	6511	6511	1946905
24	JK Alamdar Trading Company	196979	16511525	1651152	19697	19697	16511525
25	Velelon Petrochem Pvt. Ltd.	196979	16743421	1674342	19697	19697	16743421
26	Velelon Petrochem Pvt. Ltd.	196979	16967617	1696761	19697	19697	16967617

Sr. No	Importer	Total Differential Duty to be recovered	Revised Assessable Value	Redemption Fine	Penalty under Section 112(a)(ii)	Penalty under Section 112(b)(ii)	Penalty under Section 114AA
27	Everge Smart India P. Ltd.	393957	27349371	2734937	39395	39395	27349371
28	Chemicals India	356926	19646057	1964605	35692	35692	19646057
29	Tinna Rubber and Infrastructure Limited	39994	2733207	273320	3999	3999	2733207
30	GWC Impex	196979	14496559	1449655	19697	19697	14496559
31	GWC Impex	196979	14536206	1453620	19697	19697	14536206
32	M/s. Shivam Additives Pvt. Ltd.	17846	3533143	353314	1784	1784	3533143
33	Excellent Traders India	15758	2633607	263360	1575	1575	2633607
34	Madhusudan Organics Limited	196979	18196313	1819631	19697	19697	18196313
35	Madhusudan Organics Limited	196979	15750081	1575008	19697	19697	15750081
36	Ocean Petroleum	78791	10749174	1074917	7879	7879	10749174
37	Neptune Petrochemicals Pvt. Ltd.	196979	15872486	1587248	19697	19697	15872486
38	Vardhman Trading Company	157583	28277460	2827746	15758	15758	28277460
39	Premium Petro Products	196979	16161971	1616197	19697	19697	16161971
40	Everge Smart India P. Ltd.	196979	17281359	1728135	19697	19697	17281359
41	Catalyst Petrochem LLP	315166	17007415	1700741	31516	31516	17007415
42	Catalyst Petrochem LLP	315166	17084156	1708415	31516	31516	17084156
43	Catalyst Petrochem LLP	107078	8076079	807607	10707	10707	8076079
44	M/s. Asha Rubber Industries	17846	1575488	157548	1784	1784	1575488
45	Ruhaan Impex Pvt. Ltd.	23934	959908	95990	2393	2393	959908

E. All the Custom Brokers:

I impose penalty upon all the below mentioned Customs Brokers, individually and separately, as proposed under section 117 of the customs Act, 1962, who filed the Bill of entries on behalf of the importers, as given below:-

Name of the Customs Broker	Penalty under Section 117 (in Rs.)
(a) M/s. Rishi Kiran Logistics Pvt. Ltd.	2,00,000/-
(b) M/s. Jaiswal Import Cargo Services Ltd.	2,00,000/-
(c) M/s. ACT Inraport Limited	2,00,000/-
(d) M/s. Purshottam C Thacker	2,00,000/-
(e) M/s. A.D.Mehta Clearing Agency	2,00,000/-

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Name of the Customs Broker	Penalty under Section 117 (in Rs.)
(f) M/s. Daksh Shipping Services Private Limited	2,00,000/-
(g) M/s. Swayam Shipping Services	2,00,000/-
(h) M/s. Bhavya Shipping	2,00,000/-
(i) M/s. Bright Shiptrans Private Limited	2,00,000/-
(j) M/s. Eiffel Logistics Private Limited	2,00,000/-
(k) M/s. Saarthee Shipping Co.	2,00,000/-

46. This order is issued without prejudice to any other action that may be taken against the importer or any other person under the Customs Act, 1962 or any other law for the time being in force.

(Ram Singh Shekhawat)
 Additional Commissioner of Customs,
 Custom House, Kandla
 Date:- 02.08.2024

F. No. GEN/ADJ/ADC/351/2023-Adjn-O/o Commr-Cus-Kandla
 DIN-20240871ML000000C5BD

By Speed Post A.D/Email

To,

1. M/s. Neman Shipping INC, **(Vessel Owner/Charterer)**
 50 Street, Global Plaza Building,
 20, Floor, Office E, Panama City, Panama
2. Mr. Master Logitech Private Limited, **(Vessel Agent)**
 Office No. R-1 & 2, 2- Floor,
 Plat No. 233, Ward 12-B,
 Near Kutch Kala,
 Opp. Atmaram Circle,
 Gandhidham

Container Lines:

1. M/s. Casto Shipping Line LLP,
 164, 5th Street, F-Block,
 Anna Nagar East,
 Chennai-600102, Tamil Nadu
2. M/s. ASN Shipping Agencies Pvt. Ltd.,
 116, A Wing, 1st Floor,
 Kanara Business Centre,
 Laxmi Nagar, Near Everest Garden,
 Ghatkopar (East), Mumbai 400 075
3. M/s. SAG Transline Pvt Ltd,
 Office No.221, 2nd Floor,
 Raheja Arcade, Plot No.61,
 Sector-11, CBD Belapur,
 Mumbai – 400614

