

 <p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:</b> <b>CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</b> <b>PHONE : 02838-271426/271163 FAX :02838-271425</b> <b>E-mail id- adj-mundra@gov.in</b></p>	
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<b>A</b>	फा. सं./ <b>FILE NO.</b>	F. No. GEN/ADJ/ADC/448/2024-Adjn
<b>B</b>	मूल आदेश संख्या/ <b>ORDER-IN-ORIGINAL NO.</b>	MCH/ADC/AKM/308/2024-25
<b>C</b>	द्वारा पारित किया गया/ <b>PASSED BY</b>	अमित कुमार मिश्रा अपर आयुक्त सीमा शुल्क सीमा शुल्क भवन, मुन्द्रा
<b>D</b>	आदेश की तिथि <b>DATE OF ORDER</b>	21.02.2025
<b>E</b>	जारी करने की तिथि <b>DATE OF ISSUE</b>	21.02.2025
<b>F</b>	कारण बताओ नोटिस संख्या & तिथि <b>SCN NUMBER &amp; DATE</b>	GEN/ADJ/ADC/448/2024-Adjn -O/o Pr Commr-Cus-Mundra dt. 06.03.2024
<b>G</b>	निर्यातक / नोटिस प्राप्तकर्ता <b>EXPORTER / NOTICEE</b>	1. M/s Raj International 2. Shri Ashok Damji Bhanushali 3. Shri Abbas Hariyani 4. Shri Ismail Jat Osman 5. Fast Track CFS
<b>H</b>	डिन संख्या / <b>DIN NUMBER</b>	20250271MO000000E9F5

1. यह आदेश संबन्धित को निःशुल्क 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 धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

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

“सीमाशुल्कआयुक्त) अपील(,  
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,  
नवरंगपुरा, अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA**  
**HAVING HIS OFFICE AT 4<sup>TH</sup> FLOOR, HUDCO BUILDING, ISHWAR BHUVAN**  
**ROAD,**  
**NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्तअपील यहआदेश 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 ड्यूटी/ 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, सीमाशुल्क) अपील (नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

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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.

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**BRIEF FACTS OF THE CASE**

Intelligence gathered by the Directorate of Revenue Intelligence, Gandhidham indicated that M/s. Raj International (IEC No.0399016481), F 64 Mezzanine Floor APMC Masala market-1, Phase-2, Sector-19, Vashi- Turbe, Navi Mumbai Muni. Corp., Thane Zone-4 was engaged in the smuggling of Areca

Nuts/Betel Nuts by way of concealment in the import consignment of Dates from UAE. Intelligence further indicated that M/s. Raj International had filed Bill of Entry No. 1003513 dated 20.02.2023 for warehousing of the import goods at M/s. Fast Track CFS Pvt. Ltd. (SEZ Mundra) Plot No.3, Block-C, Sector-11, APSEZ Mundra, Kutch Gujarat-37042, a Mundra SEZ Unit. The declared description of the goods in the said import consignment was 'Iraqi Wet Dates' classified under HS Code 08041020 and imported through total 03 (40 ft) containers bearing No. MSCU8982019, INKU6680930 and MEDU8092475. The said import consignment was to be cleared for home consumption into India.

2. Acting upon intelligence, the import consignment covered under Bill of Entry No. 1003513 dated 20.02.2023 was put on hold by the DRI and examination of the goods was carried out under Panchnama dated 13/14.03.2023 at M/s. Fast Track CFS Pvt. Ltd., APSEZ, Mudra. The details of the import consignment are as follows,

Bill of Lading No.	OPSL/JEA/MUN-82/23 dated 16.02.2023			
Shipper	King Distribution FZC. PO Box 31012, Ajman, UAE			
Invoice No.& Dt.	KINGS/0012/2023 dated 07.02.2023			
Importer & IEC	Raj International, F 64 Mezzanine Floor APMC Masala market-1, Phase-2, Sector-19, Vashi- Turbe, Navi Mumbai Muni. Corp.(Thane Zone-4), 400705 ( IEC- 0399016481)			
B/E & Dt.	1003513 dated 20.02.2023			
SEZ Entity	Fast Track CFS Pvt. Ltd. (SEZ Mundra) Plot No.3, Block-C, Sector-11, APSEZ Mundra, Kutch Gujarat-370421			
Notify Party	1 <sup>st</sup> Empezar Logistics P.Ltd., Road No.11/B, Sector 11, Mundra SEZ India, 370421(Port Code INAJM6) 2nd Notify Party: Yaaqoub Hamdan Foodstuff Trading Co. LLC. Po BOX 64561 AL Ras Deira, Dubai, UAE			
Declared description of the goods declared	7500 cartons Iraqi Wet Dates Crop 2022 HS Code: <b>08041020</b> - Consumables			
Assessable Value INR	<b>2220515.39</b>			
container	No.	Seal No.	Packages declared	Nt.wt. In M.ton
1	MSCU8982019	563982	2500	25
2	INKU6680930	563983	2500	25
3	MEDU8092475	563981	2500	25

3. During examination of the import consignment, it was noticed that the containers were laden with cartons of around 10 kg each with two types of cargo. Initial three rows comprised of yellow colored box having on printed markings of '**Zahidi dates**' on top of each box and '**Al-Khayma Dates**'. Behind the said three rows there were different green colored cartons of the same size albeit having printed markings of '**Khayma dates**' on top of the each box and with pp tapes around, which were found stuffed with **Areca Nuts/Betel Nuts in Splits/Mix and Whole** with weight range from 8 kg to 13 kg each. The

summary of the goods found during examination as are summarized as under;

