कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:**
**CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.**
**PHONE : 02838-271426/271163 FAX :02838-271425**
**E-mail id- adj-mundra@gov.in**

| | | |
|---|---|---|
| **A** | **FILE NO.**<br>फ़ाइल संख्या | GEN/ADJ/ADC/970/2024-Adjn-O/o Pr Commr-Cus-Mundra |
| **B** | **OIO NO.**<br>आदेश संख्या | MCH/ ADC/ ZDC/196/2026-27 |
| **C** | **PASSED BY**<br>जारीकर्ता | Dipak Zala,<br>Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क,<br>Custom House, Mundra/कस्टम हाउस, मुंद्रा। |
| **D** | **DATE OF ORDER**<br>आदेश की तारीख | 22.06.2026 |
| **E** | **DATE OF ISSUE**<br>जारी करने की तिथि | 22.06.2026 |
| **F** | **SCN No. & Date**<br>कारण बताओ नोटिस क्रमांक | GEN/ADJ/ADC/970/2024-Adjn-O/o Pr Commr-Cus-Mundra dated 03.06.2024 |
| **G** | **NOTICEE/ PARTY/ IMPORTER**<br>नोटिसकर्ता/पार्टी/आयातक | (i) M/s. Anmol Enterprises, ( IEC-2414005114)<br>(ii) Shri Imran Karimbhai Makwana<br>(iii)Shri Altafbhai Kasambhai Dalvani<br>(iv) M/s. Continental Shipping Services |

**1.** यह आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

**2.** यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा128 के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 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)**
**चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,**
**नवरंगपुरा,अहमदाबाद 380 009"**
**"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA**

**HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD, NAVRANGPURA, AHMEDABAD-380 009."**

**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 अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम 1870 के मद सं॰ 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 ड्यूटि/ 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 सीमाशुल्क 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 शुल्क या 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

Intelligence gathered by the Directorate of Revenue Intelligence, Gandhidham indicated that M/s. Anmol Enterprises, Nehru Nagar, 24, Behind Amrapali Cinema Raiya Road, Rajkot, Gujarat (IEC-2414005114) was engaged in the smuggling of Areca Nuts by way of concealment in the import consignment of HDPE Plastic Regrind(Non Hazardous) from UAE. Intelligence further indicated that M/s. Anmol Enterprises had filed Bill of Entry No. 6260195 dated 03.06.2023 for the clearances of the import goods at Mundra Port. The declared description of the goods in the said import consignment was 'HDPE Plastic Regrind (Non Hazardous)' classified under HS Code 39012000 and imported through container bearing No. TGBU5683965.

2. Acting upon intelligence the import consignments covered under Bill of Entry 6260195 dated 03.06.2023 were put on hold and examination of the goods was carried out by the officers of Directorate of Revenue Intelligence under panchanamas dated 27.06.2023**.** The examination of the goods pertaining to Container No. TGBU5683965 was carried out at M/s. Transworld CFS, Mundra Port.

The details of the import consignment are as follows,

| | | | |
|---|---|---|---|
| Bill of Lading No. | HLCUDX3230552642 DATED 30.05.2023 | | |
| Shipper | M/s Polytech Middle East FZE, Po.O. Box, 7072, Business Centre, Al Shmookh Building UMM Al Quwain United Arab Emirates. | | |
| Invoice No.& Dt. | AE/2023/5110 dated 24.05.2023 | | |
| Importer & IEC | M/s. Anmol Enterprises, Nehru Nagar, 24, Behind Amrapali Cinema Raiya Road, Rajkot, Gujarat ( IEC-2414005114) | | |
| B/E & Dt. | 6260195 dated 03.06.2023 | | |
| Declared description of the goods declared | HDPE Plastic Regrinding(Non Hazardous)(H.S.code:39012000) | | |
| Container No. | Seal No. | Packages declared | Nt.wt. In M.ton |
| TGBU5683965 | 859702 MS5139460 | 790 | 25.690 |

3. During examination of the import consignment, it was gathered that the seal cutting permission was taken for examination from the Docks officer before the DRI alert was sent for holding the respective cargo imported vide Bill of entry No.

6260195 dated 03.06.2023. Upon opening of the container it was found that the container was stuffed with white color PP Bags upto around 70 % of its height and the PP bags were stacked inside till the door of the container. Thereafter, de-stuffing of the PP bags was started with the help of labourers. On visual inspection of all the PP Bags, found that all the bags were having goods in the form of Crushed Small Pieces of plastic of Black color/Multi Color. After emptying all the white PP Bags, which were stacked in starting 4-5 lines from the gate of the container it was stacks of brown color jute bags were noticed. All the persons present during the panchanama proceedings noticed some pieces of Areca nut were spilled on the floor of the container. The weight of container was done to know the weight of cargo stuffed in the Jute Bags and the weight was found to be 15300 Kgs. Thereafter, the de-stuffing of the Jute Bags was started with the help of labourers. The offloaded Jute Bags from the container were placed separately from PP bags under the same shed of the CFS. All the Jute bags were cut and it was found that all of the jute bags were found to be stuffed with Areca Nut. The container was found to be stuffed with 192 jute bags having Areca Nut and 275 PP bags containing Crushed Small Pieces of plastic declared as HDPE Plastic Regrinding (Non Hazardous). Jute bags and plastic bags are of uniform size/shape. Weight of one empty jute bag was found to be 2.20 Kg and that of empty PP Bags was found to be 0.5 Kg. The summary of the goods found during examination as are summarized as under;

| Container No. | Weight of Crushed small pieces of plastic declared as HDPE Plastic Regrindin g (including pkg. material) | Net Weight of Crushed small pieces of plastic declared as HDPE Plastic Regrinding (Excl. Pkg material weight 0.5 Kgs. ) | Weight of Areca Nuts/ (including pkg. material) | Net Weight of Areca Nuts (Excl. pkg. material weight 2.20 Kg/Box) |
|---|---|---|---|---|
| TGBU5683965 | 9860 Kgs/ 275 Plastic Bag | 9722 Kgs | 15300 Kgs/ 192 Jute Bags | 14877 Kgs |

Whereas, the Areca Nuts were found concealed in the import consignment of declared goods 'HDPE Plastic Regrinding (Non-Hazardous). The above quantity of

14877 Kgs Areca Nuts (CTH 080280) was the item importable at fixed values called "Tariff Values", under Notification issued under Section 14(2) of the Customs Act, 1962 by the Board. If the tariff values are fixed for any goods, ad valorem duties thereon are required to be calculated with reference to such tariff values only following Rule 2 of the Customs Valuation Rules 2007 and not at the "transaction values" as specified vide Rule 3(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Hence, to avoid the correct tariff value USD 10379 per Metric Ton, as per the applicable Notification No. 34/2023-CUSTOMS (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act 1962 the importer filed the respective Bill of Entry No. 6260195 dated 03.06.2023 at the CIF value of Rs. 46.70/kg.

4. Since the above mentioned 14877 Kgs of Areca Nut were not declared in the Bill of Entry No. 6260195 dated 03.06.2023, there existed reasonable belief that the same were liable for confiscation under the provisions of the Customs Act, 1962. Thus, the said 14877 Kgs of Areca Nut and 9722 Kgs of Crushed Plastic declared as HDPE Plastic Regrinding stuffed in the container No. TGBU5683965 were placed under seizure under section 110 of the Customs Act, 1962 vide Seizure Memorandum dated 27.06.2023 (DIN-202306DDZ10000321331). The seized consignment was handed over to the custodian M/s Transworld CFS, Mundra under Supartnama dated 27.06.2023**.**

5. Visit Note dated 04.07.2023 was drawn at the premises of M/s Anmol Enterprises, Address Nehru Nagar, 2/4, Near Khoja Hall, Raiya Road, Rajkot, Gujarat informing that the premises were found locked due to which the search at the registered premises could not be executed. During the visit it was found that the premises was residence of Shri Imran Karimbhai Makwana mastermind who had also supplied the areca nut to M/s Jaliyan Polymers and M/s Hiralal Exim .

6. During the investigation it was gathered that Shri Imran Karimbhai Makwana is the same person who had also supplied the Areca Nut from Dubai to M/s Jaliyan Polymers and M/s Hiralal Exim by concealing with goods declared as "PP Plastic Regrind". DRI has already initiated the investigation against M/s Jaliyan Polymers for the import of total 42782 Kgs of Areca Nut by concealing with 10180Kgs of goods decalred as "PP Plastic Regrind". Shri Imran Karimbhai Makwana was found to be partner in M/s Jaliyan Polymers who used to export the cargo from Dubai from the shipper firms which were familiar to him. Similarly, DRI

has initiated the investigation against M/s Hiralal Exim for the import of 40880 Kgs of Areca Nut by concealing the same with 8820 Kgs of goods declared as PP Plastic Regind. Shri Imran Karimbhai Makwana exported the goods from the firm M/s Polytech Middle East FZE owned by him. M/s Polytech Middle East FZE, UAE is the same shipper who has supplied the 14877 Kgs of Areca Nut by concealing with 9722 Kgs of goods declared as HDPE Plastic Regrinding to M/s Anmol Enterprises. The investigation revealed that Shri Imran Karim Bhai Makwana is the mastermind who supplied the Areca nut to three importer viz M/s Jaliyan Polymers, M/s Hiralal Exim and M/s Anmol Enterprises. Total 98539 Kgs of Areca Nut has been smuggled by Shri Imran Karimbhai Makwana by concealing the same with declared goods. The above quantity of 98539 Kgs of Areca Nuts (CTH 080280) was the item importable at fixed values called "Tariff Values", under Notification issued under Section 14(2) of the Customs Act, 1962 by the Board. If the tariff values are fixed for any goods, ad valorem duties thereon are required to be calculated with reference to such tariff values only following Rule 2 of the Customs Valuation Rules 2007 and not at the "transaction values" as specified vide Rule 3(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Hence, to avoid the import duty on correct tariff value USD 10379 per Metric Ton, as per the applicable Notification No. 34/2023-CUSTOMS (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act 1962**)** the importer imported the Areca Nut by mis declaring the value and goods to evade the applicable Customs Duty. Hence the total 98539 Kgs of Areca nut having assessable value at Rs. 8,51,93,932/- have been smuggled by Shri Imran Karimbhai Makwana by mis declaring and concealing the same with declared goods imported by all the three importers.

6.1 The investigation could not be completed in the stipulated time period of six months from the date of the seizure of goods. The competent authority vide letter dated 07.12.2023 granted the extension by a further period of six months for issuance of Show Cause Notice in respect of seized goods in terms of the first proviso of Section 110(2) of the Customs Act, 1962 as amended by the Finance Act, 2018.

**7. During investigation Statements of following persons were recorded;**

**7.1 Statement of Shri Satish Maheshwari, Authorized person, M/s Continental Shipping Maheshwari, Mundra Branch was recorded on 28.06.2023, wherein he interalia stated that**:

- On being shown Panchanama dated 27.06.2023 drawn at M/s Transworld CFS wherein during the examination of cargo covered under Bill of Entry No.6260195 dated 03.06.2023 pertaining to M/s Anmol Enterprise, and asked to Comment, he stated that he agreed that during the examination 14.87 MTs Areca Nut/Betel Nut was found concealed with a cover cargo HDPE plastic Regrind. The Bill of Entry No.6260195 dated 03.06.2023 was filed by Shri Himmat Meghjibhai Maheshwari (Executive) of their Mundra office. Mundra Branch office is looked after by him and G-card holder of their company Shri Dev Kapta, H card holder.
- On being asked as to who he knew in the firm M/s Anmol Enterprise and how did he got the work of M/s Anmol Enterprise, he stated that Shri Altaf kasambhai Dalvani (Mob No-9909995186) and Imran Karimbhai Makvana, Partners of M/s Anmol Enterprise approached and met him in January 2023 at their Mundra office and asked him to handle the Custom Clearance work for their import consignments of PP/HDPE regrind. They told him that they are not satisfied with their then Custom Broker and as he was already handling Custom Clearance work for other importers of PP regrind and plastic articles.
- On being asked as to what documents did he ask from Shri Altaf kasambhai Dalvani and Imran Karimbhai Makvana of M/s Anmol Enterprise, he stated that they had received every document pertaining to KYC for M/s Anmol Enterprise which include copy IEC, Pancard of firm, GST registration certificate, authorization letter, cancelled cheque of the firm and Aadhar cards of both the partners of Shri Altaf Kasambhai Dalvana and Shri Imran Karimbhai Makvana.
- On being asked as to how he verified the KYC detail of the firm M/s Anmol Enterprise, he stated that they had verified the KYC of the firm/s Anmol Enterprise from the DGFT and from GST portal. He personally visited the registered address of M/ s Anmol Enterprise and found the firm in existence.
- On being asked as to how many import consignments for M/s Anmol Enterprise have he handled till date, he stated that they had handled total 18 import consignments for M/s Anmol Enterprise including import cargo

under Bill of entry no.6260195 dated 03.06.2023.

- On being asked as to When and how did he receive import documents for Bill of entry no.6260195 dated 03.06.2023 imported by M/s Anmol Enterprise, he stated that they received invoice, packing list and Bill of lading on their company's whatsapp group on 23/24 June 2023. These documents were sent by Shri Imran Karimbhai Makwana from Mob.no-+971507195326.
- On being asked whether he had forwarded the Checklist for approval before filling the Bill of entry no.6260195 dated 03.06.2023 for the cargo imported by M/s Anmol Enterprise, he stated that they had been handling Import cargo for M/s Anmol Enterprise since 2021. Earlier they used to send the checklist for approval to the registered email Id of M/s Anmol Enterprise but later Shri Imran told him not to wait for their approval of checklist and file the Bill of entry on basis of the documents provided by Shri Imran Karimbhai therefore they filled the Bill of entry after taking approval on voice call using Whatsapp from Shri Imran.
- On being asked to provide the details of the person who booked the container No. TGBU5683965 for the import of cargo for M/s Anmol Enterprise vide Bill of Entry No. 6260195 dated 03.06.2023, he stated that Shri Imran Karimbhai Makwana partner of M/s Anmol Enterprise had booked the container no.TGBU683965 for the cargo imported vide bill of entry no.6260195 dated 03.06.2023 from M/s Anmol Enterprise. Shri Imran is based in Dubai.
- On being asked as to how much Custom Clearance Agency charges they were getting for providing the service for the clearance of subject cargo vide Bill of Entry No. 6260195 dated 03.06.2023, he stated that they were charging Rs.12000/- for clearance of subject cargo vide Bill of entry No.6260195 dated 03.06.2023.
- On being asked whether M/s Continental Shipping Services and M/s Shri Krishna Logistics received any amount in respect for the clearance of the subject cargo, he stated that M/s Continental Shipping Services and M/s Shri Krishna Logistics did not receive any money regarding clearance of import cargo under Bill of entry No.6260195 dated 03.06.2023.
- On being asked whether he knew any firm by the name M/s Polytech Middle East FZE, he stated that M/s Polytech Middle East FZE was the shipper for the cargo imported vide Bill of Entry No. 6260195 dated 03.06.2023. This

firm was owned by Shri Imran Karimbhai Makwana.