4. M/s. Intergulf Shipping Line Private Limited,
506, B-Wing, Kohinoor City,
Commercial Complex,
Kiroli Road, Off L BS Marg,
Kurla(W), Mumbai-, Maharashtra-400070
5. M/s. Bilander Logistics Pvt. Ltd.,
Office No. 206, 2nd Floor,
RidhiSidhi Arcade-III, Plot No. 95,
Sector-8, Gandhidham- Kutch,
Gujarat 370201
6. M/s. SC Lines Shipping & Logistics Pvt Ltd,
703, A-Wing, Shree Nand Dham,
Plot No. 59, Sector-11,
CBD Belapur, Navi Mumbai
7. M/s. Econship Tech Pvt. Ltd.,
617 & 618, A-1,
Rupa Solitaire Building, MBP,
Sec-1, Mahape Navi Mumbai 400710
8. M/s. Sea Marine Logistics Pvt ltd,
Office No. 112, 1st floor, Rishabh Arcade,
Plot No.83, Near GST Bhavan, Sector 8,
Gandhidham, Kutch -Gujarat - 370 201
9. M/s. Winwin Maritime Limited,
Shree Nand Dham,
B Wing,515, 5th Floor,
Sector-11, CBD Belapur,
Navi Mumbai-400614
10. M/s. Goodrich Maritime Pvt Ltd,
Goodrich House,
Plot No.174, Sector No.1-A,
Rabindranath Tagore Road,
Gandhidham, dist:- Kutch, Gujarat- 370201
11. M/s. Efficient Marine Services LLP,
61/1791 5th Floor, BAB Towers,
M G Road, Kochi, Ernakulam, Kerala 682015
12. M/s. Navio Shipping Pvt Ltd,
311, V-Times Square,
Sec 15 CBD Belapur, Navi Mumbai-400614
13. M/s. GIL Shipping Services Pvt Ltd,
Sunshine Arcade-II,
Suit No. 101, First Floor,
Plot No. 37, Sector-8, Near D- Mart,
Gandhidham -Kutch, Gujarat 370201
14. M/s. Radiant Maritime India Pvt. Ltd.,
Office No. 313,
2nd Floor, Sunder Park,
Plot No. 95, Sector-8,
Gandhidham-Kutch, Gujarat 370201
15. M/s. Seacross Shipping LLP,
Ratnakar Arcade, Office No. 14,
Near Patidar Bhavan, Ground Floor,
Plot No.62, Sector-8, Gandhidham, Kutch-370201

16. M/s. Efficient Marine Service LLP,
Second Floor, Plot No. 133, Sector 8
(BOMGIM Complex) Gandhidham - Kutch 370201
17. M/s. Majestic Maritime Pvt. Ltd.,
Meridian House, G-02, Plot No. 50,
Sector-8, Gandhidham, Kutch, Gujarat 370 201
18. M/s. Omega Liners (India) Private Limited,
Office No. 04, 1ST Floor, Kesar Arcade,
Plot no. 51, Sector 8, Gandhidham (Kutch), 370201
19. M/s. Hub & Links Logistics (I) Private Limited,
Suite No.101,"Rishabh Arcade", Plot No. 83,
Sector 8, Gandhidham, Kutch-370 201, Gujarat

Importers

01. M/s. Ruhaan Impex Private Limited,
15-6-223/10 DR Complex,
Begum Bazar, Hyderabad-500012
2. M/s. RGS EXIM PRO, F-13,
Hari Sadan Building, 20 Ansari Road,
Darya Ganj, New Delhi- 110002
3. M/s. Agarwal Chemicals,
40, Strand Road, 6th Floor,
Room No. 633, Kolkata, West Bengal-700001
4. M/s. Green Horizon Farmer's Producer Co. Ltd.,
S.N. 803/2, Pune Road,
Wakhari, Taluka Pandharpur,
Distt. Solapur-413304
5. M/s. Chevas Imports Exports Pvt Ltd,
89 Vill-Bamnoli Post office,
Dwarka Sector- 28, New Delhi-110077
6. M/s. Shanus Impex,
D-407, New Subzi Mandi,
Azadpur, Delhi- 110033
7. M/s. B H Enterprises,
206/207, DamjiShamji Trade Centre,
Near Rly Station, Vidyavihar (W), Mumbai 400086
8. M/s. Seaco Enterprises,
35, Bombay Mutual Annexe,
4th Floor, Rustom Sidwa Marg Fort,
Mumbai, Maharashtra-400001
9. M/s. Radha Krishan Fruit Company,
B-199, New Subzi Mandi,
Azadpur, Delhi- 110033
10. M/s. Hari Agro Products, RZ-92,
Shiv Nagar, New Roshan Pura,
Najafgarh, New Delhi-110043
11. M/s. Pujan Enterprise,
D-24/10, ITC Industrial Area,
Turbhe MIDC, Navi Mumbai-400703
12. M/s. Dang Enterprises,