Container No.	Weight of Empty Container	Weight of Wet dates (including pkg. material)	Net Weight of Wet dates (Excl. pkg. material weight 0.5 Kg/Box)	Weight of Areca Nuts/Betel Nuts (including pkg. material)	Net Weight of Areca Nuts/Betel Nuts (Excl. pkg. material weight 0.5 Kg/Box)
MSCU8982019	3790 Kgs	5310 Kgs/ 501 Boxes	<b>5059.5 Kgs</b>	18440 Kgs/ 1971 Boxes	<b>17454.5 Kgs</b>
INKU6680930	3850 Kgs	5310 Kgs/ 505 Boxes	<b>5057.5 Kgs</b>	15820 Kgs/ 1556 Boxes	<b>15042.0 Kgs</b>
MEDU8092475	3810 Kgs	5210 Kgs/ 493 Boxes	<b>4963.5 Kgs</b>	21810 Kgs/ 1982 Boxes	<b>20819.0 Kgs</b>
		Total	<b>15080.5 Kgs</b>		<b>53315.5 Kgs</b>

Whereas, the Areca Nuts/Betel Nuts were found concealed in the import consignment of declared goods 'Iraqi Wet Dates'. The above quantity of 53.31 MT Betel Nuts/ Areca Nuts whole/splits, (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 of USD 14026/PMT, as per the applicable Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) 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 rendered the whole import consignment liable for confiscation under the provisions of the Customs Act, 1962. Accordingly, the said import consignment placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 14.03.2023 and handed over the goods to the representative of M/s. Fast track CFS, Mundra SEZ under Supratnama dated 14.03.2023.

**4** Whereas, during investigation of the case search at the following premises were carried;

- i. Search was carried out at the premises of CB firm M/s Ashapura Shipping Agency, Office No.41/42, First Floor, GMA Building, Ward No.12/B, Gandhidham under panchnama dated 13.03.2023, who facilitated M/s Raj International by arranging M/s Star Marine Service Company for filing Bill of Entry on behalf of M/s Raj International at M/s. Fastrack CFS. During the search relevant records were resumed. It was informed by Sh. Parth Bhanushali that (a) One Mahbub of Mumbai was proprietor of M/s Raj International, Importer. He further informed that they had handled one more consignment of the said importer in the past also which was covered under B/E 1001031 dated 19.01.23; that the declared description of the goods of the said import consignment was Iraqi Wet Dates.

- ii. Search was conducted under Panchnama dated 14.03.2023 drawn at the premises of M/s Raj International, Shop No-64, Office No-1, Mezzanine Floor, A.P.M.C. Masala Market-I, Phase-I, Sector-19, Vashi, Navi Mumbai and visit note dated 14.03.2023 at office no-208, central facility building, 2Nd floor, A.P.M.C market-I, Phase-2, Sector-19, vashi, Municipal Corporation(Thane Zone-4), Maharashtra-400705.
- iii. Also, search were conducted at M/s Akash Trading Co, and M/s Adarsh Trading, Palitana, Gujarat on 16.03.2023 and the mastermind Shri Abbas was not found.
- iv. Although a primary statement of Mr. Abbas was recorded at DRI, Ahmedabad, but thereafter various Summons were issued to Mr. Abbas to tender his statement and to provide the details/documents related to the purchase of goods by M/s. Akash Trading Co. and M/s. Adarsh Trading from M/s. Raj International, however, he did neither turned up for his statement nor provided the desired details/documents. Therefore, the search was carried out at the residence premise of Shri Abbas Hariyani vide panchanama dated 02.08.2023 and he was not found there.

**5.** The investigation could not be completed in the stipulated time period of six months from the date of the seizure of goods due to unforeseen circumstances. The competent authority vide letter dated 12.09.2023 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.

**6. During investigation, Statements of following persons were recorded:**

**6.1 Statement of Sh. Mahbub Usman Vidha, S/o Sh. Usman Vidha Proprietor of M/s Raj Intnl. was recorded on 15.03.23 wherein he *inter alia* admitted that,(RUD No. 12)**

- He started his firm M/s Raj International (IEC:039901648) in year 1999. He is the sole proprietor of said firm.
- They are engaged in business of dry fruits since year 1999. The main commodities are Anjeer (figs), Dry resins, Apricot, Almonds, wet dates and pistachios. They mainly import Anjeer (figs), Dry resins, Apricot, Almonds and pistachios from Afghanistan and Iran. They also buy and sell dry dates from local market in India.
- In Afghanistan their main supplier is M/s M. Shah Limited (Kandhar) and M/s Wali Bari Limited (Kandhar). We have been working with them since 2011. They mainly import our goods through JNPT (Nava Sheva) Mumbai and through Wagha border via land route from Pakistan.
- A case was booked against his firm M/s Raj international in year 2008. It was a valuation issue, the case was settled as they deposited the differential duty. He did not remember the exact details right now but he would submit the case details in 3-4 days.
- Till year 2014 they used to import 2-4 containers of wet dates yearly from Iran but they discontinued because there was huge possibility of spoiling of the dates in situation like reefer malfunction etc. They started importing Wet dates again in January 2023 only for their client Mr. Abbas Haryani (Mob: 9426271778, 9033789746) and as his knowledge he owns 2 companies M/s. Akash Trading Company and M/s. Adarsh Trading Company of Palitana near Bhavnagar, Gujarat.