- On being asked whether he knew any firm by the name M/s Advance recycling Technology, U.A.E., he stated that he only knew that this firm was owned by associates of Shri Imran Karimbhai Makwana.
- On being asked as to when did he come to know that the Areca/Betel Nut was found concealed with cover cargo PP Plastic Regrind imported vide Bill of Entry No. 6260195 dated 03.06.2023 pertain to M/s Anmol Enterprise, he stated that the container No.TGBU5683965 pertaining to subject Bill of entry No. 6260195 dated 03.06.2023 was selected for scanning by the RMS system. The scanning report came as mis-match so the container was to be 100% examined from the Docks Custom Officer and seal was cut by the CFS laborers. The Custom Officer instructed Shri Hakim to get the cargo 100% destuffed for examination. In between Shri Imran Karimbhai was calling him continuously and he told me to arrange the clearance of this cargo as soon as possible and not to de-stuff the cargo so he got suspicious and he asked Shri Hakim to go inside the container and check if all the cargo is same or not. Our field agent Shri Hakim went inside the container to check and he noticed Jute bags stuffed with Areca Nut concealed after 5-6 lines of PP bags. Shri Hakim called him at around 6:30 PM and informed me about the concealment of Areca Nut. He had told him to close the doors of the containers and inform the Custom Authorities. But the Custom Officer has already left the CFS due to some emergency. He had tried calling Shri Imran but he did not pick his call. At around 10:30 on 07.06.2023 PM Shri Imran called him and I told him about this concealment of Areca Nut in cargo imported vide Bill of entry No. 6260195 dated 03.06.2023. At that time, he told me the loading workers had done it by mistake. He had asked him to come to India as soon as possible and present himself before Custom Authorities. He told him that he will come next day only and cooperate with Custom Authorities.
- On being asked as to when did he inform the Custom Authorities about this concealment of Areca Nut in cargo imported vide Bill of entry no. 6260195 dated 03.06.2023, he stated that they informed the Custom Authorities about said mis-declaration and concealment of Areca Nut in cargo imported by M/s Anmol Enterprise by email on 08.06.2023 at 9.59 AM by email id continentalmun@gmail.com on email siibmundra@gmail.com, commr-cusmundra@nic.in. they had also received a letter through email

imran4websolutions@gmail.com from the Shipper M/s Polytech Middle East FZE stating that container no. TGBU5683965 was mis loaded by their workers and they requested for re-export of the same. they also gave a letter addressed to DC customs(DE) regarding the matter on 08.06.2023

- On being asked if Shri Imran karimbhai Makwana methim or contacted him after said concealment of Areca Nut was found in container No.TGBU5683965 imported vide Bill of entry no.6260195 dated 03.06.2023 by M/s Anmol Enterprise, he stated that Shri Imran Karimbhai Makwana came to his office at Mundra in 08.06.2023 at around 08:00 PM. He told him that the Areca Nut was loaded in container No. TGBU5683965 by mistake of his workers and he is ready to pay the applicable duty, fine and penalty and he also assured him that he will appear before the Custom Authorities whenever called by the authorities.
- On being asked as to who was supposed to arrange the transportation of the imported goods vide Bill of Entry No. 6260195 dated 03.06.2023 30.05.2023 for the delivery from Mundra Port, he stated that he did not know who was going to arrange transportation for delivery from Mundra Port of cargo 6260195 dated 03.06.2023.
- On being asked as to who arranged transportation for earlier import consignments imported by M/s Anmol Enterprise, they only arranged transportation for few early consignments of M/s Anmol Enterprise in Year 2021 after that the transportation was arranged by M/s Anmol Enterprise on their own for all their import consignments.
- On being asked to provide the details of any person/firms who was finally going to purchase the Areca/Betel Nut imported vide Bill of Entry No. 6260195 dated 03.06.2023, he stated that he was not aware that who was the final buyer of Areca/Betel Nut.

**7.2 Statement of Shri Altafbhai Kasambhai Dalvani, Partner of M/s Anmol Enterprises(IEC-2414005114), Naheru Nagar, 2/4, BH Amrapali Cinema, Raiya Road, Rajkot-360007, was recorded on 07.07.2023, wherein he interalia stated that:**

- On being asked when did he start his firm M/s Anmol Enterprises (IEC No-2414005114), he stated that M/s Anmol Enterprises was a partnership firm. The other partner was Shri Imran Karimbhai Makwana, and they started the said firm M/s Anmol Enterprises (IEC-2414005114)

in year 2014 but due to lack of funds they did not do any business in that firm. At that time, he dropped the idea of business and he took up a job in Nexa as a sales person. He did job from 2014 to 2021. After arranging enough funds to start his own business, they started doing business in this firm in year 2021. they have 50/50 partnership in M/s Anmol Enterprises.

- On being asked to state the business of your firm M/s Anmol Enterprises, he stated that they were engaged in business of trading of plastic regrind. They imported PP Plastic regrind, HDPE regrind, PPCP regrind from Dubai and they also purchase the goods from domestic market.
- On being asked to provide the bank details of his and his firm, he stated that he had saving account in HDFC bank, branch Yagnik road, Rajkot(Account No-01011930009352) and the current account of their firm was Account No-50200039757111) HDFC bank, branch Yagnik road, Rajkot.
- On being shown Panchanama dated 27.06.2023 drawn at M/s Transworld CFS and during the examination of cargo covered under Bill of Entry No.6260195 dated 03.06.2023 pertaining to M/s Anmol Enterprises and asked to comment, he stated that he agreed with the said Panchanama dated 27.06.2023 and during the examination 14.87 MTs Areca Nut/Betel Nut was found concealed with a cover cargo HDPE plastic Regrind. The Bill of Entry No.6260195 dated 03.06.2023 was filed by their Custom Broker M/s Continental Shipping Services.
- On being asked to state the work handled by him and Shri Imran Karimbhai for M/s Anmol Enterprises, he stated that he handled the sale part for M/s Anmol Enterprises and Shri Imran handled the purchase, loading, shipping and Custom clearance for the goods imported by their firm M/s Anmol Enterprises. Shri Imran was based in Dubai and he searched for cheap products in Dubai and he used to buy the goods in Dubai and then load and ship the goods in name of their firm M/s Anmol Enterprises. He used to arrange buyers to sell their imported goods in domestic market.
- On being asked to stated that how many consignments have been imported by M/s Anmol Enterprises till date, Who were the buyers of the goods imported by their firm M/s Anmol Enterprises and the details of

the domestic suppliers, he stated that they had imported total 17-18 consignments of Plastic regrind till date. They had sold their imported goods to M/s Sinni polymers and M/s Z square corporation, Ahmedabad. They had no fixed buyers as they used to look for selling their consignments after they received the imported goods. They had a warehouse for storing the goods located at near bailnath over bridge, Rajkot Morbi highway. They imported our last consignment in July 2022 vide Bill of entry No.9443902 dated 07.07.2022. He assured to provide the details of all import consignments in 3-5 working days and further stated that they used to buy from M/s Mepani Industries, Gandhidham and M/s Maruti Corporation, Mumbai, M/s Niti Polymer, rajkot. On being asked whether any DRI or Customs Case was booked against him or his firm earlier, he stated that they did not have any case booked by DRI or Customs against him or his firm.

- On being asked if he knew any firm by the name M/s Polytech Middle East FZE, he stated that M/s Polytech Middle East FZE was their overseas supplier and that firm was owned by his partner Shri Imran Karimbhai Makwana.
- On being asked how he came in contact with Shri Imran Karimbhai Makwana, he stated that he had known Shri Imran for many years as he was known to some of his distant relatives. he first came in contact with him in year 2010. He was looking for a job in Dubai and he assured me that he will get him a job when he moved to Dubai. He moved to Dubai in year 2012 for seeking Job but He did not get a job in Dubai so He came back in just 3-4 days. Shri Imran resided at C/o Karimbhai AbdulBhai Makwana, Satima Road, Virpur, Jalaram, Rajkot-360380.
- On being asked to explain the mode of payment to their overseas supplier and the details of total payment been made by them to their overseas suppliers till date, he stated that their Firm M/s Anmol Enterprises made the payment to the overseas supplier through their Current Bank account maintain with HDFC Bank, Account No-50200039757111) HDFC bank, branch Yagnik road, Rajkot. They had not made any payment to their overseas supplier in last one year as they had not imported any consignment other than cargo under Bill of Entry No.6260195 dated 03.06.2023. He promised to provide the bank statement for last two years in 3-5 working days.

- On being asked to provide the details their CHA and its associate person to whom he used to contact regarding the clearance of Cargo, he stated that their regular Custom Broker was Shri Satish Maheshwari of M/s Continental Shipping and Shri Imranbhai contacted him for the clearance of the import cargo of M/s Anmol Enterprises. When they first started the import business. they used Custom Broker M/s BN Thakker and Co. for clearance of two containers but they were charging too much so they hired M/s Continental Shipping Services as their Custom Broker for handling the Custom clearance work for our Import consignments.
- On being asked as who placed order for goods covered under Bill of Entry No. 6260195 dated 03.06.2023 with M/s Polytech Middle East FZE, he stated that on 25-26 May 2023, Shri Imran called him and informed that he has found a cargo of HDPE regrind available at cheaper rate and asked me if they can sell this cargo at higher rate in India. He had told him the prevailing Market price of HDPE regrind in India. On 30-31 may 2023 Shri Imran called him again and informed that he was loading and shipping one container of HDPE regrind in the name of their firm M/s Anmol Enterprises. Further he sent him import documents including packing list, COO certificate, Invoice and Bill of lading No. HLCUD3230552642 on 04.06.2023 and told him that he had sent these documents to Shri Vikas of M/s Continental Shipping Services for filling the bill of entry for Custom clearance of goods imported vide Container No. TGBU5683965. Shri Imran also told him that he will transfer the money needed for payment of Custom duty and other formalities. At that time he was in U.K. with his family and he returned from U.K. on 09.06.2023.
- On being asked to comment on the smuggling of Areca Nut by concealing them behind PP bags of HDPE Plastic regrind covered under Bill of Entry No.6260195 dated 03.06.2023 imported by their firm M/s Anmol Enterprises, he agreed with the fact that He had no idea about this smuggling of split Areca Nut as this cargo was purchased, loaded and shipped by his partner Shri Imran Karimbhai Makwana. Shri Imran Karimbhai Makwana also owned the shipper firm M/ s Polytech Middle East FZE.
- On being asked to provide the details of the person who arranged Custom Broker for the import of cargo covered under Bill of Entry NO. 6260195

dated 03.06.2023 by their firm M/s Anmol Enterprises, he stated that Shri Imran Bhai forwarded the import documents to Shri Vikas, employee of M/s Continental Shipping Services as informed by Shri Imran to him on 04.06.2023.

- On being asked whether at any point of time Shri Imran told him regarding the buyer of the subject goods imported by Bill of Entry No. 6260195 dated 03.06.2023, he stated that Shri Imran had told him that he was buying HDPE Plastic grind at cost price of 560USD per Metric Ton and He only told Shri Imran that they can sell HDPE regrind at Rs.62-66/Kg so at the cost price of 560USD they can get a profit of Rs.3 per Kg. He would have arranged buyer for HDPE Plastic regrind after getting delivery of Plastic regrind at their godown in Rajkot.
- On being asked as to who arranged the transportation of the goods imported in their firm M/s Anmol Enterprises at Mundra Port,he stated that the transportation was always arranged by their Custom Broker M/ s Continental Shipping Services and the price for transportation was finalized by Shri Imran Karimbhai with Shri Satish Maheshwari of M/s Continental Shipping Services.
- On being asked as to who prepared Invoices for the sale of goods imported by M/s Anmol Enterprises, he stated that he had prepared the invoice for the sale of goods imported by M/s Anmol enterprises as selling the imported PP/ HDPE regrind was his part.
- On being asked whether he ever received the checklist for approval for the clearance of the subject goods covered under Bill of Entry No. 6260195 dated 03.06.2023, he stated that he had never received any checklist for the approval for the clearance of the subject goods covered under Bill of Entry No. 6260195 dated 03.06.2023.
- On being shown statements dated 28.06.2023 and 29.06.2023 of Shri Satish Maheshwari of M/s Continental Shipping Services recorded under Section 108 of the Customs Act,1962 and asked to comment, he agreed with the facts stated by Shri Satish Maheshwari regarding M/s Anmol Enterprise and he stated that he was not aware about the conversation between Shri Satish Maheshwari and Shri Imran karimbhai as he only handled the sales part of our firm M/ s Anmol Enterprises. As per Shri Satish statement he informed Shri Imran Karimbhai on 07.06.2023 regarding concealment of Areca Nut but He did not have any knowledge

about that concealment of Areca Nut till Shri Satish Maheshwari informed regarding the same on14.06.2023.

- On being shown the notification No. 34/2023 Customs dated 15.05.2023 which showed that the Tariff Value for Areca Nuts was $ 10379 per Metric Ton under CTH 080280, which clearly showed that as per Goverment of India Notification the minimum value for import of Areca Nut is $ 10379 per Metric Tonne and asked to Comment, he stated that As per the Government of India notification No. 34/2023 the minimum value for importing Areca nut is $10379 per Metric Tonne and he was fully aware that Government specifies minimum Tariff value for the import of this commodity.
- On being asked whether he knew any person by the name Shri Rameshbhai, he stated that he did not know any person by the name Shri Rameshbhai.
- On being asked if he knew any firm by the name of M/s Jaliyan Polymers, he stated that M/s Jaliyan Polymers was the partnership firm of Shri Imran and Shri PravinBhai. Shri Pravinbhai resides at Virpur, Rajkot.
- On being asked if he knew any firm by the name of M/s Hiralal Exim, he stated that M/s Hiralal Exim was a proprietor firm owned by Shri Divyesh Hiralal Kunpara. He had met Shri Divyesh through Shri Imran Karimbhai in year June 2022. He was also involved in business related to trading of PP/ HDPE plastic regrind.
- On being asked as to when did he come to know that Areca/ Betel Nut was found concealed with cover cargo declared as HDPE Plastic Regrind imported by M/s Anmol Enterprises vide Bill of Entry No. 6260195 dated 03.06.2023, he stated that he received a call from Shri Satish Maheshwari on 14.06.2023 and he informed him that Split Areca Nut is found concealed with the declared cargo HDPE Plastic regrind imported vide Bill of entry no.6260195 dated 03.06.2023. he had told him that he will ask Shri Imran Karimbhai as he had loaded and shipped the cargo and he had no knowledge about loading of Areca Nut with HDPE plastic regrind by Shri Imran Karimbhai. He called Shri Imran Karimbhai after 1-2 hours and asked about this concealment of Areca Nut with HDPE plastic regrind in cargo imported vide bill of entry no.6260195 dated 03.06.2023. Shri Imran told him the Areca Nut is loaded in this shipment

by mistake of loading workers and he will sort out this matter. On 20.06.2023 he again talked with Shri Imran regarding this matter at that time he loaded the Areca Nut with declared cargo HDPE Plastic regrind but he will sort out this matter and also told him not to call him for 3-4 days. Shri Imran also assured him that he will come to India and meet the Custom Authorities and confess that he has loaded the Areca Nut in cargo imported vide Bill of entry no.6260195 dated 03.06.2023 and He (Shri Altaf ) did not knew about this concealment of Areca Nut. At that moment He realized that Shri Imran Karimbhai concealed the Areca Nut in import consignment under Bill of entry No.6260195 dated 03.06.2023 through proper planning.