F-51/52, APMC Market 1,
Phase 2, Vashi, Navi Mumbai-400705

13. M/s. Tinna Rubber & Infrastructure Limited,
Khasra No. 10, Village- Rajapur,
Refinery Road Panipat, Haryana-132103
14. M/s. Asha Rubber Industries,
Village-Fazalpur, New Udyog Nagar,
Jalandhar, Punjab-144001
15. M/s. ShivamAdditives Private Limited,
107, Bhagat Singh Chowk, Hanumangarh
Rajasthan 335512
16. M/s Everge Smart India Private Limited,
Plot No. 750, 2nd Floor,
Udyog Vihar, Phase-V,
Gurgaon, Haryana-122016
17. M/s. Chemicals India,
Plot No.17, Ahmedanagar Industrial Estate Nagar,
Poona Road, Ahmednagar, Maharashtra-414005
18. M/s. Vardhman Trading Co.,
Near Electric Substation, Industrial Area,
Gangyal, Jammu-Tavi - 180 010
19. M/s. J K Alamdar Trading Co.,
ShalinaSomerburg, B. K. Pora,
Budgam, Pulwama, Jammu & Kashmir - 192 121
20. M/s. Excellent Traders India,
101 Shivlok House-II,
Karampura Commercial Complex,
New Delhi - 110 015
21. M/s. Premium Petro Products,
1/3, Hathroi Market,
Opp. Gopal Bari, Ajmer Road,
Jaipur, Rajasthan-302001
22. M/s. Neptune Petrochemicals Pvt. Ltd.,
B-606, Mondeal Heights, Nr.wide angle Cinema,
Iscon cross roads, S.G.Highway,Ahmedabad-380015
23. M/s. Madhusudan Organics Limited
5, Gopal Doctor Rd, Andaman Dock,
Khidirpur, Kolkata, West Bengal 700023
24. M/s. Catalyst Petrochem LLP,
Block KD-197, Pitampura,
Near Kohat Metro Station, Delhi 110 034
25. M/s. GWC Impex, Anil Plaza,
Block- II, 1st Floor, G S Road,
Chrsitian Basti, Guwahati-781005
26. M/s. Vevelon Petrochem Private Limited,
Office No. 915D, 9th Floor,
The Capital G Block,
A wing, Bandra Kurla complex,
Bandra East, Mumbai 400 051
27. M/s. Ocean Petroleum,

Opp Hotel Mini Above Maruti Rewinding ,
Railway Station Road , Bhavnagar ,
Bhavnagar , Gujarat, 364001

28. M/s. Gomti International,
37/35, West Punjabi Bagh,
New Delhi- 110026
29. M/s. Vrushti Impex, F-11,
APMC Market I, Phase-II,
Sector 19, Turbe Vashi, New Mumbai-400705
30. M/s. Hemal International,
F-42, APMC Market I, Phase-II, Sector 19,
Turbe Vashi, New Mumbai-400705
31. M/s. Raja Dry Fruits,
584-B, Kalra Ishwar Bhawan Delhi-110006
32. M/s. California Agri Nuts Corporation,
559, Kalra Ishwar Bhawan Delhi-110006
33. M/s. H K Impex,
Office No 140, Anna Pallai Street,
Chennai-600001
34. M/s. Arissa International,
Blue Moon Chambers, 25,
Medows Street, Office No. 2,
Fort Mumbai-400023

Custom Brokers

1. M/s. Rishi Kiran Logistics Pvt. Ltd.
Plot No. 8, Sector-8, Opp. Post Office,
Gandhidham, Kutch-370201
2. M/s. Jaiswal Import Cargo Services Ltd.
4 & 5, Ground Floor, Plot No. 84, Sector 8,
Mani Complex, Gandhidham - 370 201
3. M/s. ACT Infraport Limited,
Plot No. 286, Sector-1A,
Opp. Mamlatdar Office,
Gandhidham, Kutch-370201
4. M/s. Purshottam C Thacker,
Office No.4, Komal Complex,
1st Floor, Plot No.305,
Ward-12B, Gandhidham-370201
5. M/s. A.D.Mehta Clearing Agency,
21 & 22, Ist floor, KASEZIA Building, KASEZ,
6. M/s. Daksh Shipping Services Private Limited,
33, Ashapura Nagar, Old Port Road,
Near Hero Showroom, Mundra, Kutch-370421
7. M/s. Swayam Shipping Services
202, Rajkamal-1, 2nd Floor,
Plot No. 348, Ward 12-B,
Gandhidham (Kutch)-370201
8. M/s. Bhavya Shipping,
House No. 08, Plot No. 368, 369, 377,

DIN-20240871ML000000C5BD
OIO No. KDL/ADC/RSS/17/2024-25
Dated 02.08.2024

Ward 3-B, Adipur, Gandhidham-370205

9. M/s. Bright Shiptrans Private Limited,
Office No. 2, 2nd Floor, Arjan's Mall,
Plot No. 118/119, Sector-8, Gandhidham-370201
10. M/s. Eiffel Logistics Private Limited,
Office No.57, Third Floor,
Om Sri Sai Ram Plaza No.75,
Thambu Chetty Street,
Mannady Chennai TN 600001
11. M/s. Saarthee Shipping Co.,
Office No. 1, 2nd Floor,
Shah Avenue 1, Plot No. 211,
Ward 12-B, Gandhidham-370201

Copy to:

1. The Superintendent (TRC/RRA/EDI/SIIB), Custom House Kandla
2. Guard File.