- They imported 3 containers of Iraqi wet dates from Dubai (U.A.E.) on behalf of Mr. Abbas Haryani (9426271778) under Bill of entry no. 1001031 dated 19/01/2023 in container no.OOLU8386900, ECMU9683184 and MLCU9051949. The cargo was imported in M/s Empezar Logistics Pvt Ltd at Mundra sez.
- He first met Mr. Abbas Haryani owner of M/s Akash Trading Company in year 2019, Shri Abbas contacted him at his office in Mumbai. Shri Abbas met him with reference of one Mr. Hiten Bhai (broker). Shri Abbas needed buyer for dry dates so he helped him to sell dry dates in Mumbai Market. Since then they remain in constant touch over phone. Shri Abbas told him that he also owns a firm M/s Adarsh Trading situated in Palitana, Bhavnagar. Mr Abbas contacted him in 2023 asking him about import of Wet dates from Dubai (U.A.E.), he asked me to import Iraqi wet dates on his behalf as he did not had an IEC at that time and there is good margin in selling imported Iraqi wet dates in Indian market. He arranged the supplier for wet dates in Dubai through his relative Mr. Toofail Ashraf (M/s Yaaqoub Amdan foodstuff Trading L.L.C.). Mr. Toofail bought Iraqi wet dates in the market at Dubai and supplied the goods to M/s Kings Distribution FZC. P.O. Box No-31012, AJMAN, U.A.E. as directed by Mr Abbas.
- They had an arrangement according to which Shri Abbas agreed to pay him Rs.2/Kg for importing his goods using his IEC.
- The goods covered under Bill of entry no. 1001031 dated 19/01/2023 were sold to M/s Akash trading Co. (GSTIN-24ACQPH4995M1ZT) of Mr.Hassan Haryani of Palitana, Bhavnagar, Gujarat.
- The invoices and E-way bill of goods covered under Bill of entry no.1001031 dated 19.01.2023 were prepared/generated by his staff Smt. Jayshree Patil on his directions.
- Mr. Abbas Haryani arranged the money from his relatives in Dubai and Mr. Toofail used that money to buy Iraqi wet dates for Mr. Abbas in Dubai. The arrangement was to transfer payment through RTGS in account of M/s Kings Distribution FZC, using bank account of his firm M/s Raj International. Then M/s Kings Distribution FZC will transfer the money in account of Mr. Toofail Ashraf (M/s Yaaqoub Amdan foodstuff Trading L.L.C.) and would gave back money to relatives of Mr. Abbas.
- His commission was to be received through bank account of his firm M/s Raj International HDFC bank account no. (A/c. No. 59244520135565), however he had not received any money regarding this consignment till now.
- On being shown the panchnama dated 13.03.2023 drawn at the premise of M/s Ashapura Shipping Agency he put his dated signature in token of having seeing the same. M/s Raj Trading is supplier of M/s A to Z International (correct one is M/s A & Z International). M/s A & Z is my son-in- law firm and his name Shri Ali S. Sheikh. M/s A & Z International is export firm which mainly deals in export of Tobacco products. Shri Ali S. Sheikh resides at 1001 Retro Avenue, Sector-3, Koperkharna, Navi Mumbai.
- He and Shri Abbas placed the order with the M/s Kings Distribution. He received documents from M/s Kings Distribution FZE, Dubai via courier. He was in contact with person name Mr. Ishaq Murad Mob No.971525224970 of M/s Kings Distribution FZE, Dubai on whatsapp.

Shri Murad sent me documents such as Invoices, B/L, packing list, Country of Origin certificate regarding the import consignment in pdf format on whatsapp.

- He was not aware who had prepared these documents and who are the key persons of overseas supplier M/s. Kings Distribution FZE, Dubai, UAE in respect of consignment covered under Bill of Entry No. 1003513 dated 20.02.2023. He only knew one person Mr. Ishaq Murad Mob No.971525224970 of M/s Kings Distribution FZE.
- The bill of entry no. 1003513 dated 20.02.2023 was filled for clearance of wet dates and Areca Nut imported by his firm M/s Raj International. He agree that they had mis-declared the goods as 75 MTS Iraqi Wet dates whereas the actual goods were 15.08 Mts of wet dates and 53.315 Mts Areca Nut.
- I agree that the Areca Nut was not declared in the Import documents such as Invoices, packing list, Bill of Lading and Bill of entry. The order was placed by Mr. Abbas Haryani and myself with M/s. Kings Distribution FZE, Dubai, UAE. I agree that smuggling of Areca nut is done by concealing them behind the boxes of declared item i.e, Iraqi wet dates is done under Bill of Entry no.1003513 dated 20.02.2023 imported by my firm M/s Raj International.
- The delivery of the imported goods was to be given to M/s Akash Trading Co., darbar Chowk, main bazaar, Palitana, Gujarat-364270 which is proprietor firm of Shri MEHNDIHASAN RAHEMTULLA HARIYANI relative of Shri Abbas .Therefore they chose Mundra port for importing these goods and he knew Shri Ashok Bhanushali of CHA M/s Ashapura Shipping Agency for past 25 years. He talked to Shri Ashok and he told him that their goods would be cleared without any hassle from Mundra sez.
- Mr. Muhammad bhai Palitana is nephew of Mr. Abbas Haryanvi who handles the buisness of Shri Abbas in his absence.
- Shri Abbas Haryani through hawala made a payment of \$25000/- for the import of cargo covered under Bill of Entry No. 1001031 dated 19/01/2023 as informed to him by phone. To follow the procedure of payment for the import made by M/s Raj International Shri Abbas further assured him that on the arrival of the cargo he would make a payment of the cargo in the Current bank Account of M/s Raj International as planned. On receiving the payment in the bank account of M/s Raj International he was supposed to credit the same in the overseas bank account of M/s. Kings Distribution FZE, Dubai, UAE to show the transaction clear and transparent to avoid the Clutches of agency. Shri Abbas has not made any payment of the Cargo imported vide Bill of Entry No. 1001031 dated 19/01/2023 as decided therefore he had not made any payment to the overseas supplier M/s. Kings Distribution FZE, Dubai, UAE. Further, regarding the payment of second consignment vide Bill of Entry no.1003513 dated 20.02.2023 he had not made any payment to the overseas supplier M/s. Kings Distribution FZE, Dubai, UAE.
- Being an importer all the profit and loss occurred during the sale or purchase of goods will be borne by him.
- Mr Ashok Bhanushali suggested using Mundra SEZ for clearance of the cargo who said clearance will be fast and labour is readily available at M/s Empezar Logistics and M/s fast Track warehouse.