- On being asked as to who handled the official email id ANMOLTRD544@gmail.com of their firm M/s Anmol Enterprises, he stated that shri Imran Karimbhai handled and operated the email ID ANIVIOLTRD544@gmail.com.
- On being asked if he knew anyone by the name Shri Amit Mishra, he stated that he did not know anyone by the name Shri Amit Mishra.
- On being asked whether he had asked Shri Imran Karimbhai regarding this concealment of Areca Nut with the declared cargo HDPE Plastic Regrind imported vide Bill of entry No.6260195 dated 03.06.2023 after their conversation with him on 20.06.2023, he stated that Shri Imran called him on 26.06.2023 and asked him about his whereabouts. He asked him again to come to India and sort out this issue. He again assured him that he will come to India and sort out this matter.
- On being asked if he pay any money to M/s Continental Shipping services regarding Custom clearance for cargo imported vide Bill of entry no.6260195 dated 03.06.2023, he stated that he did not pay any money to CHA M/s Continental Shipping Services regarding Custom Clearance for imported vide Bill of entry No.6260195 dated 03.06.2023.
- On being asked if he knew any firm by the name M/s Advance Recycling Technology, he stated that M/s Advance Recycling Technology was the overseas supplier of plastic items and this firm was based in Dubai. This firm was owned by Shri Fuzan Mulla. He had met him once in Dubai. He was also known to Shri Imran karimbhai Makwana.
- On being asked if he had met Shri Imran karimbhai Makwana after said concealment of Areca Nut was found in container No. TGBU5683965

imported vide Bill of entry no.6260195 dated 03.06.2023 by M/s Anmol Enterprise, he stated that he had not met Shri Imran karimbhai after the said concealment of Areca Nut was found in container No. TGBU5683965 imported vide Bill of entry no.6260195 dated 03.06.2023 by M/s Anmol Enterprise.

- On being asked if he was ready to pay the Custom Duty and applicable fine and penalty for the concealed Areca Nut with declared cargo HDPE plastic regrind imported vide Bill of entry No.6260195 dated 03.06.2023 by M/s Anmol Enterprises, he stated that he had no role in this illegal import of Areca Nut in cargo imported vide Bill of entry No.6260195 dated 03.06.2023 by their firm M/s Anmol Enterprises. Shri Imran karimbhai loaded and shipped this Areca Nut in name of their partnership firm. Shri Imran Karimbhai only could pay the duty and fine, penalty etc.
- On being shown visit the visit note dated 04.07.2023 of the registered address of their firm M/s Anmol Enterprise, and asked comment, he stated that during the said visit the premises was found closed as that property was owned by Shri Imran Karimbhai and He was out of station on 04.07.2023.
- On being asked as to whether He was aware about definition of 'importer' as per Customs Act, 1962, he stated that he was aware that in terms of Section 2 (26) of Customs Act, "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer. Thus, himself/his firm M/s. Anmol Enterprises Exim was the importer in the instant case in respect of all the consignments imported by in the name of his firm.

**8.** Summons vide DIN No. CBIC-DIN- 202306DDZ10000555B80 dated 24.06.2023, 202307DDZ1000000BC48, dated 05.07.2023, 202307DDZ1000000F196 dated 18.07.2023, 202308DDZ100004143E4 dated 04.08.2023 and 202306DDZ1000000A8F0 dated 26.08.2023 was issued to the Shri Imran Karimbhai Makwana, Partner of M/s Anmol Enterprises and supplier of Areca Nut to get the required details/documents and his version in the matter, and to appear before investigating officer, but no response was received from him against the

Summons, but he have opted for not responding to the same and deliberately avoided his appearance in contravention of the provisions of Section 108(3) of the Customs Act, 1962 to intentionally obstruct the inquiring officer in the exercise of the powers conferred in him under the provisions of Section 108 of the Customs Act, 1962.

**9. Finding of the Investigation:**

**9.1** The investigation carried out so far has revealed that Shri Imran Karimbhai Makwana is one of the front person and the mastermind of the smuggling racket. Shri Imran Karimbhai Makwana is engaged in importing high value and higher duty involving goods through mis-declaration on successive imports. It is gathered that Shri Imran Karimbhai Makwana is partner in M/s Anmol Enterprises who used to procure the Areca Nut for his partnership firm and other. Shri Imran Karimbhai Makwana himself used to export the high value and highduty involving goods i.e Areca Nut by concealing the same with declared goods i.e. HDPE Plastic Regrind to evade the Customs Duty.

**9.2** Acting upon intelligence, 100% examination of the goods imported by the partnership firm vide Bill of Entry No.6260195 dated 03.06.2023 was carried by the officers DRI, Gandhidham on 27.06.2023 at M/s. Transworld CFS, APSEZ, Mundra in the presence of representatives of the importer firm, Customs Broker and the warehouse Unit. During examination total 14877 Kgs of Areca Nuts whole/splits (CTH 080280) were found concealed in the said import consignment alongwith approximate quantity of 9722 Kgs of HDPE Plastic Regrind. The investigation revealed that the seal cutting permission was obtained from the Docks officer, Customs House Mundra for the examination of the subject cargo on 07.6.2023. On cutting of the seal of the container the field boy of CHA firm M/s Continental Shipping Services found that the subject cargo declared as "HDPE Plastic Regrind" imported vide Bill of entry No. 6260195 dated 03.06.2023 is having concealment of Areca Nut who informed the Authorized Signatory of M/s Continental Shipping Services, Customs Broker who in turn informed the Customs Authorities vide mail dated 08.06.2023 at 09.59 and vide letter dated 08.06.2023**.** However, the examination of the subject cargo was not carried out by the Docks officers owing to the DRI hold of the cargo covered under Bill of Entry 6260195 dated 03.06.2023.

**9.3** It is to noted that Areca Nuts splits (CTH 080280) is an item importable at fixed values which are called "Tariff Values", under Notification issued under Section 14(2) of the Customs Act, 1962 by the Board, If the tariff values are fixed for any goods, ad valorem duties thereon are required to be calculated with reference to such tariff values only following Rule 2 of the Customs Valuation Rules 2007 and not at the "transaction values" as specified vide Rule 3(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Hence, to avoid the correct tariff value which was USD 10,379/MT, as per the applicable Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023 and Notification No. 38/2023-Customs (N.T.) New Delhi, 31st May, 2023, issued under Section 14(2) of the Customs Act 1962, the importer has sought clearance of the import goods by mis-declaring the description, quantity, value etc of the import goods. The declared value in the Bills of Entry was just USD 540/MT. Further the product Arecanut correctly classifiable under CTH 080280 is attracting much higher Customs Duty rate (of 110%) than the declared item, Plastic Regrind (CTH 39012000) assessable at 7.5% duty ad valorem, thus the above mis-declaration has also resulted in far lower duty assessment under Section 17 of the Customs Act 1962. The act of the importer and his accomplices in suppressing the actual details, value, classification etc. of the Import Consignment, on each of the import documents like IGM, Sale Invoice, Packing List, B/E, B/L & COO was aimed at evasion of the applicable Customs Duty estimated to be around Rs. 14148440/-. The item Areca Nut is not produced in UAE, hence the COO submitted for the said consignment also appears to be fabricated. The same might have been submitted by the importer before Customs authorities in order to hide actual COO of the goods. On being found reasonable belief that the aforementioned import goods are liable of confiscation under Section 111, 118 and 119 of the Customs Act, 1962, the same were placed under seizure by the officers of DRI invoking Section 110 of the Customs Act, 1962.

**9.4** In the instant case of import, Areca Nuts have been attempted to be imported under the pro-rata CIF value of Rs. 46.7/- per Kg in the subject Bill of Entry against the MIP of Rs. 351/Kilogram specified by the EXIM Policy. Thus, the whole live consignment of 14877 Kgs of Areca Nut is rendered "Prohibited goods" for import under the existing EXIM policy. Therefore, the above goods being the "Prohibited Goods" as defined under Section 2(33) of Customs Act, 1962 and being the goods imported without due compliance with the Policy provisions, were also

found liable to be categorized as "Smuggling" within the meaning of Section 2(39) of the Customs Act, 1962.

**9.5** Thereafter, it was gathered that Shri Imran Karimbhai Makwana has exported the Areca/Betel Nut from Dubai to M/s Hiralal Exim and M/s Jaliyan Polymers which were found to be related to Shri Imran Karimbhai Makwana. Shri Imran Karimbhai Makwana followed the same modus operandi of mis-declaring same as 'PP Plastic Regrind'. Four containers of these two firms were also examined and on examination Areca nut was found concealed with declared goods. Examination of the four containers pertaining to M/s Hiralal Exim and M/s Jaliyan Polymers led to the of all the five containers led to the recovery of 98.54 MTs of Arecanut valued at approx. Rs. 85194796, which were being attempted to be smuggled to the country. Shri Imran Karimbhai Makwana is also a partner of M/s Jaliyan Polymers. A search was carried out at the premises of M/s Anmol Enterprises, which was found to be a residential house of Shri Imran K. Makwana and the premises was found to be locked. The investigation revealed that Shri Imran K. Makwana resides at Dubai and he occasionally comes to India.

**9.6** Shri Satish Maheshwari, an authorized person at M/s Continental Shipping Services, Custom Broker filed the Bill of entry No. 6260195 stated that he had informed the Customs Authority regarding the concealment when his field boy found the same on the cutting of the seal of the container. The examination of cargo under Bill of Entry No. 6260195 dated 03.06.2023 for M/s Anmol Enterprise revealed the concealment of Areca Nut with HDPE plastic Regrind. M/s Continental Shipping Services had done KYC verification, including DGFT and GST portal checks, and Shri Satish informed that he personally visited the firm's registered address. In total, 18 import consignments, including the one under Bill of Entry No. 6260195, were handled. Import documents were received via WhatsApp, and customs clearance approval was initially sought through checklists but later obtained via voice call as Shri Imran told Shri Satish not to wait for the approval for checklist, Shri Imran asked him to file the Bill of Entry on the basis of the documents provided by him. Shri Imran booked the container, and charges for customs clearance were Rs. 12,000. The Shipper firm M/s Polytech Middle East FZE is owned by Shri Imran who used to export the goods from UAE to his partnership firm. Shri Satish told that he has made a inquiry regarding the concealment of Areca Nut with declared goods with Shri Imran who told him that

the laborer at the warehouse by mistake loaded the Areca Nut instead of declare goods. Shri Imran assured Shri Satish that he will came to India and will pay the applicable duty.

**9.7** Shri Altafbhai Kasambhai Dalvani, a partner at M/s Anmol Enterprises, revealed crucial details about the firm's history and operations. Established in 2014 as a partnership with Shri Imran Karimbhai Makwana, financial constraints delayed business activities until 2021. With adequate funds, they initiated operations in 2021, sharing a 50/50 partnership. Specializing in the trading of plastic regrind, the firm imported various types from Dubai and engaged in domestic purchases. Shri Altafbhai clarified his role in sales, while Shri Imran managed procurement, shipping, and customs clearance from Dubai. Acknowledging a Panchanama on 27.06.2023 revealing the concealment of Areca Nut behind HDPE plastic Regrind, Shri Altafbhai confirmed unawareness of this illicit activity orchestrated by Shri Imran. The statement outlined the firm's dealings with overseas suppliers, customs brokers, and various related entities. Shri Altafbhai stated that Shri Imran himself ordered the subject cargo imported vide aforesaid Bill of Entry who only inform him about the loading of the container stuffed with declared goods without informing him about the concealment with Areca Nut.

**9.8** From the above, it is also apparent that Shri Imran Karimbhai is one of the partners in the importing firm M/s. Jaliyan Polymers and M/s Anmol Enterprise, and also illegally used the IEC of M/s Hiralal Exim. He used to export the areca nut from Dubai by concealing the same with declared goods to his partnership firm by without informing his partner Shri Altafbhai. Shri Imran himself arranged the container for the subject goods, Custom Broker for the clearance of the goods without declaring the actual description of the goods. Shri Imran exported 14877 Kgs of Areca Nut by concealing with 9722 Kgs from UAE to his partnership firm M/s Anmol Enterprises. Areca Nuts have been attempted to be imported under the pro-rata CIF value of Rs. 46.7/- per Kg in the subject Bill of Entry against the MIP of Rs. 351/Kilogram specified by the EXIM Policy. Thus, the whole live consignment of 14877 Kgs of Areca Nut is rendered “Prohibited goods” for import under the existing EXIM policy. Therefore, the above goods being the “Prohibited Goods” as defined under Section 2(33) of Customs Act, 1962 and being the goods imported without due compliance with the Policy provisions, were also found liable to be

categorized as “Smuggling” within the meaning of Section 2(39) of the Customs Act, 1962.

**9.9** Shri Imran Karimbhai Makwana had filed Anticipatory Bail Application No.1000/2023 on 06.09.2023 against the DRI, Gandhidham, Regional which came to be dismissed vide order dated 23.09.2023, of Hon’ble Additional Sessions Judge Bhuj Kutch. Overall it is clear that the Shri Imran Karimbhai Makwana has dishonoured various summons and tried to misuse the legal remedies, instead of joining in the investigation. Further the DRI has filed criminal complaint under Sections 174, 175, 176 and 228 of Indian Penal Code, 1860 before the additional Chief Judicial Magistrate, Gandhidham.

**10. Confiscation of goods: -** M/s. Anmol Enterprises filed Bill of Entry No. 6260195 dated 03.06.2023 of declared goods as” HDPE Plastic Regrinding” having declared assessable Value of Rs. 1199826/-(CF) (CIF Value: Rs. 1213324/-). M/s. Anmol Enterprises sought clearance thereof through M/s. Continental Shipping Services, however, during examination total 14877 Kgs Areca Nuts whole/splits, (CTH 080280) were found concealed in the import consignment alongwith total 9722 Kgs of HDPE Plastic Regrinding. It was revealed that M/s. Anmol Enterprises had mis-declared the description, classification, value, quantity etc. at the time of filing import documents for clearance of the said import consignment. As per Section 46 of the Customs Act, 1962 an importer shall make entry of the imported goods with correct details, description/classification, value etc. In the present case, it was noticed that the importer was very well aware with the actual description, quantity and value of the concealed goods, however, they had mis-declared the same before Customs Authorities. M/s. Anmol Enterprises were also aware with tariff 34/2023-Customs (N.T.) New Delhi, 15th May, 2023 and Notification No. 38/2023-Customs (N.T.) New Delhi, 31st May, 2023, issued under Section 14(2) of the Customs Act 1962 which fixed the tariff value of the concealed goods. Areca Nuts have been attempted to be imported under the pro-rata CIF value of Rs. 46.7/- per Kg in the subject Bill of Entry against the MIP of Rs. 351/Kilogram specified by the EXIM Policy. Thus, the whole live consignment of 14877 Kgs of Areca Nut is rendered “Prohibited goods” for import under the existing EXIM policy. Therefore, the above goods being the “Prohibited Goods” as defined under Section 2(33) of Customs Act, 1962 and being the goods imported without due compliance with the Policy provisions, were also found liable to be categorized as “Smuggling”

within the meaning of Section 2(39) of the Customs Act, 1962. However, M/s. Anmol Enterprises deliberately and knowingly not declared and mis-declared the subject goods with intention to evade the applicable Customs Duty. Accordingly, total 14877 Kgs of Areca Nuts whole/splits, (CTH 080280) found concealed with the declared goods "HDPE Plastic Regrinding" were liable for confiscation under Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962. Also, total 9722 Kgs declared HDPE Plastic Regrinding appeared to have been used for concealment of 14877 Kgs of Areca Nuts, appeared to liable for confiscation under Section 119 of the Customs Act, 1962. Section 2(39) of the Customs Act, 1962 provides the definition of 'Smuggling' in relation to any goods as;

"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 of the Customs Act, 1962"

Therefore, as mentioned above the Betel Nuts/Areca Nuts having total quantity 14877 Kgs which was found concealed in the import consignment falls under the category of smuggled goods.

**11. Role and Culpability of Various persons**

**11.1 Role of Shri Imran Karimbhai Makwana:** Shri Imran Karimbhai Makwana emerges as a central figure in an intricate smuggling operation, orchestrating the illegal import of Arecanuts by employing deceptive practices. Identified as the mastermind, he operates through partnership firms like M/s Anmol Enterprises in India and has exporting firms in the UAE. Thus, he himself is the exporter in the foreign country as well as the importer of smuggled goods acting through his firms. His role extends to misdeclaring imported Arecanuts as 'HDPE Plastic Regrind' to evade Customs Duty. Imran is also implicated in arranging financial transactions for duty payments. Shri Imran Karimbhai insisted the Customs Broker for not destuffing the container completely. The supplier firm, M/s. Polytech Middle East FZE, is owned by Imran, solidifying his pivotal role. The seizure of concealed Arecanuts, valued at Rs 1,28,62,218/-, during examination further substantiates the allegations. The imported Arecanuts are classified as "Prohibited Goods," subjected to confiscation and labeled as "Smuggling" under the Customs Act. The rejection of anticipatory bail applications for Imran highlights the severity of charges and the judicial recognition of violations. In essence, Imran Karimbhai Makwana's multifaceted involvement positions him as a key player in the alleged

Customs Duty evasion and Arecanut smuggling case. The modus operandi adopted by the syndicate belonging to him is reflecting as pre-planned manner of organized smuggling, where the concealment of the high value goods with specified tariff rate and attracting higher duty rates is involved.

11.1.2 The omission and commission on the part of Shri Imran Karimbhai Makwana i.e. mis-declaration of subject goods by way of forging documents, fraud, collusion, and suppression of facts and illegal import of prohibited goods have rendered the subject illegally imported goods **Areca Nut (Qty. 14877 KG, Market Value- Rs. 12862218/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 and declared imported goods **HDPE Plastic Regrind (Qty. 9722 Kgs),** liable to confiscation under section 119 of the Customs Act, 1962. Also, since Shri Imran Karimbhai Makwana was knowingly concerned in importing, concealing, purchasing/selling and dealing with such goods, he has rendered himself liable to penalty under **Section 112 (a)** and **Section112 (b)** of the Customs Act, 1962. Since Shri Imran Karimbhai Makwana knowingly and intentionally made, signed or used and/or caused to be made/signed/used the import documents, Bill of Entry and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore he is also be liable to penalty under **Section 114AA** of the Customs Act, 1962. For various acts of not joining the investigation by not revealing the correct facts and details of other key persons involved in this case, as discussed above, Shri Imran Karimbhai Makwana is liable to penalty under **Section 117** ibid too.

**11.2 Role or Culpability of Shri Altafbhai Kasambhai Dalvani**: Shri Altafbhai Kasambhai Dalvani being the partner of M/s Anmol Enterprises looked after sale of the imported goods and purchase of the goods from domestic market. When the Shri Imran planned to export the Areca Nut to M/s Anmol Enterprises he was in London with his family as per his statement.

He was aware that his partner had exported the goods from UAE in the name of their partnership firm M/s Anmol Enterprises for further sale in India but he supposedly did not enquire with their Custom Broker for the checklist. Shri Altafbhai stated that Shri Imran himself ordered the subject cargo imported vide aforesaid Bill of Entry who only informed him about the loading of the container stuffed with declared goods without informing him about the concealment with Areca Nut. However, Shri Altafbhai was fully aware that Shri Imran has shipped a

cargo from shipper name M/s Polytech Middle East FZE owned by him to their partnership M/s Anmol Enterprises but he did not bother to contact their Customs Broker for the Customs Clearance. Shri Altaf was also aware that cargo in their firm is arriving for which the Customs Duty and transportation within India was already arranged by Shri Imran. Shri Altaf used to look after the sale of imported goods in domestic market which directly symbolizes that he was fully aware that Shri Imran was exporting Areca Nut. Also, he was an active partner of the firm, therefore it is difficult to believe that he was unaware of the smuggling of arecanut.

**11.2.2** The omission and commission on the part of Shri Altafbhai Kasambhai Dalvani led illegal import of prohibited goods have rendered the subject illegally imported goods **Areca Nut (Qty. 14877 KG, Market Value- Rs. 12862218/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 and declared imported goods **HDPE Plastic Regrind (Qty. 9722 Kgs,** liable to confiscation under section 119 of the Customs Act,1962. Also, since Shri Altafbhai Kasambhai Dalvani was knowingly concerned in importing, concealing, purchasing/selling and dealing with such goods, he has rendered himself liable to penalty under **Section 112 (a)** and **Section112 (b)** of the Customs Act, 1962. Since Altafbhai Kasambhai Dalvani knowingly and intentionally made, signed or used and/or caused to be made/signed/used the import documents, Bill of Entry and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore he is also be liable to penalty under **Section 114AA** of the Customs Act, 1962. For various acts of not revealing the correct facts and details of other key persons involved in this case, as discussed above, Shri Altafbhai Kasambhai Dalvani is liable to penalty under **Section 117** ibid too.

**11.3 Role and culpability of M/s Continental Shipping Services.** M/s Continental Shipping Services filed the Bill of Entry for the clearance of subject goods, The approval for checklist for the filing of Bill of Entry No. 6260195 dated 03.06.2023 on the basis of the documents submitted by Shri Imran Karimbhai Makwana was not obtained by M/s Continental Shipping Services as Shri Imran had already told them to file the Bill of Entry on the basis of the documents provided by him. However, for filing of Bill of Entry approval for checklist must be sought from the importer which M/s Continental Shipping Services did not seek. In addition, M/s Continental Shipping Services was also the CHA for three BEs

related to two other firms – M/s Hiralal Exim (IEC - BYGPIC7845E) and M/s Jaliyan Polymers (IEC - AASFJ4924E). Arecanut was found concealed in the said three consignments as well. These two firms are also related to Shri Imran Karimbhai Makwana. Thus, it appears that this firm is a part of a larger conspiracy and thus deserves to be penalized.

**11.3.1** The omission and commission on the part of M/s Continental Shipping Services i.e. by filing the Bill of Entry without seeking the approval for Checklist from Importer have rendered the subject illegally imported goods **Areca Nut (Qty 14877 KG, Market Value- Rs. 12862218/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 and declared imported goods **HDPE Plastic Regrinding (Qty. 9722 Kgs ,** liable to confiscation under section 119 of the Customs Act,1962. M/s Continental Shipping Services has rendered himself liable to penalty under **Section 112 (a)** and **Section112 (b)** of the Customs Act, 1962. M/s a m/s Continental Shipping Services knowingly and intentionally made, signed or used and/or caused to be made/signed/used the import documents, Bill of Entry and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore he is also be liable to penalty under **Section 114AA** of the Customs Act, 1962. For various acts of not revealing the correct facts and details of other key persons involved in this case, as discussed above, Shri Altafbhai Kasambhai Dalvani is liable to penalty under **Section 117** ibid too.

**12.** Accordingly, Show Cause Notice F.No. Gen/Adj/ADC/970/2024-Adjn-O/o Pr. Commr-Cus-Mundra dated 04.06.2024 was issued to **M/s. Anmol Enterprises, Nehru Nagar, 24, Behind Amrapali Cinema Raiya Road, Rajkot, Gujarat ( IEC-2414005114**) were called upon to show cause in writing to the Additional Commissioner of Customs, Customs House, Mundra having office situated at office of the Customs House Mundra, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 as to why:-

(a) The illegally imported goods i.e. **Areca Nut (Qty. 14877 Kg, Market Value- Rs. 1,28,62,218/-)** should not be confiscated under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962.

(b) The declared imported goods **HDPE Plastic Regrind (Qty. 9722 KG, Market Value- Rs. 437490/-)** , used for the purpose of concealment of smuggled

14877 KG Areca Nut, should not be confiscated under the provisions of Section 119 of the Customs Act, 1962.

(c) Penalty should not be imposed on them under Section 112(a) &112(b), 114AA & 117 of the Customs Act, 1962.

**12.1** Vide SCN dated 04.06.2024, **the following persons/companies/firms/concerns as appearing in Column 2 of the following Table, are hereby individually and separately** called upon to show cause in writing to the Additional Commissioner of Customs, Customs House, Mundra having office situated at office of the Customs House Mundra, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 (India), within 30 days from the receipt of the show cause notice as to why Penalty should not be imposed on each of them individually under below mentioned penal provisions, respectively under the Customs Act,1962 (as appearing at Column 3 to 6):

**Table-IV**

| **S. No.** | **Name (S/Shri/Ms/Smt/ M/s)** | **Penal provisions under Customs Act, 1962** | | | |
|---|---|---|---|---|---|
| **(1)** | **(2)** | **(3)** | **(4)** | **(5)** | **(6)** |
| 1 | Shri Imran Karimbhai Makwana (Partner of M/s Jaliyan Polymers) | 112(a) | 112(b) | 114AA | 117 |
| 2. | Shri Altafbhai Kasambhai Dalvani | 112(a) | 112(b) | 114AA | 117 |
| 2 | M/s Continental Shipping Services | 112(a) | 112(b) | 114AA | 117 |

## 13. WRITTEN SUBMISSION:

**13.1 M/s. Anmol Enterprises (IEC-2414005114) [Noticee no. 1] submitted his reply dated 19.09.2024, wherein they had inter alia given following submissions:**

13.1.1 The Noticee categorically denies all allegations of involvement in the smuggling of Areca Nuts or any other illicit activities. They submitted that as a reputable and law-abiding business entity, they have always conducted our

operations with utmost integrity and in full compliance with all legal and regulatory requirements. The accusations leveled against them in the SCN are baseless, unfounded, and lack any substantive evidence.

13.1.2 The noticee submitted that the allegation labeling Shri Imran as the "mastermind" behind the smuggling of 98,539 kgs of Areca Nuts to M/s Jaliyan Polymers, M/s Hiralal Exim, and M/s Anmol Enterprises is entirely unfounded. It was contended that the term implies a deliberate orchestration of criminal activities, whereas the DRI's investigation has failed to provide any direct evidence —such as financial transactions, orders, or explicit communications— demonstrating that Shri Imran played a controlling role. The noticee asserted that the findings are based on speculative reasoning and circumstantial associations rather than a careful analysis of concrete facts.

13.1.3 It was further submitted that Shri Imran's involvement was purely in the capacity of a legitimate businessman and that the DRI has misinterpreted routine, standard commercial transactions as illegal activities. The noticee argued that there is no proof of criminal intent and that prematurely labeling Shri Imran as a key figure in a smuggling racket unfairly prejudices the case, undermining the fundamental legal principle of being presumed innocent until proven guilty. Accordingly, the noticee requested the authorities to objectively re-evaluate the evidence and dismiss the unfounded allegations against M/s Anmol and Shri Imran.

13.1.4 Regarding the evidentiary standards, the noticee emphasized that in criminal law, the burden of proof rests on the prosecution to demonstrate guilt beyond a reasonable doubt. It was argued that the department's case rests entirely on circumstantial evidence, which currently fails to meet the required legal standards. To substantiate the defense that circumstantial evidence must form a complete chain unequivocally pointing to the guilt of the accused and excluding every other hypothesis, the noticee relied upon the principles and ratio laid down in several judicial pronouncements, namely:

- Rajendra Pralhadrao Wasnik v. State of Maharashtra [(2012) 4 SCC 37]
- Gambhir v. State of Maharashtra [(1982) 2 SCC 351]
- Sharad Birdhichand Sarda v. State of Maharashtra [AIR 1984 SC 1622]
- Ashok Kumar v. State of Madhya Pradesh [AIR 1989 SC 1890]

- BodhRaj v. State of Jammu & Kashmir [AIR 2002 SC 316]
- C. Chenga Reddy and Ors. v. State of A.P. [(1996) 10 SCC 193]
- Padala Veera Reddy v. State of A.P. and Ors. [AIR 1990 SC 79]
- Om Prakash Gupta v. The State of Bihar
- K. I. Pavunny v. Assistant Collector [(1997) 3 SCC 721]

The noticee concluded that the prosecution has failed to fully establish the circumstances necessary to draw a conclusion of guilt, reiterating that accusations must be based on substantial and direct evidence rather than presumptive reasoning.

13.1.5 The noticee submitted that the investigation conducted by the DRI relied on presumptions and conjectures rather than on concrete and substantive evidence, raising serious concerns regarding the validity and fairness of the findings. It was contended that relying on unverified assumptions rather than tangible evidence undermines the fundamental legal principle of "innocent until proven guilty." The noticee emphasized that any conviction or penalty must be based on clear, direct evidence establishing guilt beyond a reasonable doubt, as speculative and presumptive reasoning can lead to wrongful accusations and jeopardize the integrity of the justice system.

13.1.6 To support the assertion that allegations must be backed by substantive evidence and certainty rather than speculation, the noticee relied on the decision of the Hon’ble Allahabad High Court in Ajodhya Prasad Bhargava vs. Bhawani Shanker Bhargava and Anr. Relying on Corpus Juris Secundum, it was submitted that an admission must possess the same degree of certainty as the evidence it represents, and mere conjectures or suggestions regarding what might have happened are not competent.

13.1.7 Further, regarding the evidentiary standards required for circumstantial evidence, the noticee placed reliance on the judgments of the Hon'ble Supreme Court in Sharad Birdhichand Sarda v. State of Maharashtra [AIR 1984 SC 1622] and Hanumant Govind Nargundkar and Anr. v. State of Madhya Pradesh [AIR 1952 SC 343]. Based on these decisions, the noticee argued that the prosecution bears the onus to prove that the chain of circumstantial evidence is complete. It was reiterated that before a conviction can be based on circumstantial evidence, the

circumstances must be fully established, be of a conclusive nature, exclude every possible hypothesis except the guilt of the accused, and form a complete chain that leaves no reasonable ground for a conclusion consistent with the innocence of the accused.

13.1.8 The noticee submitted that the principle of "innocent until proven guilty" is a foundational tenet that protects the rights of the accused by ensuring no one is penalized without concrete proof of wrongdoing. It was contended that this principle places the burden of proof squarely on the prosecution, obligating them to establish guilt through clear, direct evidence rather than through assumptions, presumptions, or speculative reasoning, which inherently undermine the rigorous standards of proof required in criminal proceedings.

13.1.9 To reinforce the necessity of concrete evidence and the legal dangers of relying on presumptions, the noticee relied on the decision in P.N. Krishna Lal v. Government of Kerala [1994 Supp(2) SCC 187]. It was submitted that the apex court in this case clarified that individual liberty must harmonize with social order in consonance with the Universal Declaration of Human Rights and other allied covenants, and thus, the procedure prescribed for trial must stand the test of these guaranteed fundamental rights.

13.1.10 The noticee further reiterated their reliance on the Supreme Court's judgment in Sharad Birdhichand Sarda v. State of Maharashtra, highlighting the "Panchsheel" or five golden principles of circumstantial evidence. The noticee emphasized that for a conviction to be secured solely on circumstantial evidence, the evidence must be comprehensive and unequivocal. Specifically, the circumstances must be fully and firmly established; the guilt must be certain ("must be" rather than "may be"); the facts must align exclusively with the hypothesis of guilt; the evidence must be of a conclusive nature; and the chain of evidence must be complete, excluding every reasonable alternative explanation consistent with the innocence of the accused.

13.1.11 The noticee submitted that the case predominantly relies on the examination of goods and their alleged concealment, yet the investigation has failed to provide clear, direct, and unambiguous evidence establishing a link between them and the alleged misdeclaration. It was contended that the evidence presented

is indirect, lacking in clarity and direct relevance, which severely weakens the case and raises questions about the accuracy and integrity of the allegations.