- He approached M/s Ashapura Shipping Agency for the clearance of subject goods as he shared a very good relation with Shri Ashok Bhanushali, partner of M/s Ashapura Shipping Agency since last 30 years,
- He had a verbal agreement with Mr. Ashok Bhanushali partner of M/s Ashapura shipping Agency to pay Rs.10000/- per container as agency fees for documentation and clearance of his goods at Mundra sez.
- In the Mid of February he got to know through his Shipper M/s. Kings Distribution FZE, Dubai, UAE that the subject cargo is arriving at Mundra Port.
- When he came to knew that the subject cargo has arrived at Mundra port he contacted Shri Parth Bhanushali s/o Shri Ashok Bhanushali and forwarded him the relevant documents. Further, he instructed him to initiate the process for the clearance of the goods as early as possible.
- He paid Rs.1200000/- through RTGS in account of M/s Ashapura Shipping Agency in mid of February for clearance of said cargo. This amount was to be used for payment towards the Custom duty, CFS expenses, transportation expenses and CB fees and other Misc expenses for the live consignment of wet dates in three containers.
- He stated that he never dealt with Areca Nut/Betel Nut.
- He did not have any such email conversation or Mobile phone conversation to prove that he had no knowledge about smuggling of Areca Nut by concealment with goods under Bill of Entry 1003513 dated 20.02.2023.
- FSSAI is the regular process for the clearance of the food items. All the work related to the FSSAI was looked by M/s Ashapura Shipping Agency. He was not aware how the FSSAI certification was obtained.
- He had FASSAI registration for his firm M/s Raj International since 2008. When they import any edible cargo the samples are examined by FASSAI officers. They renew it in every three years.
- When he came to knew on 25.02.2023 that the DRI had put the cargo covered under Bill of Entry No. On 26.02.2023 on hold for examination he came to Mundra and contacted Shri Abbas who told him that the subject cargo have concealment of Betel Nut/Areca Nut with declared goods Wet Dates. I had informed accordingly to their CHA firm Ashapura Shipping Agency on 26.02.2023 about the same on mobile.
- He did not contacted any agency, Police or Customs House Mundra on knowing that the subject cargo have Betel Nut/Areca Nut concealed with Wet Dates.
- He had read the Panchnama dated 13/14.03.2023 and put his dated signature on seeing the same. He agree that total 53.315 MT of Areca nut/Betel Nut was stored by concealing behind 15.08 MT of Iraqi Wet dates. The cargo was packed in yellow color boxes with printed marking "Khayma Dates". The Areca Nut/Betel Nut was found in the cargo imported by him and the ownership of the goods rest with him as M/s Raj International imported areca nut/betel Nut by concealing the same behind Wet Dates. However, he imported Areca Nut/Betel Nut with the help of Shri Abbas Haryani who gave him lucrative offer who told him about the huge profit could be earn by importing Areca Nut/Betel.
- He stated that he has no knowledge about it, this information can be provided by CHA M/s Ashapura Shipping Agency.

- He was shown his chat with Hang Xang Co. Vietnam and put his dated signature, he made this conversation with the overseas supplier for the import of Betel Nut/Areca Nut or Supari. Wherein he was discussing per ton rates for Supari but unfortunately the deal was not finalized.
- He is familiar with the business of Supari and he is fully aware that there is very high profit in the import of Supari or Betel Nut/Areca Nut if imported by way of concealment.
- Shri Abbas on his request transferred Rs1418000/- to him which in turn he transferred to Shri Ovais, Dubai through Havaala. Shri Abbas also transferred Rs. 1000000/- to Shri Ashok through Angadia. Shri Abbas also confirming that total Rs. 2418000 is being send to him. He do not remember the voice note having icon of supari but as per my knowledge this conversation must be related to import of Supari.
- He had sent the note to Shri Mohammad Bhai who is nephew of Shri Abbas and warning him that the DRI has found concealment of Supari/Areca Nut/Betel Nut and he was at kandla only they might have come to Palitana in their search. Further, I state that Shri Mohammad Bhai Palitana was in his regular contact and handles Shri Abbas business in his absence.
- The individual was requested to listen to and provide an explanation for another audio message previously sent by the speaker to their WhatsApp contact named "Mohammad Bhai Palitana" (phone number: 9033789746) on March 14, 2023, at 7:58 AM. In the audio message, the speaker narrates the following: "Setting bagdi gayio che, rtgs ni mein kahi rakhio che, phono par phone nahi karita mehrabani kari ne, raatein aya badho panchnamo theyo che badhi taqleef mein che."

He conveyed that the plan to import Areca Nut/Betel Nut/Supari through concealment did not go as intended. They informed about the RTGS payment and assured that it will be processed. He also mentioned that they should avoid making regular phone calls, possibly due to concerns about their phone being tracked. The Directorate of Revenue Intelligence (DRI) has seized the consignment and conducted a panchnama (official inventory), which could lead to significant difficulties for them.

- The individual acknowledges having observed Notification No. 09/2023 Customs dated February 15, 2023, and to signify this, they affixed their signature along with the date. In line with the Government of India's Notification No. 09/2023 dated February 15, 2023, it is specified that the minimum value for importing Areca Nut is set at \$14026 per Metric Tonne. The individual is well-informed about the Government's stipulation of a minimum Tariff value for the import of this commodity. The Areca Nut/Betel Nut was imported through concealment with the intention to evade Customs Duty. This decision was made due to the high Duty rate of 110% on Areca Nut and the Tariff value of \$14206 per Metric Tonne, effective from February 16, 2023. Consequently, the Customs Duty for the individual's consignment of Areca Nut would be considerably substantial.

**6.2 Further statement of Sh. Mahbub Usman Vidha, S/o Sh. Usman Vidha Proprietor of M/s Raj Intnl. was recorded on 16.03.23, wherein he stated that, (RUD No. 13)**

- The full and correct name of Mr. Abbas is Abbas Gulamhusen Hariyani but he do not have his residential address.
- He did not have any mobile chat or email regarding this. All the communication done by him and Abbas was verbally on whatsapp call. Shri Abbas offered him to import betel nut and receive it in India and he had taken care of supply of betel nut at dubai.
- It was decided that around Rs. 50/KG expense would occur at Dubai which includes packing charges, Cost and Freight and Documentation Charges. It was decided that the same will be paid to Isaq Murad (Mob No- 97152 5224970), representative of M/s Kings at Dubai through Abbas connection, when he send Invoice amount through RTGS. My share was decided around Rs. 100/ KG (Including Customs Duty and other charges at Mundra) and that amount will be given to him by Abbas in cash when he deliver the Betel Nut/Supari to palitana.
- They have been shown their statement dated 15.03.2023 and have put their dated signature on a token of seeing the same. They misled the facts by stating that they came to know about the concealment of Areca nut/Betel Nut through Shri Abbas on 26.02.2023 to avoid the consequences or legal action by the DRI or Customs Authority under Customs ACT, 1962, as they are the sole importer of subject goods being an IEC holder. Furthermore, they state that they were fully aware of the import of Betel Nut/Areca Nut by way of concealment with Wet Dates from the day they and Shri Abbas started planning to import Areca Nut/Betel Nut by concealment. Shri Abbas approached them around one year ago and stated that he wants to import Areca Nut/Betel Nut as there is a huge profit if the same goods are imported by way of concealment due to the very high Customs Duty. Shri Abbas offered them a very lucrative offer and promised to give a commission of Rs.100/- per KG if they helped him in importing the Areca Nut/Betel Nut. They are familiar with the procedure of import and export as they are regular importers/exporters. Thereafter, they contacted Shri Vijay Mange as they know he was a regular importer of Betel nut/Areca Nut by way of Concealment. Through Shri Vijay Mange, they imported one cargo of 27 MT of Betel Nut/Areca Nut around a year ago. They do not remember the name of the IEC and under which declaration it was imported, as the cargo was directly delivered to Shri Abbas at Palitana. They gained confidence and planned to import goods by way of Concealment in their IEC, as they are regular exporters/importers, so there would not be any doubt in Imports done by their firm M/s Raj international. Therefore, they thought that it would be convenient and easy to import by way of concealment, evading the Customs Authority or other Agency. They planned to import the first consignment of Wet Dates, which also had Areca Nut/Betel Nut in the month of January 2023, and the cargo was imported on their IEC vide Bill of Entry No. 1001031 dated 19.01.2023. The delivery of the complete cargo was made to Shri Abbas at Palitana. Thereafter, they gained some confidence and planned to import the second container having concealment of Betel Nut/Areca Nut. On 25.02.2023, they received a call from Shri Ashok Bhanushali regarding the hold of the containers by DRI, and upon receiving this information, they reached Mundra Port on 26.02.2023. On reaching Mundra Port, they informed about the concealment of Areca Nut/Betel Nut with Wet Dates in the containers held

by DRI.

- He was in contact with Shri Vijay Mange on Mob.No-9892596448. His office is situated near APMC market in Merchant Chamber building in Vashi area of Navi Mumbai. He do not have complete address of his office as he never visited the same.
- He told Shri Ashok about the concealment of Areca Nut/Betel Nut on 26.02.2023 who told him that examination of cargo and investigation will be done by DRI.
- Shri Abbas told him that he had stock Areca nut/ Betel Nut in Free Zone of Dubai for the export of India and he had purchased Areca Nut/Betel Nut locally from Dubai. Hence, as per his knowledge Shri Abbas has invested in the import of subject cargo vide Bill of Entry No. **1001031 dated 19.01.2023 and 1003513 dated 20.02.2023**.
- M/s Raj international prepared the eway bill for the movement of the cargo imported vide Bill of Entry No. 1001031 dated 19.01.2023 from Mundra Port to Palitana. Further, eway bills for the movement of the goods were prepared by M/s Akash Trading from Palitana.
- Shri Ashok Bhanushali arranged the transportation of the goods from Mundra Port to Palitana. The Cost of transportation of goods from Mundra Port to Palitana was Rs. 48000/- per truck which also included bringing back empty container to Mundra Port.
- Shri Abbas once told him that the subject cargo is meant for the human consumption and the same it going to be use in pan masala or mithi supari.
- The annual turnover of his firm is approx 5-6 crores from last 3 financial years.
- He want to state that, abbas had invested all the money for the Importation of Betel Nut into India. My share was decided around Rs. 100/ KG (Including Customs Duty and other charges at Mundra) and that amount will be given to me by Abbas in cash when I deliver the Betel Nut/Supari to palitana. However, Only Invoice amount will be added to my firm's turnover.
- As the cargo was already in hold by DRI there was no way to seek amendment in Bill of Entry/IGM.
- He read the panchnama and visit note dated 14.03.2023 and put his counter sign for authenticating the same. He had sold the office no-208, central facility building, 2nd floor, A.P.M.C market-I, Phase-2, Sector-19, vashi, Municipal Corporation (Thane Zone-4), Maharashtra-400705 in Year 2017. Since then, they have been running their firm at Shop No-64, Office No-1, Mezzanine Floor, A.P.M.C. Masala Market-I, Phase-I, Sector-19, Vashi, Navi Mumbai.
- He knew Shri Abbas and his nephew Shri Mohammad other than this he did not knew any other associates of Shri Abbas.
- I have been shown the photographs and put my dated signature in token of seeing the same. The photograph shown to me is Shri Abbas Gulamhusen Hariyani.
- The cargo was purchase by Mr. Abbas through his connection in Dubai and he did not have knowledge about the actual supplier of Areca Nut.
- As per his knowledge no documents were prepared for the purchase of Areca Nut. The grades were finalized by Mr. Abbas only.
- No processing was to be done either on Areca Nuts or Wet dates as they

were to be sold in the same condition as imported.