13.1.12 To emphasize the stringent standards required for appreciating circumstantial evidence, the noticee relied on the Supreme Court's decision in Ramanand @ Nandlal Bharti v. State of Uttar Pradesh (Criminal Appeal Nos. 64-65 of 2022). Based on this judgment, it was argued that for a conviction to stand on circumstantial evidence, the circumstances must be cogently and firmly established, forming a complete and unbroken chain that unequivocally points to the accused's guilt. The evidence must be so comprehensive that it rules out any other reasonable hypothesis, including the possibility of innocence, which is especially crucial in cases lacking eyewitnesses. In light of these principles, the noticee submitted that procedural fairness in the examination of goods is of paramount importance. It was argued that if the collection and assessment of evidence lack transparency or deviate from established legal standards, the reliability of that evidence is fundamentally undermined.

13.1.13 The noticee submitted that there are significant procedural and chain-of-custody concerns regarding the examination of goods under Bill of Entry No. 6260195. Specifically, a critical, undocumented gap exists between the initial opening of container No. TGBU5683965 on 03.06.2023 (or 06.06.2023) and its detailed examination by the DRI on 27.06.2023. It was argued that this unexplained delay, combined with the fact that the examination was conducted without the presence of Shri Imran Karimbhai Makwana, raises serious apprehensions of potential mishandling or tampering, thereby compromising the transparency and integrity of the evidence.

13.1.14 The noticee submitted that the Show Cause Notice relies almost exclusively on the uncorroborated statement of Shri Satish Maheshwari, an authorized person at M/s Continental Shipping Services, who is himself implicated in related smuggling cases. Relying on decisions of the Supreme Court and the Delhi High Court in *Assistant Collector Of Customs Vs Shanti Lal Laxmi Chand Modi And Ors.*, it was argued that convicting solely based on the testimony of an interested witness or accomplice is legally unsafe and requires substantial independent corroboration to establish a cumulative chain of guilt. It was further contended that the authorities prematurely concluded Shri Imran Karimbhai

Makwana was the mastermind without properly investigating Shri Maheshwari's potential role. The noticee highlighted that Shri Maheshwari possesses extensive knowledge of customs procedures and deep connections with the implicated firms (M/s. Anmol Enterprises, M/s. Hiralal Exim, and M/s. Jaliyan Polymers).

13.1.15 The noticee submitted that the investigation report lacks direct evidence linking them to the alleged smuggling activities and instead relies on uncorroborated circumstantial evidence. It was argued that in criminal law, the burden of proof rests on the prosecution to establish guilt beyond a reasonable doubt using clear and direct evidence.

13.1.16 The noticee submitted that *mens rea*, or criminal intent, is a fundamental prerequisite for establishing criminal liability, and without it, an individual cannot be held legally culpable. It was contended that the investigation report fails to present any evidence of direct communication or instructions from the noticee to the customs broker regarding the alleged misdeclaration of goods. The noticee argued that this complete absence of direct evidence indicates a lack of deliberate intent, and criminal intent cannot be inferred merely from circumstantial evidence.

13.1.17 The noticee submitted that the DRI's conclusions are based primarily on inherently weak circumstantial evidence, which fails to meet the robust and compelling standard required in criminal law. It was argued that the investigation's findings regarding Shri Imran's involvement are purely speculative and fail to demonstrate any deliberate participation or knowledge of the alleged misdeclarations.

13.1.18 The noticee submitted that Shri Satish Maheshwari’s statement regarding Shri Imran’s involvement in booking the container and communicating about the import consignment does not establish any knowledge of or participation in the alleged concealment. Relying on the decision in Smt. K. P. Kiran vs. Union of India [(2003) 2 SCC 430], it was argued that mere association with a firm or transaction does not imply involvement in illegal activities without substantial evidence of active participation. It was further contended that handling documentation and clearance processes—which M/s Continental Shipping managed based on provided KYC and WhatsApp communications—does not equate to knowledge of the

concealed goods. Citing Union of India vs. Dharmendra Textile Processors [(2008) 13 SCC 369], the noticee emphasized that imposing penalties requires direct evidence of intent or knowledge, which is entirely absent in this case.

13.1.19 Allegations of Misdeclaration and Forgery: The noticee categorically denied the allegations of forging documents and misdeclaring Areca Nuts as PP Plastic Regrind. It was submitted that all business documentation was prepared lawfully and without any intent to deceive the customs authorities. The noticee asserted that the accusation of forgery is baseless, lacks substantive proof, and that the authorities have failed to discharge their burden of proving a direct link to these activities.

13.1.20 Accusations of Fraud, Collusion, and Suppression of Facts: The noticee strongly rejected all accusations of fraud, collusion, and the suppression of material facts. It was contended that their business has always been conducted with transparency and full legal compliance. The noticee argued there is absolutely no evidence or factual basis to suggest any secret agreement, intent, or action to deceive, defraud, or collude with any entity for illegal purposes.

13.1.21 Allegations of Knowingly Dealing with Illegally Imported Goods: The noticee challenged the proposed penalties under Sections 112(a) and 112(b) of the Customs Act, 1962, on the grounds of an absence of *mens rea*.

- Regarding Section 112(a), it was argued that the investigation lacks direct evidence of involvement in smuggling, relying instead on circumstantial assumptions. Relying on Collector of Customs vs. D. Bhoormull and UOI vs. Arvind Mills Ltd., the noticee emphasized that suspicion cannot replace concrete proof and that penalties require established intent to commit the offense.
- Regarding Section 112(b), the noticee submitted there is no evidence demonstrating their awareness or intentional handling of smuggled goods. Citing C. P. Joshi vs. Union of India, it was asserted that clear knowledge or intent must be established before imposing such penalties.

13.1.22 Regarding the proposed penalty under Section 114AA for knowingly making or using false documents, the noticee submitted there is no evidence of deliberate misdeclaration by them or Shri Imran. It was argued that any

documentation discrepancies were likely standard clerical errors or misunderstandings by third parties (such as customs brokers), rather than intentional deceit. Relying on case laws including K. I. Pavunny, Union of India vs. Hindustan Zinc Ltd., and Nandini Satpathy vs. P.L. Dani, the noticee emphasized that penalties require unequivocal proof of intentional fraud, and the mere failure to detect an error does not constitute deliberate wrongdoing. Furthermore, it was argued that procedural lapses during the investigation undermine the reliability of the department's claims, citing Hindustan Steel Ltd. and State of Maharashtra vs. Natwarlal Damodardas Soni.

13.1.23 Provision Under Section 117 of the Customs Act, 1962: Regarding the general penalty proposed under Section 117, the noticee submitted that this provision strictly requires proof of willful intent or knowledge of a breach. Relying on Union of India vs. Dharamendra Textile Processors, Hindustan Steel Ltd., and Smt. Kiran Devi vs. Union of India, it was argued that the noticee's conduct aligned with legitimate business practices, and the investigation failed to prove willful contravention. Furthermore, relying on K. I. Pavunny, the noticee asserted that general penalties under Section 117 cannot be applied when specific penalty provisions (such as Sections 112 and 114AA) are already in consideration.

**13.2 Shri Imran Karimbhai Makwana [Noticee no. 2] submitted his reply dated 19.09.2024, wherein he inter alia gave the following submissions:**

13.2.1 The noticee categorically denied the allegations labeling him as the "mastermind" behind the alleged smuggling racket. He asserted that the accusation claiming he orchestrated the illegal importation and concealment of Areca Nuts, HDPE Plastic Regrind, and other goods is entirely baseless and lacks any substantial evidence.

13.2.2 The noticee submitted that the term "mastermind" implies a deliberate and strategic orchestration of criminal activities; however, the investigation failed to provide any documentation, communication, or witness testimony demonstrating that he played such a central or controlling role. He contended that his business dealings were standard commercial transactions devoid of criminal intent, and the department misinterpreted legitimate business practices as illegal activities. He argued that the burden of proof rests on the prosecution, and the department's case relies on speculative reasoning and weak circumstantial correlations rather

than concrete facts. To substantiate his defense that circumstantial evidence must fully establish guilt and exclude every other hypothesis, he relied on various judicial pronouncements, including *Rajendra Pralhadrao Wasnik v. State of Maharashtra*, *Gambhir v. State of Maharashtra*, *Sharad Birdhichand Sarda v. State of Maharashtra*, *Ashok Kumar v. State of Madhya Pradesh*, *BodhRaj v. State of Jammu & Kashmir*, *C. Chenga Reddy and Ors. v. State of A.P.*, *Padala Veera Reddy v. State of A.P.*, *Om Prakash Gupta v. The State of Bihar*, and K. I. Pavunny v. Assistant Collector.

13.2.3 The noticee submitted that the investigation is reliant on presumptions and conjectures, which undermines the fundamental principle of "innocent until proven guilty". He argued that any conviction or penalty must be based on clear, direct evidence rather than speculative unverified assumptions. In support, he placed reliance on the decisions in *Ajodhya Prasad Bhargava vs Bhawani Shanker Bhargava*, *Sharad Birdhichand Sarda v. State of Maharashtra*, and *Hanumant Govind Nargundkar v. State of Madhya Pradesh*, asserting that the chain of circumstantial evidence must be fully established and conclusive in nature.

13.2.4 The noticee contended that this foundational tenet shifts the burden of proof onto the prosecution to establish guilt through clear, direct evidence. He submitted that relying on speculative reasoning undermines this principle. Relying on P.N. Krishna Lal v Government of Kerala, the "Panchsheel" principles from *Sharad Birdhichand Sarda*, and *Collector of Customs vs. D. Bhoormull*, the noticee argued that presumptions must be supported by direct corroborative evidence, and suspicion cannot replace substantial proof. He asserted that the entire case was built solely on the hearsay statements of co-noticees without bringing forth concrete evidence.

13.2.5 The noticee submitted that the case predominantly relies on the examination of goods, yet lacks direct evidence linking him to the misdeclaration or concealment. Relying on *Ramanand @ Nandlal Bharti v. State of Uttar Pradesh*, he emphasized that circumstantial evidence must form a complete and unbroken chain unequivocally pointing towards guilt. He argued that procedural fairness during the examination of goods is critical, and any deviation undermines the reliability of the evidence. He highlighted discrepancies in the examination mannerism, noting that the seal of the container did not match records because it

was initially broken by a customs officer on 07.06.2023, prior to the DRI examination on 27.06.2023.

13.2.6 The noticee raised significant concerns regarding the chain of custody, pointing out an unexplained gap between the initial opening of the container on 03.06.2023 (or 06.06.2023) and the detailed examination on 27.06.2023. He argued this lack of clear documentation suggests potential mishandling or tampering. Furthermore, the examination was conducted without his presence, indicating a breach of proper protocol. Relying on *Shailendra Rajdev Pasvan vs. The State of Gujarat*, he submitted that every link in the chain of circumstances must be established beyond a reasonable doubt, and any lapse in custody compromises the evidence's reliability.

13.2.7 Reiterating the lack of direct evidence, the noticee submitted that circumstantial evidence must create a compelling case excluding all reasonable hypotheses of innocence. Relying on *Hari Charan Kurmi vs. State of Bihar*, he argued that the evidence presented fails to meet the legal standards required to substantiate the charges of smuggling.

13.2.8 The noticee submitted that *mens rea* is a fundamental element, and the investigation failed to present any direct communication or instructions from him to the customs broker demonstrating deliberate intent regarding the misdeclaration. He argued that intent cannot be inferred merely from circumstantial evidence. Relying on K. I. Pavunny vs. Assistant Collector and *Collector of Customs vs. D. Bhoormull*, he emphasized that clear evidence of intentional fraud is required, and mere suspicion or hearsay from co-noticees is insufficient to establish him as the mastermind.

13.2.9 The noticee further submitted that the DRI's conclusions remain speculative and do not meet the legal standard required to prove criminal intent. He contended that the burden of proof rests with the investigating agency, and his involvement, if any, should be considered innocent and unintentional.

13.2.10 Regarding the statement of Shri Satish Maheshwari, the noticee submitted that his involvement in booking the container and communicating about the consignment does not inherently link him to illegal activities or prove knowledge of the concealment. Relying on Smt. K. P. Kiran vs. Union of India and *Union of India vs. Dharmendra Textile Processors*, he argued that mere association or handling

routine documentation does not equate to active participation or criminal intent. Citing *CIT vs. P. K. Noorjahan*, he asserted that inadvertent errors by others (such as the customs broker who verified the KYC) cannot be attributed to him without direct proof.

13.2.11 Allegations of Misdeclaration and Forgery: The noticee categorically denied engaging in forgery or misdeclaration, asserting that all documentation was prepared lawfully without intent to deceive. He submitted that the burden of proof lies with the authorities, and no substantive proof linking him to falsification has been presented.

13.2.12 Accusations of Fraud, Collusion, and Suppression of Facts: The noticee rejected these accusations, stating his business was conducted transparently. He argued there is absolutely no evidence of any secret agreement, intent, or action to collude with any individual or organization for illegal purposes.

13.2.13 Allegations of Knowingly Dealing with Illegally Imported Goods: Challenging the penalties under Sections 112(a) and 112(b) of the Customs Act, the noticee argued that the claims are based on circumstantial assumptions rather than concrete proof. Relying on *Collector of Customs vs. D. Bhoormull* and *UOI vs. Arvind Mills Ltd.*, he submitted that penalties under Section 112(a) require established intent to commit smuggling. Regarding Section 112(b), relying on C. P. Joshi vs. Union of India, he argued that clear evidence of knowledge or intent to handle smuggled goods is required, which is absent in this case.

13.2.14 Regarding the penalty under Section 114AA, the noticee submitted there is no evidence of deliberate misdeclaration, and any discrepancies were likely clerical errors or misunderstandings by third parties. Relying on *K. I. Pavunny*, *Union of India vs. Hindustan Zinc Ltd.*, and Nandini Satpathy vs. P.L. Dani, he argued that penalties require unequivocal proof of intentional fraud, and the mere failure to detect an error does not constitute deliberate wrongdoing. He also raised concerns about procedural fairness citing *Hindustan Steel Ltd.* and *State of Maharashtra vs. Natwarlal Damodardas Soni*.

13.2.15 Provision under Section 117 Regarding the general penalty under Section 117, the noticee submitted that it applies only when a breach is committed with willful intent or knowledge. Relying on *Union of India vs. Dharamendra Textile Processors*, *Hindustan Steel Ltd.*, and Smt. Kiran Devi vs. Union of India, he argued

his conduct aligned with legitimate business practices and lacked deliberate misconduct. Furthermore, citing K. I. Pavunny, he asserted that general penalties should not apply when specific penalties (like Sections 112 and 114AA) are outlined.

13.2.16 The noticee strongly submitted that as a penalty had already been proposed on the partnership firm (M/s Anmol Enterprises), no separate penalty could be legally imposed on him as a partner. In support of this, he relied on the judgments of the Hon'ble High Court of Gujarat in *Mohammed F. Ghani* and *Commissioner of Central Excise v. Jai Prakash Motwani*, as well as the Tribunal's decision in *Shah Petroleums*, which established that a partner is not a separate legal entity, and separate penalties cannot be imposed upon a partner once the firm is penalized.

13.2.17 Concluding his submissions, the noticee emphasized that natural justice is the essence of fair adjudication and requested that the matter not be decided based on conjectures or surmises. He prayed for the withdrawal of the show cause notice, the dismissal of allegations against him, and requested a thorough investigation into all key players (particularly Shri Satish Maheshwari) and financial transactions. He also requested a personal hearing before adjudication.

**13.3 Shri Vikas Mehta, Authorized representative of Shri Altafbhai Kasambhai Dalvani [Noticee No. 3] submitted his reply vide email dated 02.12.2025, wherein he submitted that:**

13.3.1 The noticee submitted that the Show Cause Notice proposes penalties against him under Sections 112(a), 112(b), 114AA, and 117 of the Customs Act, 1962. He contended that Section 117 is a residuary provision and cannot be legally invoked simultaneously with the specific penal provisions of Sections 112 and 114AA. He requested that the department specify which set of penal provisions is being invoked with evidence, in order to satisfy the principles of natural justice.