- They used the same modus operandi in the earlier consignment of Wet dates imported vide Bill of entry No.1001031 dated 19.01.2023.
- He had visited Dubai, Saudi Arabia, Malaysia, Thailand, Bahrain, Doha, Sri Lanka and Pakistan and Afghanistan for business purposes. His last visit was to Dubai from 22.02.2023 to 25.02.2023 for attending food festival at Dubai. He tried meeting Mr. Isaq Murad of M/s Kings but as he was not available. He could not meet him. He met his brother Mr. Ashraf Vidha.
- He had visited Pakistan 4 times in past, his last visit was in Year 2015. He had some relatives in Pakistan from his mother side. The purpose of his visits was business only.

**6.3 Statement of Sh. Ashok Damji Bhanushali, Proprietor of M/s Ashapura Shipping Agency was recorded on 21.03.23 (RUD No. 14), wherein he stated that,**

- He had completed metric education in Mumbai in the year 1984. He had passed an exam under CBLR in the year 1994.
- He owns three cars: a Toyota Innova (GJ12 BR9444), Hyundai Creta (GJ12DA 0970), and Maruti Swift (GJ12CP9444).
- He joined their family business of forwarding and clearing in the year 1984-85 at M/s. Damji Dhirao and Sons, Mumbai. He worked in Mumbai until 1987 and then moved to Gandhidham to establish a branch office for M/s Damji Dhirao and Sons. In 1993, they started a CHA firm named M/s Ashapura Shipping Agency in partnership with a friend, Shri Viral Thakkar. Afterward, their brother Shri Mohanbhai Bhanushali and wife Smt. Minal Ashok Bhanushali joined the firm as partners in different years. The individual handles various tasks related to M/s Ashapura Shipping agency, including client management, transportation arrangement, and customs clearance documentation. They are also involved in marketing for the firm.
- The firm employs 10 individuals. Shri Piyush Mali (documentation), Shri Bharat Bhanushali, Shri Umesh Parwani (documentation), Rajesh Charan (Office boy), Dilip Charan (Field Boy), Shri Pradeep (Driver), and Shri Parth Bhanushali assist in daily business operations. Shri Kamlesh, Shri Jigar, and Shri Kashyap Thakkar manage the Mundra Office.
- The firm primarily deals with goods such as Rice, Sugar, Tobacco, Talcum Powder, Color Pigments, and Pomegranate in the export sector. Main parties they represent include M/s Renuka Sugar, M/s Green Exim, M/s Dinesh Jagdale, and M/s Agachya Engineering (for import machinery).
- Shri Bharat Bhanushali prepares the documents related to Import cargo and files the Bill of Entry using the allocated password. Shri Bharat Bhanushali does not possess power of attorney and has not cleared any examination under CBLR 2013/2018.
- The firm requires a self-attested copy of PAN Card, IEC Certificate, GSTIN Registration Certificate, address proof, Bank Details, and Signature verification from Bank for KYC. The firm generally takes up work for importers based on references from trusted sources. They verify the importer's genuineness through self-certified documents issued by Government Departments.
- The individual had a long-standing relationship with Shri Mahbub Usman Vidha, the proprietor of M/s. Raj International. This relationship

developed over 20 years, starting with assisting in insurance claims for a cargo loss. Subsequently, Shri Mahbub Usman Vidha provided references for export-related work, leading to handling various shipments for his firms.

- The firm cleared 3 containers of Iraqi wet dates imported by M/s. Raj International through Mundra Port in January 2023 under Bill of Entry No-1001031.
- M/s. Empezar Logistics Pvt Ltd filed Bill of Entry No.1001031 dated 19.01.2023, and M/s. Fast Track CFS Pvt Ltd filed Bill of Entry No.1003513 dated 20.02.2023 on behalf of M/s. Raj International, based on documents provided by M/s. Ashapura Shipping Agency.
- The delivery of the goods covered under Bill of Entry No. 1001031 was given to M/s. Akash Trading Co., Palitana, Bhavnagar, Gujarat.
- Shri Mahbub Usman Vidha directed the arrangement of transportation for the cargo, and the payment of Rs. 44,000 per container was made to M/s. Active Cargo through RTGS. The cargo was transported in the same containers in which it was imported, placed on trucks.
- He stated they are not aware of the norms followed in SEZ for DTA clearance of import cargo and mentioned that details could be obtained from M/s. Star Marine Service Co.
- The individual mentioned that neither they nor anyone from their firm attended the examination of the cargo, as it was handled by M/s. Star Marine Service Co.
- The individual relied on the documents provided by Shri Mahbub Usman Vidha for finalizing the checklist and correctness of details, including classification.
- No, the individual did not send the checklist for approval before filing the Bills of Entry, citing a long-standing trusted relationship with the importer.
- The individual received Rs. 11,30,000 through RTGS for the first shipment and Rs. 12,00,000 for the second shipment. The payments were used for various expenses related to custom duty, CFS charges, cargo handling, transportation, and other miscellaneous expenses.
- The individual was present during the examination of the cargo under Bill of Entry No. 1003513 dated 20.02.2023 and observed the presence of concealed areca nut/betel nut.
- The individual was informed by Mr. Ismail Jat on 25.02.2023 that the cargo was put on hold by DRI for examination. They informed Shri Mahbub Usman Vidha and asked him to come to Gandhidham to address the situation.
- The individual admitted that there was an error in the E-way bill and clarified that the delivery was indeed intended for Palitana, Bhavnagar, Gujarat. They did not have copies of bills from M/s. Active Cargo at the moment.
- The individual stated they did not have this information presently but would provide the copies at a later date as specified.