13.3.2 The noticee contended that the penal action proposed against him is based entirely on a presumption outlined in Para 11.2 of the SCN (which states "it is difficult to believe that he was unaware of the smuggling"). He argued that proposing a penalty on the basis of presumption rather than proof is impermissible in law. He emphasized that Sections 112(b) and 114AA strictly require the department to establish positive knowledge, which it has failed to do.

13.3.3 The noticee relied on his uncontroverted statement dated 07.07.2023. He submitted that he had no role in the illegal import covered by Bill of Entry No. 6260195 dated 03.06.2023. He asserted that Shri Imran exclusively handled the purchase, loading, shipping, and customs clearance of the goods; owned the overseas supplier firm (M/s. Polytech Middle East FZE); and sent the clearance documents directly to the customs broker (Shri Vikas of M/s. Continental Shipping Services). The noticee submitted that he had no idea about the smuggling, never received a checklist, and was told by Shri Imran that the Areca Nuts were loaded by a mistake of the loading workers and that Shri Imran would "sort out the matter."

13.3.4 The noticee mentioned that Para 9.8 of the Show Cause Notice itself categorically admits that Shri Imran arranged the container and exported the Areca Nuts from Dubai "*From the above,..he (Shri Imran) used to export the arecanut from Dubai by concealing the same with declared goods to his partnership firm ..without informing his partner Shri Altafbhai. Shri Imran himself arranged the container for the subject goods*." He submitted that since the SCN explicitly admits the shipment occurred without his knowledge, there is no legal justification whatsoever for penalizing him under Sections 112(a), 112(b), 114AA, or 117 of the Customs Act, 1962.

13.3.5 The noticee concluded by praying that the proceedings against him be dropped. Furthermore, he explicitly waived his right to a personal or virtual hearing, requesting that the matter concerning him be decided and dropped strictly on the basis of his written submissions.

**13.4 M/s. Continental Shipping Services [Noticee No. 4] submitted his reply dated 23.12.2025, wherein they submitted that:**

13.4.1 The noticee categorically denied the allegations and averments leveled in the impugned notice proposing penalties under Sections 112(a), 112(b), 114AA, and 117 of the Customs Act, 1962.

13.4.2 The noticee submitted that they acted merely as a Custom Broker and prepared the checklist for filing the Bill of Entry based strictly on the documents (such as the invoice and bill of lading) provided by the importer. They contended that the allegation of failing to take checklist approval is factually incorrect, as the

Bill of Entry was filed only after obtaining explicit approval from Shri Imran, a partner of the importer, M/s. Anmol Enterprises.

13.4.3 The noticee argued that it is settled law that a Custom Broker cannot be penalized for alleged mis-declaration or mis-classification when preparing a Bill of Entry based on the importer's documents, unless there is proof of prior knowledge. They asserted that there is not an iota of evidence indicating they had any prior knowledge regarding the presence of Areca Nuts in the consignment declared as HDPE Plastic Regrinding (Non-Hazardous).

13.4.4 Regarding the proposed penalty under Section 114AA, the noticee submitted that the onus lies strictly on the department to prove "knowledge" or "intention". They emphasized that none of the statements recorded during the investigation implicated the Custom Broker or their partner for knowingly or intentionally making, signing, or using any false or incorrect declaration. Consequently, since the criteria of "knowingly or intentionally" is not satisfied, the penalty under Section 114AA is legally unsustainable.

13.4.5 To substantiate their defense that a Custom Broker is not liable to penalty when acting solely on importer-provided documents without contrary evidence, the noticee relied upon several judicial pronouncements, including *D. Ankineedu Chowdry*, *Prime Forwarders*, *G. M. Enterprises*, *Sindhu Cargo Services Ltd.*, *Akanksha Enterprises*, *Vetri Impex*, *Mahendra Patni*, and V. Esakia Pillai. Furthermore, reliance was placed on the CESTAT Chennai decision in M/s. Chakiat Agencies v/s Commissioner of Customs, which held that a Custom Broker cannot be expected to physically examine and ensure the exact nature of the goods. Therefore, the noticee submitted they are not liable for penalties under Section 112(a) and 112(b).

13.4.6 The noticee further submitted that Sections 112(a) and 112(b) operate in two entirely different situations and legally cannot be simultaneously invoked. Additionally, they contended that Section 117 is a residuary provision and cannot be invoked when specific penal provisions under Sections 112(a), 112(b), and 114AA are already invoked.

13.4.7 In light of the above submissions and citations, the noticee prayed that the proceedings initiated against M/s. Continental Shipping Services be dropped.

**14. PERSONAL HEARING:**

**14.1 M/s. Anmol Enterprises (IEC-2414005114) [ Noticee no. 1] :**

In compliance with the principles of natural justice, M/s. Anmol Enterprise was granted multiple opportunities for a personal hearing scheduled on 21.01.2025, 18.02.2025, 07.03.2025 and 13.11.2025. However, neither the Noticee nor any authorized representative on their behalf appeared for the personal hearing.

**14.2 Shri Imran Karimbhai Makwana [Noticee no. 2]:**

In compliance with the principles of natural justice, Shri Imran Karimbhai Makwana was granted multiple opportunities for a personal hearing scheduled on 21.01.2025, 18.02.2025, 07.03.2025 and 13.11.2025. However, neither the Noticee nor any authorized representative on their behalf appeared for the personal hearing.

**14.3 Shri Altafbhai Kasambhai Dalvani [Noticee no. 3]:**

In compliance with the principles of natural justice, Shri Altafbhai Kasambhai Dalvani, was granted multiple opportunities for a personal hearing scheduled on 21.01.2025, 18.02.2025, 07.03.2025, 13.11.2025 and 02.12.2025. However, neither the Noticee nor any authorized representative on their behalf appeared for the personal hearing.

**14.4 M/s. Continental Shipping Services [Noticee No. 4]**

In compliance with the principles of natural justice, M/s. Continental Shipping Services was granted multiple opportunities for a personal hearing scheduled on 27.11.2025, 02.12.2025 and 19.06.2026.

Availing the opportunity, Shri Mit Madhukant Shah, H-Card Holder (Customs Pass no. H/MNDR1/202519766) Authorized representative of M/s. Continental Shipping Services, CB, appeared for the personal hearing on 19.06.2026. During the personal hearing, he re-iterated their earlier submission dated 23.12.2025. He further requested to drop the proceeding initiated vide SCN dated 04.06.2024 on the basis of his firm's earlier submissions.

## DISCUSSION AND FINDINGS

**15.** I have carefully gone through the facts of the case, Show Cause Notice dated 04.06.2024 and the noticee's submissions both, in written and in person. I find that in the present case, principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

**16.** I now proceed to decide the issues framed in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided at the stage of adjudication: -

(a) Whether the illegally imported goods i.e. **Areca Nut (Qty. 14877 Kg, Market Value- Rs. 12862218/-)** should be confiscated under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 or otherwise.

(b) Whether the declared imported goods **HDPE Plastic Regrind (Qty. 9722 KG, Market Value- Rs. 437490/-)** , used for the purpose of concealment of smuggled 14877 KG Areca Nut, should not be confiscated under the provisions of Section 119 of the Customs Act, 1962.

(c) Whether the noticees are liable for penalty imposed them under Section 112(a) &112(b), 114AA & 117 of the Customs Act, 1962 or otherwise.

**17.1** I observe that M/s. Anmol Enterprises had filed Bill of Entry No. 6260195 dated 03.06.2023 for clearance of the import goods at Mundra Port. The declared description of the goods in the said import consignment was 'HDPE Plastic Regrind (Non-Hazardous)' classified under HS Code 39012000 and imported through container bearing No. TGBU5683965.

**17.2** I further find that examination of the goods was carried out by the officers of Directorate of Revenue Intelligence, Gandhidham under Panchnama dated 27.06.2023 at M/s. Transworld CFS, Mundra Port. During examination, it was noticed that the container was stuffed with white colour PP bags up to around 70% of its height stacked from the gate of the container, all containing crushed small pieces of plastic of black/multi colour, declared as 'HDPE Plastic Regrind'. On emptying the white PP bags stacked in the first 4-5 lines from the gate, stacks of

brown colour jute bags were noticed, with pieces of Areca Nut found spilled on the floor of the container. The jute bags, upon cutting open, were found to be stuffed with Areca Nut. The container was found to be stuffed with 192 jute bags of Areca Nut and 275 PP bags of crushed plastic. The details of the goods found during examination are summarized as under:

| **Container No.** | **Weight of Crushed small pieces of plastic declared as HDPE Plastic Regrinding (including pkg. material)** | **Net Weight of Crushed small pieces of plastic declared as HDPE Plastic Regrinding(Excl. Pkg material weight 0.5 Kgs. )** | **Weight of Areca Nuts/ (including pkg. material)** | **Net Weight of Areca Nuts (Excl. pkg. material weight 2.20 Kg/Box)** |
|---|---|---|---|---|
| TGBU5683965 | 9860 Kgs/ 275 Plastic Bag | 9722 Kgs | 15300 Kgs/ 192 Jute Bags | 14877 Kgs |

**17.3** I find that the Areca Nuts were found concealed in the import consignment of declared goods 'HDPE Plastic Regrind (Non-Hazardous)'. The above quantity of 14,877 Kgs of Areca Nuts (CTH 080280) is the item importable at fixed values called "Tariff Values", under Notification issued under Section 14(2) of the Customs Act, 1962 by the Board. If the tariff values are fixed for any goods, ad valorem duties thereon are required to be calculated with reference to such tariff values only following Rule 2 of the Customs Valuation Rules, 2007, and not at the "transaction values" as specified vide Rule 3(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Hence, to avoid the correct tariff value of USD 10,379 per Metric Ton, as per the applicable Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act, 1962, the importer filed the subject Bill of Entry at a pro-rata CIF value of only Rs. 46.7/- per Kg (approx.), against the applicable MIP of Rs. 351/- per Kg specified by the EXIM Policy. The act of the importer and his accomplices in suppressing the actual details, value and classification of the import consignment, in each of the import documents like the IGM, Sale Invoice, Packing List, Bill of Entry, Bill of Lading and Certificate of Origin, was aimed at evasion of the applicable **Customs Duty estimated** to be around **Rs. 1,41,48,440/-**, rendering the whole import consignment liable for confiscation under the provisions of the Customs Act, 1962.

**17.4** I find that 14,877 Kgs of Areca Nut were not declared in the Bill of Entry No. 6260195 dated 03.06.2023, and on reasonable belief that the goods were liable for confiscation under the provisions of the Customs Act, 1962, the said 14,877 Kgs of Areca Nut and 9,722 Kgs of Crushed Plastic declared as HDPE Plastic Regrind stuffed in container No. TGBU5683965 were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memorandum dated 27.06.2023 (DIN-202306DDZ10000321331). The seized consignment was handed over to the custodian M/s. Transworld CFS, Mundra under Supartnama dated 27.06.2023.

**17.5** I also find that it is a fact that consequent upon amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of Section 46 of the Customs Act, 1962 make it mandatory for the importer to make proper and correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System upon entry of the electronic declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. With the introduction of self-assessment by amendment to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

**17.6** From the above, I find that the Noticee has violated Sub-Section (4) and (4A) of Section 46 of the Customs Act, 1962, as they concealed the tariff valued goods and evaded the payment of applicable duty. I find that the Noticee was required to comply with Section 46, which mandates that the importer filing the Bill of Entry must make true and correct declarations and ensure:

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

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

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

In the instant case, I find that the importer's overseas supplier and partner Shri Imran Karimbhai Makwana was fully aware of the actual goods being shipped to M/s. Anmol Enterprises. Thus, in view of the facts discussed in the foregoing paras and material evidence available on records, I find that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, inasmuch as the consignment was imported with the description being mis-declared with a malafide intention to import a prohibited good by way of concealment in order to evade the applicable Customs duties.

**18. Confiscation of the Goods under Section 111 of the Customs Act, 1962.**

**18.1** Section 111 of the Customs Act, 1962 provides for the following:

*"The following goods brought from a place outside India shall be liable to confiscation:-*

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

*111(e) any dutiable or prohibited goods found concealed in any manner in any conveyance;*

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

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

*111(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77."*

**18.2** I find that M/s. Anmol Enterprises filed Bill of Entry No. 6260195 dated 03.06.2023 declaring the goods as "HDPE Plastic Regrind" having declared assessable value of Rs. 12,13,324/- (CIF). M/s. Anmol Enterprises sought clearance thereof through M/s. Continental Shipping Services. However, during examination, a total of 14,877 Kgs of Areca Nuts (CTH 080280) were found concealed in the import consignment along with a total of 9,722 Kgs of HDPE Plastic Regrind. It was revealed that M/s. Anmol Enterprises had mis-declared the description, classification, value and quantity at the time of filing import documents for clearance of the said import consignment. As per Section 46 of the Customs Act, 1962, an importer shall make entry of the imported goods with correct details, description/classification, value etc. In the present case, it was noticed that the supplier and partner of the importer Shri Imran Karimbhai Makwana was very well aware of the actual description, quantity and value of the concealed goods, having himself owned the shipper firm M/s Polytech Middle East FZE, however, the goods were mis-declared before Customs Authorities. M/s. Anmol Enterprises was also aware of Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act, 1962, which fixed the tariff value of the concealed goods. Areca Nuts have been attempted to be imported under the pro-rata CIF value of Rs. 46.7/- per Kg in the subject Bill of Entry against the MIP of Rs. 351/Kilogram specified by the EXIM Policy and Tariff value USD 10379 per MT, as per Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023 read with the applicable exchange rate Notification.

Prohibited goods and Smuggling as defined under Section 2(33) and Section 2(39) respectively of the Customs Act, 1962 are as under:-

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

Accordingly, the whole consignment of **14,877 Kgs of Areca Nut** is rendered "Prohibited goods" for import under the existing EXIM policy. Therefore, the above

goods being the "Prohibited Goods" as defined under Section 2(33) of the Customs Act, 1962, and being the goods imported without due compliance with the Policy provisions, are also found liable to be categorized as "Smuggling" within the meaning of Section 2(39) of the Customs Act, 1962. The Areca Nuts found concealed in the import consignment fall under the category of smuggled goods.

In view of the above, I find that M/s. Anmol Enterprises, through its partners, deliberately and knowingly did not declare and mis-declared the subject goods with the intention to evade the applicable Customs Duty by way of concealment and violation of the tariff value notified. Accordingly, I find that 14,877 Kgs quantity of Areca Nuts whole/splits (CTH 080280) found concealed with the declared 'HDPE Plastic Regrind' are liable for confiscation under Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962.

**18.3 Confiscation of the Goods under Section 119 of the Customs Act, 1962.**

Section 119 of the Customs Act, 1962 provides for the following:

*"119. Any goods used for concealing smuggled goods shall also be liable to confiscation."*

I find that during examination of the import consignment, it was noticed that the container was stuffed with PP bags containing crushed plastic waste in the front rows, and upon unloading these front rows, the container was found to be stuffed with brown colour jute bags which were found to be stuffed with Areca Nut. The container was found to be stuffed with 192 jute bags of Areca Nut and 275 PP bags of declared HDPE Plastic Regrind. It is evident that the HDPE Plastic Regrind, as declared in the import documents, was used for concealment of the Areca Nut.

Therefore, I find that the declared imported goods HDPE Plastic Regrind (Qty. 9,722 Kgs) used for concealment of the smuggled goods, i.e. Areca Nut, are liable to be absolutely confiscated under Section 119 of the Customs Act, 1962.