**6 . 4 Statement of Sh. Ashok Damji Bhanushali, Proprietor of M/s Raj Intnl. was recorded on 23.03.23(RUD No. 15), wherein he stated that**

- He was informed by Shri Mahbub Usman Vidha of M/s Raj International (IEC:039901648) through a phone call and the import documents were sent to him on WhatsApp (9687777728) by his son Parth Bhanushali on

13/14.02.2023. The import documents were subsequently forwarded via email to M/s Star Marine Service Co. He also presents printouts of the email conversation with M/s Star Marine Service Co. as evidence.

- In response, he states that M/s Star Marine Service Co. requested him to change the 01st Notify Party from Empezar Logistics Pvt Ltd to M/s Fast Track CFS Pvt Ltd. He suggests that M/s Star Marine Service Co. should be able to provide more information regarding the reasons behind this change.
- He informed Shri Mahbub Usman and requested him to change the 01st Notify party in the Bill of Lading from Empezar Logistics Pvt Ltd to M/s Fast Track CFS Pvt Ltd.
- Shri Mahbub Usman Vidha did inquire about the reason for changing the name of the Notify party. He informed Shri Mahbub Usman Vidha that M/s Star Marine Service Co. had decided on this change, and he considered such alterations to be routine.
- He contacted Shri Mahbub Usman Vidha on 25.02.2023 to inform him that the cargo under Bill of entry no. 1003513 was placed on hold by DRI for examination. He urged Shri Mahbub Usman Vidha to come to Mundra immediately to address the matter. Shri Mahbub Usman Vidha arrived in Mundra on 26.02.2023 and stayed at Hotel Fern Residency. A meeting took place on 27.02.2023, and both of them visited the Customs Office of Mundra SEZ to inquire about the clearance status. They met with a Customs superintendent, whose name he does not recall, who informed them that the cargo would be cleared only after examination and obtaining a NOC from DRI authorities.
- M/s Active Cargo Movers raised a bill amounting to Rs. 147840/- (44000/- per Truck) addressed to his firm, M/s Ashapura Shipping Agency. The transportation was arranged for the goods in container numbers OOLU8386900, ECMU9683184, and MLCU9051949, imported under Bill of Entry No. 1001031 dated 19.01.2023 by M/s Raj International. This arrangement was made based on the instructions of Shri Mahbub Usman Vidha, the proprietor of M/s Raj International. He provides a copy of the bill raised by M/s Active Cargo Movers as proof of the transaction. He also states that their firm charged M/s Raj International Rs. 48000/- per container, out of which they received a commission of Rs. 4000/- per truck.
- The cargo was delivered to M/s Akash Trading Co., located at Darbar Chowk, Main Bazaar, Palitana.
- He clarifies that he does not possess any information about the owner of M/s Akash Trading, Palitana. He only received information from Shri Mahbub Usman Vidha of M/s Raj International that the buyer of goods covered under Bill of Entry No. 1001031 dated 19.01.2023 is based in Palitana. He asserts that he has never had any personal contact with any individual from M/s Akash Trading, Palitana.
- He explains that the transporter, M/s Active Cargo Movers, was instructed to directly contact the delivery agent of M/s Star Marine Service Co. He received the mobile number of the delivery agent from Shri Ismail Jat of M/s Star Marine Service Co., and he forwarded the same to Shri Jiten (Mobile No. 9909944119) of M/s Active Cargo Movers. Additionally, he states that he received the mobile numbers of the truck drivers, which he subsequently shared with Shri Mahbub Usman Vidha. However, he does

not recall the specific mobile numbers of the drivers as he did not directly communicate with them.

- He confirms his awareness of the procedure for obtaining FSSAI clearance for Import cargo. He explains that FSSAI clearance is required to certify that the imported goods are suitable for human consumption. As part of the process, officers from FSSAI collect samples from the imported cargo, which are then sent to a laboratory for testing. The cargo can only receive clearance from Customs authorities once a report is received from FSSAI indicating that the goods meet the required standards.
- He confirms that he has brought the requested details. He proceeds to list the account holder names, bank names, branch names, and account numbers for both M/s Ashapura Shipping Agency and his personal accounts.
- He disputes Shri Mahbub Usman Vidha's statement dated 15.03.2023, asserting that Shri Mahbub Usman Vidha did not convey any information about the concealment of Betel Nut/Areca Nut behind the declared goods of Wet Dates. He maintains that Shri Mahbub Usman Vidha assured him that there was a misunderstanding and denied any wrongdoing. He claims that he only became aware of the concealment during the examination conducted by DRI officers at Fast Track CFS Pvt. Ltd, Mundra, as recorded in the Panchnama dated 13/14.03.2023.
- He confirms that he does not know Shri Abbas Hariyani and has never had any interaction with him, whether in person or over the phone.
- He denies receiving any money from Shri Abbas and asserts that he is not acquainted with anyone by the name of Shri Abbas. He clarifies that he received Rs. 1130000/- through RTGS on 20.01.2023 for the first shipment. This amount was used to cover expenses related to customs duty, CFS charges, cargo handling charges, transportation, and other miscellaneous costs. He received another sum of Rs. 1200000/- on 23.02.2023 for the clearance of the second shipment. Similarly, this money was intended to cover various expenses related to the cargo clearance process.
- He confirms that he does not know Shri Vijay Mange and has never had any interaction with him, whether in person or over the phone.
- He states that he is unaware of any concealment of Areca Nut in the first shipment, as his involvement was limited to forwarding import documents from M/s Raj International to M/s Star Marine Service Co. He explains that his firm does not handle SEZ cargo work and only undertook this task on behalf of M/s Raj International due to his long-standing association with Shri Mahbub Usman Vidha. He expresses surprise and disappointment at the alleged attempt to smuggle Areca Nut behind the declared cargo of Iraqi Wet Dates.
- He confirms that he has no contact or relationship with M/s Kings Distribution FZE.
- He explains that the agency charges for Import cargo typically range from Rs. 8000/- to Rs. 12000/- per container. The exact amount can vary based on the quotes provided by other CHA firms.
- He confirms that Shri Mahbub Usman Vidha of M/s Raj International never made any offer to him regarding the clearance of any cargo other than the goods declared in the import documents.
- He clarifies that his firm acted as intermediaries for the mentioned

consignments imported by M/s Raj International. He emphasizes that his firm did not prepare or file the Bill of Entries for these imports; that responsibility was undertaken by M/s Star Marine Service Co. He asserts that the role of his firm was limited to forwarding the import documents from M/s Raj International to M/s Star Marine Service Co.