**19. Imposition of Redemption Fine in lieu of confiscation of the goods under Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962.**

**19.1** On plain reading of the provisions of Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962 (mentioned at Para 18.1 above), it is clear that the impugned goods, i.e. Areca Nut, were imported in violation of the tariff Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act, 1962, which fixed the tariff value of the concealed goods. Areca Nuts have been attempted to be imported under the pro-rata CIF value of Rs. 46.7/- per Kg in the subject Bill of Entry against the MIP of Rs. 351/Kilogram and Tariff value USD 10379 per MT, as per Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, in the guise of HDPE Plastic Regrind, rendering the imported goods i.e. Areca Nut (Qty. 14,877 Kgs) as smuggled and HDPE Plastic Regrind (Qty. 9,722 Kgs) as being used for concealment of the smuggled goods.

As discussed in the foregoing paras, it is evident that the importer has, through its partner, deliberately mis-declared the imported goods with a malafide intention to bypass the policy condition. Therefore, I hold the impugned imported goods Areca Nut (Qty. 14,877 Kgs) liable for absolute confiscation as per the provisions of Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962, and HDPE Plastic Regrind (Qty. 9,722 Kgs) being used for concealment of the smuggled goods liable for absolute confiscation under Section 119 of the Customs Act, 1962.

**19.2** As the impugned goods are found to be liable for confiscation under Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of the Customs Act, 1962 is liable to be imposed in lieu of confiscation in respect of the impugned goods, as alleged vide the subject SCN. Section 125 ibid reads as under:

> *"Section 125. Option to pay fine in lieu of confiscation.-(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods … an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

**19.3** A plain reading of the above provision shows that in the case of prohibited goods, the adjudicating officer may give the option of redemption fine — it is a

discretion, not a mandate. In the present case, the smuggled Areca Nuts are "Prohibited Goods" within the meaning of Section 2(33) of the Customs Act, 1962, having been imported in violation of the MIP/tariff value conditions of the EXIM Policy, and their import amounts to "Smuggling" as defined under Section 2(39) of the Customs Act, 1962. Accordingly, the discretion whether or not to grant the option of redemption fine vests in the adjudicating authority.

**19.4** I find that in the present case, the entire modus operandi was a deliberate, premeditated and carefully orchestrated scheme to smuggle high-value, high-duty Areca Nuts into India by concealing them behind declared goods, using fabricated import documents, and exploiting the partnership firm M/s. Anmol Enterprises through its overseas-based partner. The concealment involved 192 jute bags of Areca Nuts stacked at the rear of the container behind 275 PP bags of plastic waste — a scheme requiring advance planning, coordination across India and UAE, and falsification of import documents including the invoice, packing list, Bill of Lading and Bill of Entry. The scheme was designed to evade Customs duty estimated at approximately **Rs. 1,41,48,440/-.** The principal mastermind Shri Imran Karimbhai Makwana has evaded all summons issued to him and has not joined the investigation.

**19.5** I find that no request for release or redemption of the impugned Areca Nuts has been made by the importer M/s. Anmol Enterprises or by any person claiming ownership of the smuggled goods. The nature of the violation — deliberate concealment, use of fabricated documents, substantial duty evasion — is of a serious kind. There is no scope for leniency in the instant case. Accordingly, exercising the discretion vested in me under Section 125(1) of the Customs Act, 1962, I do not grant any option to redeem the smuggled Areca Nuts. I order absolute confiscation of 14,877 Kgs of Areca Nuts (CTH 080280) having market value of Rs. 1,28,62,218/- under Sections 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962.

**19.6** As regards the HDPE Plastic Regrind (9,722 Kgs) confiscated under Section 119 of the Customs Act, 1962, I find that the same was used as a tool of concealment in a deliberate smuggling scheme. No claim over these goods has been made either. The goods used for concealment of smuggled goods are equally tainted by the fraud perpetrated. Accordingly, I order absolute confiscation of 9,722 Kgs of

HDPE Plastic Regrind under Section 119 of the Customs Act, 1962 as well, without granting any option of redemption.

**20. DISCUSSION ON IMPOSITION OF PENALTIES ON NOTICEES**

I have carefully gone through the Show Cause Notice, the relied upon documents, the voluntary statements of all persons recorded under Section 108 of the Customs Act, 1962, the written submissions filed by Noticees 1, 2, 3 and 4, the personal hearing submissions, and all other material available on record. I find that the principle of natural justice has been complied with in respect of all Noticees. It would now be appropriate to examine the role and liability of each Noticee individually.

**21. Penalty on M/s. Anmol Enterprises (Noticee No. 1):**

I find that the SCN has proposed penalty under Section 112(a), 112(b), Section 114AA and Section 117 of the Customs Act, 1962 against M/s. Anmol Enterprises. I now proceed to discuss their liability under the proposed sections.

**21.1 Imposition of Penalty under Section 112(a) & 112(b) of the Customs Act, 1962:**

**21.1.1** I find that M/s. Anmol Enterprises filed Bill of Entry No. 6260195 dated 03.06.2023 at Mundra Port declaring the goods as "HDPE Plastic Regrind (Non-Hazardous)" under HS Code 39012000, whereas on examination, 14,877 Kgs of Areca Nuts (CTH 080280) were found concealed behind 9,722 Kgs of HDPE Plastic Regrind in container No. TGBU5683965. M/s. Anmol Enterprises is the importer of record for the subject Bill of Entry and bears primary legal responsibility for the import made under its name and IEC, in terms of Section 2(26) of the Customs Act, 1962.

**21.1.2** I have carefully considered the written submissions filed by M/s. Anmol Enterprises dated 19.09.2024, which extensively rely on principles of criminal jurisprudence — standard of proof beyond reasonable doubt, presumption of innocence, the requirement of a complete chain of circumstantial evidence, and absence of direct evidence or *mens rea*. These submissions are examined and rejected for the following reasons:

(i) Customs adjudication proceedings are civil/quasi-judicial in nature, and the standard of proof applicable is "preponderance of probability," not "proof beyond reasonable doubt" as applicable in criminal trials. The numerous criminal law judgments relied upon by the Noticee, dealing with conviction standards in criminal trials, are not directly applicable to adjudication proceedings under the Customs Act, 1962.

(ii) M/s. Anmol Enterprises is a partnership firm constituted by Shri Imran Karimbhai Makwana and Shri Altafbhai Kasambhai Dalvani. The Bill of Entry was filed in the name of the firm, the goods were imported under the firm's IEC, and the overseas shipment was made by Shri Imran Karimbhai Makwana — a partner of the firm — from his own UAE-based supplier firm M/s Polytech Middle East FZE. The act of a partner, done in the course of the firm's business and using the firm's IEC, is squarely attributable to the firm itself.

(iii) The plea that there is no direct evidence is misconceived. The shipment was made by the firm's own partner, from his own supplier firm, into a container imported in the firm's name under the firm's Bill of Entry. This is not circumstantial evidence requiring inferential reasoning — it is the direct act of one of the two partners of the importing firm.

**21.1.3** I find that the act of mis-declaration and concealment of 14,877 Kgs of Areca Nuts behind declared HDPE Plastic Regrind was carried out using the import documentation, IEC and Bill of Entry of M/s. Anmol Enterprises. The omission and commission on the part of M/s. Anmol Enterprises — i.e. mis-declaration of the subject goods by way of forged documents, fraud, collusion, suppression of facts and illegal import of prohibited goods — have rendered the subject illegally imported goods **Areca Nut (Qty. 14,877 Kgs, Market Value- Rs. 1,28,62,218/-)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962, and the declared imported goods **HDPE Plastic Regrind (Qty. 9,722 Kgs)** liable to confiscation under Section 119 of the Customs Act, 1962. Accordingly, M/s. Anmol Enterprises has rendered itself liable for penalty under **Section 112(a)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and Section 112(b) simultaneously amounts to imposition of double penalty; therefore, I refrain from imposition of penalty under Section 112(b) of the Customs Act, 1962.

**21.2 Imposition of Penalty under Section 114AA of the Customs Act, 1962:**

As regards penalty under Section 114AA, I find that Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation it has come to the notice that the imports were made in violation of Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act, 1962. The importer, with malafide intention, imported "Areca Nut" by concealing the same behind goods declared as "HDPE Plastic Regrind" in the import documents, to evade the duty liability specified under the EXIM policy. This deliberate mis-declaration was supported by invoices and packing lists that were incorrect in respect of the description and value of the goods. By presenting a Bill of Entry containing false and incorrect declarations in all material particulars — including description, classification, value and quantity — caused to be filed in its name, M/s. Anmol Enterprises knowingly and intentionally caused to be made, signed and used declarations which were false and incorrect in material particulars. Accordingly, M/s. Anmol Enterprises has rendered itself liable for penalty under **Section 114AA** of the Customs Act, 1962.

**21.3 Imposition of Penalty under Section 117 of the Customs Act, 1962:**

Section 117 of the Customs Act, 1962 provides:

*"Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees."*

As regards penalty under Section 117, I find that M/s. Anmol Enterprises has illegally imported Areca Nut by concealing the same in HDPE Plastic Regrind in violation of Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act, 1962, to evade the duty liability specified in the EXIM policy. M/s. Anmol Enterprises, through its partner, also failed to cooperate with the investigation by not revealing correct facts and details of other key persons involved in this case. Their continued non-cooperation, including non-appearance for personal hearing despite multiple opportunities,

constitutes a failure to comply with the provisions of the Customs Act, 1962, rendering them liable for penalty under **Section 117** of the Customs Act, 1962.

**22. Penalty on Shri Imran Karimbhai Makwana (Noticee No. 2):**

I find that the SCN has proposed penalty under Section 112(a), 112(b), Section 114AA and Section 117 of the Customs Act, 1962 against Shri Imran Karimbhai Makwana. I now proceed to discuss his liability under the proposed sections.

**22.1 Imposition of Penalty under Section 112(a) & 112(b) of the Customs Act, 1962:**

**22.1.1** I find that Shri Imran Karimbhai Makwana is a partner of M/s. Anmol Enterprises and is also the principal mastermind and supplier of the smuggling scheme in the present case, as well as in the parallel cases involving M/s. Jaliyan Polymers and M/s. Hiralal Exim, where he supplied Areca Nuts concealed in declared goods using an identical modus operandi. The investigation has established the following facts about his central and orchestrating role:

(i) Shri Imran owns and operates M/s Polytech Middle East FZE, UAE — the entity from which the subject consignment was shipped. He thus controlled the export side of the transaction.

(ii) He personally arranged the booking of container No. TGBU5683965 and personally forwarded the import documents — invoice, packing list, Bill of Lading — directly to the Customs Broker M/s. Continental Shipping Services on WhatsApp.

(iii) He instructed the Customs Broker not to wait for checklist approval and to file the Bill of Entry directly on the basis of the documents provided by him.

(iv) Upon learning that the container was being subjected to seal cutting and examination, he repeatedly called the Customs Broker insisting that the cargo not be destuffed and that clearance be expedited — conduct consistent with guilty knowledge of the concealment.

(v) When confronted by the Customs Broker about the discovery of Areca Nut, he attributed it to a "mistake of the loading workers" — an explanation he has also

given in the parallel cases involving M/s. Jaliyan Polymers and M/s. Hiralal Exim, establishing a consistent and repeated pattern across multiple consignments and multiple firms.

(vi) He wilfully and deliberately disobeyed five summons issued by DRI on 24.06.2023, 05.07.2023, 18.07.2023, 04.08.2023 and 26.08.2023, and his Anticipatory Bail Application was dismissed by the Additional Sessions Judge, Bhuj, on 23.09.2023.

(vii) DRI has filed a criminal complaint under Sections 174, 175, 176 and 228 of the Indian Penal Code, 1860 before the Additional Chief Judicial Magistrate, Gandhidham, against him for his conduct.

**22.1.2** I have considered the detailed written submissions filed by Shri Imran Karimbhai Makwana dated 19.09.2024, which are substantially identical to the submissions filed on behalf of M/s. Anmol Enterprises, relying on criminal law standards of proof, absence of direct evidence, and absence of *mens rea*. These submissions are examined and rejected for the reasons already discussed in Para 21.1.2 above. I further note his specific submission that since penalty has already been proposed on the firm M/s. Anmol Enterprises, no separate penalty can be imposed on him as a partner, relying on *Mohammed F. Ghani*, *Commissioner of Central Excise v. Jai Prakash Motwani* and *Shah Petroleums*. This submission is rejected. The said decisions, rendered in the context of penalty under the Central Excise Act for clandestine removal by manufacturing units, are not analogous to the facts of the present case. Here, the act of smuggling was personally and directly committed by Shri Imran Karimbhai Makwana himself — as the owner of the overseas supplier firm who personally arranged the shipment, booked the container, and instructed the Customs Broker — independent of his status as a partner of the importing firm. His individual culpability arises from his personal acts as the supplier and orchestrator of the smuggling scheme, not merely from his status as a partner of M/s. Anmol Enterprises. The two penalties — on the firm and on Shri Imran individually — address distinct facets of the same transaction and are both legally sustainable.

**22.1.3** I find that the acts of the omission and commission on the part of Shri Imran Karimbhai Makwana i.e. mis-declaration of subject goods by way of forging documents, fraud, collusion, and suppression of facts and illegal import of

prohibited goods have rendered the subject illegally imported goods **Areca Nut (Qty. 14877 KG, Market Value- Rs. 12862218/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 and declared imported goods **HDPE Plastic Regrind (Qty. 9722 Kgs),** liable to confiscation under section 119 of the Customs Act, 1962. Shri Imran Karimbhai Makwana — concealing 14,877 Kgs of smuggled Areca Nuts in a container imported into India under a false declaration, using his own overseas supplier firm, exploiting his own partnership firm's IEC, with fabricated documents, causing evasion of Customs duty estimated at approximately Rs. 1,41,48,440/-, and deliberately evading investigation — which constitute smuggling as defined under Section 2(39) of the Customs Act, 1962, render him liable for penalty under **Section 112(a)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and Section 112(b) simultaneously amounts to imposition of double penalty; therefore, I refrain from imposition of penalty under Section 112(b) of the Customs Act, 1962.

**22.2 Imposition of Penalty under Section 114AA of the Customs Act, 1962:**

As regards the penalty on Shri Imran Karimbhai Makwana under Section 114AA of the Customs Act, 1962 is concerned, I find that Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation it has come to the notice that the imports were made in violation of Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, as amended, issued under Section 14(2) of the Customs Act 1962, to evade duty liability specified in the EXIM policy. It is clearly evident that that Shri Imran Karimbhai Makwana has violated the provisions of Section 14 and Section 46 of the Customs Act, 1962. Shri Imran Karimbhai Makwana knowingly and intentionally caused to be made, signed and used false and incorrect import documents — including the invoice, packing list, Bill of Lading and Bill of Entry — which were false and incorrect in material particulars including description, quantity, value and classification of the goods, thereby rendering himself liable for penalty under **Section 114AA** of the Customs Act, 1962.

**22.3 Imposition of Penalty under Section 117 of the Customs Act, 1962:**

The section 117 of the Customs Act, 1962 provides for the following:-

*Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 1[four lakh rupees].*

Shri Imran Karimbhai Makwana, as the beneficial owner of the goods who operated from behind the scenes as the key conspirator orchestrating the illegal import of Areca Nuts by employing deceptive practices to smuggle the goods into in violation of tariff notification 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the EXIM policy. Shri Imran Karimbhai Makwana wilfully and deliberately disobeyed five summons issued under Section 108 of the Customs Act, 1962, and by not joining the investigation and not revealing correct facts and details of other key persons involved in this case, has rendered himself additionally liable for penalty under **Section 117** of the Customs Act, 1962.

**23. Penalty on Shri Altafbhai Kasambhai Dalvani (Noticee No. 3):**

I find that the SCN has proposed penalty under Section 112(a), 112(b), Section 114AA and Section 117 of the Customs Act, 1962 against Shri Altafbhai Kasambhai Dalvani. I now proceed to discuss his liability under the proposed sections.

**23.1 Imposition of Penalty under Section 112(a) & 112(b) of the Customs Act, 1962:**

**23.1.1** I find that Shri Altafbhai Kasambhai Dalvani is a partner of M/s. Anmol Enterprises, holding a 50% share, and was responsible for handling the sales of imported goods in the domestic market and purchase of goods from the domestic market. He has admitted in his voluntary statement dated 07.07.2023 that he was aware that his partner Shri Imran Karimbhai Makwana was operating the overseas supplier firm M/s Polytech Middle East FZE and was regularly shipping consignments to their partnership firm. He has also admitted that he was aware of the applicable Tariff Value Notification No. 34/2023-Customs (N.T.) dated

15.05.2023 fixing the minimum value for import of Areca Nut, and that he understood the significance of this Tariff Value.

**23.1.2** I have carefully considered the written submission filed on behalf of Shri Altafbhai Kasambhai Dalvani dated 02.12.2025, wherein he has relied upon the finding recorded in Para 9.8 of the Show Cause Notice that Shri Imran Karimbhai Makwana exported the Areca Nut "without informing his partner Shri Altafbhai." Having considered this submission, I find that while this circumstance is relevant to assessing the degree of his individual culpability, it does not extend to a complete absence of liability, for the following reasons:

(i) Shri Altafbhai Kasambhai Dalvani is an equal, 50% partner of M/s. Anmol Enterprises and not a mere employee or outsider to the firm. As a partner, he shares joint and several responsibility for the conduct of the firm's business and the consequences of import transactions carried out in the firm's name and under its IEC, irrespective of which partner physically executed a particular transaction.

(ii) Shri Altafbhai was fully aware that his co-partner Shri Imran Karimbhai Makwana — who owned and operated the overseas supplier firm in Dubai — was the person who unilaterally controlled purchase, shipping and Customs clearance of all consignments imported by their partnership firm, without any document-level oversight, written agreement or independent verification by Shri Altafbhai of what was actually being shipped in the firm's name. Knowingly permitting a co-partner residing overseas, who also owns the supplier firm at the other end of every transaction, to single-handedly control the entire import process without any check or oversight, is itself a course of conduct that exposed the firm to the risk of exactly this kind of misuse — and Shri Altafbhai, as a profit-sharing partner, cannot distance himself from the consequences of this arrangement that he himself permitted to continue unchecked.

(iii) Shri Altafbhai has himself admitted to being aware of the precise Tariff Value Notification governing Areca Nut — a fact that is only relevant or memorable to a trader who is conscious of the risk that Areca Nut could be, or was being, dealt with by his firm. He was aware that his partner had exported the goods from UAE in the name of their partnership firm M/s Anmol Enterprises for further sale in India but he supposedly did not enquire with their Custom Broker for the checklist. Shri Altafbhai stated that Shri Imran himself ordered the subject cargo imported

vide aforesaid Bill of Entry who only informed him about the loading of the container stuffed with declared goods without informing him about the concealment with Areca Nut. However, Shri Altafbhai was fully aware that Shri Imran has shipped a cargo from shipper name M/s Polytech Middle East FZE owned by him to their partnership M/s Anmol Enterprises but he did not bother to contact their Customs Broker for the Customs Clearance. Shri Altaf was also aware that cargo in their firm is arriving for which the Customs Duty and transportation within India was already arranged by Shri Imran. This awareness, considered together with his failure to verify the checklist or insist on any documentary confirmation of what his partner was shipping in the firm's name, reflects a degree of constructive knowledge and wilful lack of oversight that goes beyond innocent ignorance.

(iv) As a 50% partner who derives an equal share of the profits of the firm's import business, Shri Altafbhai cannot selectively claim the benefits of the partnership's import trade while disclaiming all responsibility for its consequences merely because the specific consignment in question was physically handled by his co-partner.

**23.1.3** I find that the degree of Shri Altafbhai's culpability is, however, materially different from that of Shri Imran Karimbhai Makwana, who directly and personally orchestrated the concealment through his own overseas supplier firm. Shri Altafbhai's liability arises not from direct, personal participation in the act of concealment, but from his role as an equal partner who permitted his co-partner unchecked and exclusive control over the firm's import operations. Shri Altafbhai was fully aware that Shri Imran has shipped a cargo from shipper name M/s Polytech Middle East FZE owned by him to their partnership M/s Anmol Enterprises but he did not bother to contact their Customs Broker for the Customs Clearance. Shri Altaf was also aware that cargo in their firm is arriving for which the Customs Duty and transportation within India was already arranged by Shri Imran. Shri Altaf used to look after the sale of imported goods in domestic market which directly symbolizes that he was fully aware that Shri Imran was exporting Areca Nut. Also, he was an active partner of the firm, therefore it is difficult to believe that he was unaware of the smuggling of arecanut.

**23.1.4** Therefore, I find that the omission and commission on the part of Shri Altafbhai Kasambhai Dalvani led illegal import of prohibited goods have rendered

the subject illegally imported goods **Areca Nut (Qty. 14877 KG, Market Value-Rs. 12862218/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 and declared imported goods **HDPE Plastic Regrind (Qty. 9722 Kgs),** liable to confiscation under section 119 of the Customs Act,1962. Accordingly, I find that Shri Altafbhai Kasambhai Dalvani has rendered himself liable for penalty under **Section 112(a)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and Section 112(b) simultaneously amounts to imposition of double penalty; therefore, I refrain from imposition of penalty under Section 112(b) of the Customs Act, 1962.

**23.2 Imposition of Penalty under Section 114AA of the Customs Act, 1962:**

As regards the penalty under Section 114AA of the Customs Act, 1962 is concerned, I find that Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation it has come to the notice that the imports were made in violation of Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, as amended, issued under Section 14(2) of the Customs Act 1962, to evade duty liability specified in the EXIM policy. Shri Altafbhai Kasambhai Dalvani being an equal partner of the importing firm in whose name and under whose IEC these very documents were filed before the Customs Authorities, he cannot escape the consequence of false declarations made in the course of his own firm's business, of which he was a willing and continuing beneficiary. Accordingly, Shri Altafbhai Kasambhai Dalvani has also rendered himself liable for a penalty under **Section 114AA** of the Customs Act, 1962.

**23.3 Imposition of Penalty under Section 117 of the Customs Act, 1962:**

The section 117 of the Customs Act, 1962 provides for the following:-

*Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 1[four lakh rupees].*

As regards Section 117, I find that Shri Altafbhai Kasambhai Dalvani, as an equal partner, failed to exercise the basic oversight expected of a partner over the import operations of the firm, and thereby failed to comply with the requirement of

ensuring that the firm's import declarations under the Customs Act, 1962 were true and correct. Accordingly, Shri Altafbhai Kasambhai Dalvani has rendered himself liable for a token penalty under **Section 117** of the Customs Act, 1962.

**24. Penalty on M/s. Continental Shipping Services (Noticee No. 4):**

I find that the SCN has proposed penalty under Section 112(a), 112(b), Section 114AA and Section 117 of the Customs Act, 1962 against M/s. Continental Shipping Services. I now proceed to discuss their liability under the proposed sections.

**24.1 Imposition of Penalty under Section 112(a) & 112(b) of the Customs Act, 1962:**

**24.1.1** I find that M/s. Continental Shipping Services, Customs Broker, filed Bill of Entry No. 6260195 dated 03.06.2023 for M/s. Anmol Enterprises. Shri Satish Maheshwari, authorized person of M/s. Continental Shipping Services, in his voluntary statement dated 28.06.2023, admitted that approval for the checklist was not separately obtained from the importer for the subject Bill of Entry, as Shri Imran Karimbhai Makwana had specifically instructed them not to wait for checklist approval and to file the Bill of Entry directly on the basis of the documents provided by him — a deviation from their usual practice of sending the checklist for approval to the registered email ID of M/s. Anmol Enterprises, as had been followed in respect of the firm's earlier consignments since 2021.

**24.1.2** I find that M/s. Continental Shipping Services, as a licensed Customs Broker, was duty bound the Customs Brokers Licensing Regulations, 2018 and should independently obtain and verify checklist approval directly from the importer before filing the Bill of Entry, and not to act merely on the verbal instruction of a partner conveyed over a WhatsApp voice call. The fact that they deviated from their own established practice — of sending the checklist to the importer's registered email ID, which they had followed for this very importer's consignments since 2021 — and instead filed the Bill of Entry without any verification, at the specific instance from the importer, constitutes a clear lapse in the due diligence obligation cast upon a Customs Broker. This lapse in due diligence created the documentary opening that facilitated, the attempted clearance of the concealed Areca Nut, before it was independently discovered and reported by the Customs Broker's own staff.

**24.1.3** I find that the omission and commission on the part of M/s Continental Shipping Services i.e. by filing the Bill of Entry without seeking the approval for Checklist from Importer have rendered the subject illegally imported goods **Areca Nut (Qty 14877 KG, Market Value- Rs. 12862218/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act,1962 and declared imported goods **HDPE Plastic Regrinding (Qty. 9722 Kgs) ,** liable to confiscation under section 119 of the Customs Act,1962. Accordingly, M/s. Continental Shipping Services has rendered itself liable for a penalty under **Section 112(a)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and Section 112(b) simultaneously amounts to imposition of double penalty; therefore, I refrain from imposition of penalty under Section 112(b) of the Customs Act, 1962.

**24.2 Imposition of Penalty under Section 114AA of the Customs Act, 1962:**

As regards the penalty under Section 114AA of the Customs Act, 1962 is concerned, I find that Section 114AA mandates penal action for intentional usage of false and incorrect material against the offender. From the investigation it has come to the notice that the imports were made in violation of Notification No. 34/2023-Customs (N.T.) New Delhi, 15th May, 2023, as amended, issued under Section 14(2) of the Customs Act 1962, to evade duty liability specified in the EXIM policy. By knowingly causing the Bill of Entry — containing a declaration that was false and incorrect in material particulars — to be filed in this manner, without the basic safeguard of checklist verification that they themselves recognized as necessary and had consistently followed in the past, M/s. Continental Shipping Services have caused to be used a document which was false and incorrect in material particulars, within the meaning of Section 114AA of the Customs Act, 1962. Therefore, I find that M/s. Continental Shipping Services knowingly and intentionally made, signed or used and/or caused to be made/signed/used the import documents, Bill of Entry and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods. Accordingly, M/s. Continental Shipping Services has rendered itself liable for penalty under **Section 114AA** of the Customs Act, 1962,

**24.3 Imposition of Penalty under Section 117 of the Customs Act, 1962:**

The section 117 of the Customs Act, 1962 provides for the following:-

*Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 1[four lakh rupees].*

As regards Section 117 of the Customs Act, 1962, I find that M/s. Continental Shipping Services failed to exercise this statutory obligation at the threshold stage — by abandoning their own established practice of independent checklist verification at the specific instance of an importer-partner, without bringing this irregular request to the notice of the proper Customs officer before filing the Bill of Entry. Accordingly, M/s. Continental Shipping Services has rendered itself liable for a token penalty under **Section 117** of the Customs Act, 1962.

**25. In view of the aforesaid discussions and findings, I pass the following ORDER:**

**ORDER**

**25.1 Order for Confiscation:**

(i) I order **absolute confiscation of 14,877 Kgs (Net Weight) of Areca Nuts whole/splits (CTH 080280), having market value of Rs. 1,28,62,218/- (Rupees One Crore Twenty Eight Lakh Sixty Two Thousand Two Hundred and Eighteen Only),** found concealed in container No. TGBU5683965 imported vide Bill of Entry No. 6260195 dated 03.06.2023, under Sections 111(d), 111(e), 111(f), 111(i) and 111(l) of the Customs Act, 1962, without granting any option for redemption under Section 125 of the Customs Act, 1962.

(ii) I order **absolute confiscation of 9,722 Kgs of HDPE Plastic Regrind**, used for the purpose of concealing the smuggled Areca Nuts, under Section 119 of the Customs Act, 1962, without granting any option for redemption under Section 125 of the Customs Act, 1962.

**25.2 Penalty under Section 112 of the Customs Act, 1962:**

(i) I impose a penalty of **Rs. 13,00,000/- (Rupees Thirteen Lakh Only)** on **M/s. Anmol Enterprises (IEC-2414005114)** under Section 112(a)(i) of the

Customs Act, 1962. I do not impose penalty under Section 112(b) simultaneously, for the reasons discussed above.

(ii) I impose a penalty of **Rs. 13,00,000/- (Rupees Thirteen Lakh Only)** on **Shri Imran Karimbhai Makwana** under Section 112(a)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(b) simultaneously, for the reasons discussed above.

(iii) I impose a penalty of **Rs. 13,00,000/- (Rupees Thirteen Lakh Only)** on **Shri Altafbhai Kasambhai Dalvani** under Section 112(a)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(b) simultaneously, for the reasons discussed above.

(iv) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on **M/s. Continental Shipping Services** under Section 112(a)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(b) simultaneously, for the reasons discussed above.

**25.3 Penalty under Section 114AA of the Customs Act, 1962:**

(i) I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **M/s. Anmol Enterprises** under Section 114AA of the Customs Act, 1962.

(ii) I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **Shri Imran Karimbhai Makwana** under Section 114AA of the Customs Act, 1962.

(iii) I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakh Only)** on **Shri Altafbhai Kasambhai Dalvani** under Section 114AA of the Customs Act, 1962.

(iv) I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on **M/s. Continental Shipping Services** under Section 114AA of the Customs Act, 1962, for the reasons discussed above.

**25.4 Penalty under Section 117 of the Customs Act, 1962:**

(i) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on **M/s. Anmol Enterprises** under Section 117 of the Customs Act, 1962.

(ii) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on **Shri Imran Karimbhai Makwana** under Section 117 of the Customs Act, 1962.

(iii) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on **Shri Altafbhai Kasambhai Dalvani** under Section 117 of the Customs Act, 1962.

(iv) I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **M/s. Continental Shipping Services** under Section 117 of the Customs Act, 1962.

Digitally signed by Dipakbhai Zala
Date: 22-06-2026 16:08:17

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

**(List of all Noticees)**

**To,**

1. M/s. Anmol Enterprises, ( IEC-2414005114)
   Nehru Nagar, 24,
   Behind Amrapali Cinema Raiya Road,
   Rajkot, Gujarat
   (email ID anmoltrd544@gmail.com)

2. Shri Imran Karimbhai Makwana
   S/o Shri Makwana Karimbhai
   Abdulbhai Samadhi Road
   Virpur, Rajkot
   Gujarat-360380
   (email IDs :imran4websolution@gmail.com)

3. Shri Altafbhai Kasambhai Dalvani
   S/o Shri Kasambhai Dalvani
   Block Number-3B, Mochi Nagar
   Street Number-5, Bajrangwadi
   Jamanagar Road, Rajkot
   Gujarat-360006
   (email ID altafdalwani@gmail.com)

4. M/s Continental Shipping Services,
   Office No. 17, Ghanshyam Complex,
   New Adani Port Road, Mundra-370421
   (email ID: continentalcha@gmail.com)

**Copy to: -**

1. The ADG, DRI Regional Unit, Gandhidham.

2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.

*3.* The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... *(with the direction to upload on the official website immediately).*