- He confirms that his firm has never worked as a Customs House Agent for any client in the clearance of Import cargo goods declared as Areca Nut.

**6.5 Statement dated 24.03.2023(RUD No. 16) of Shri Ismail Jat of M/s Star Marine Service Co. was recorded under Section 108 of the Customs Act, 1962.**

- He holds a 12th-grade certificate from the Gujarat Board, acquired in 1986. Additionally, the individual has successfully passed an exam as a Foreign Going Master for operating Tanker Ships. However, there are no records of the individual passing any exam related to CHA/Custom Broker License.
- He owns a fleet of forty transport trucks, along with the following vehicles: a Toyota Fortuner with registration number GJ16CS 6276, a BMW 5 series with registration number GJ06 FC 7040, and a Maruti Suzuki Ciaz with registration number GJ12 DG 5268.
- He was previously employed as a Ship Master at M/s Naseem Al Barari. In 2004, the individual transitioned to full-time work at M/s Star Marine Services Co. The latter firm operates as a shipping agent and provides stevedoring services. While M/s Star Marine Services Co. handles customs-related documentation, it does not hold a Custom Broker license. The individual is responsible for various aspects of M/s Star Marine Services Co., including client management, transportation coordination, and customs clearance documentation. The individual is also involved in marketing efforts for M/s Star Marine Service Co., Mundra.
- M/s Star Marine Service Co. employs approximately 25 individuals. The team includes Shri Sultan Mandhara (documentation), Shri Tausif Noor Mohammad Mandra (Field agent), Shri Jigar C. Dave (Delivery orders & documentation), and Shri Santosh Kasturia (Accounts). The firm's office is located at Shop No-17, Avenue Park, Swapna Plaza, Adani Port Road, Mundra-Kutch-370421.
- M/s. Star Marine Services Co. is involved in preparing and filing Electronic General Manifest (EGM) and Import General Manifest (IGM) documents with Customs authorities on behalf of clients. The firm also handles loading/unloading tasks for clients' country crafts at Old Mundra Port. For clients importing cargo in Mundra SEZ, the firm manages documentation and regulatory requirements like FSSAI and PPQ. Notably, the firm's primary import parties include HR & Sons, Jamnagar, M/s Vasani Cold Chain, Rajkot, M/s RK Impex, and RK Traders Surat. Regarding exports, the main parties are M/s Jindal Arya, Delhi, and Navya Food, Delhi.
- Shri Jigar C. Dave is responsible for preparing documents related to Import cargo, particularly the Goods Manifest (GM). The firm also handles Bills of Entry for clients importing goods in SEZ, utilizing software provided by M/s Empezar Logistics Pvt Ltd and M/s Fast Track CFS Pvt Ltd. The bill of entries are then submitted by SEZ warehouse employees using their Digital Signatures. The firm manages loading/unloading of

cargo for clients in SEZ and collaborates with M/s Empezar Logistics Pvt Ltd and M/s Fast Track CFS Pvt Ltd for space.

- Yes, the firm has executed a contract/agreement, although it hasn't been physically signed. The agreement from M/s Empezar and M/s Fast Track was received via email and accepted through a confirmation email sent in response. The exact conversation details may not be available at the moment, but the documentation will be provided by Monday, 27.03.2023.
- In M/s Empezar, he initially contacted Shri Akash Desai, but the current point of contact is Shri Martin. For M/s Fast Track, the individual dealt with Shri V. Radha Krishnan Iyer.
- The procedure involves the use of a Sub-Id provided by M/s Empezar Logistics Pvt Ltd and M/s Fast Track CFS Pvt Ltd. using this Sub-Id, the firm logs in to the system and prepares the necessary documents. After preparation, the CFS (Container Freight Station) personnel digitally sign the documents and forward them to Mundra SEZ for Customs clearance.
- M/s Empezar and M/s Fast Track share responsibilities for Customs clearance. The firm prepares the documents, which are then digitally signed by M/s Empezar and M/s Fast Track before being submitted to Mundra SEZ for Customs clearance.
- The firm collects self-attested copies of various documents from the importer as part of the KYC requirement. These documents include the PAN Card, IEC Certificate, GSTIN Registration Certificate, address proof, Bank Details, and Signature verification from the Bank. The firm then forwards these documents to the concerned SEZ warehousing unit.
- Generally, the firm only takes up work for importers who come recommended by trusted individuals. The genuineness of the importer is verified based on self-certified documents provided by the importer or their representative, which are issued by Government Departments.
- The individual has known Shri Ashok Damji Bhanushali of M/s Ashapura Shipping Agency for the past 10-12 years. The individual used to work with M/s Damji Dhirao & Sons and Shri Ashok Damji Bhanushali was a partner in that firm. Customs clearance work for various parties was handled by M/s Damji Dhirao & Sons due to the lack of a CHA license. However, when the faceless assessment system started in November 2020, the individual shifted work to Mundra SEZ. As a result, the business relationship with M/s Damji Dhirao & Sons ceased. In January 2023, Shri Ashok Damji Bhanushali approached the individual to handle customs clearance for an import shipment of wet dates for M/s Raj International. This led to the work arrangement for M/s Raj International.
- M/s Star Marine Service Co. has handled two import consignments for M/s Raj International. These were covered under Bill of Entry No. 1001031 dated 19.01.2023 and Bill of Entry No. 1003513 dated 20.02.2023.
- The Bills of Entry were prepared by Shri Tausif Noor Mamad and Shri Sultan Mandhara, employees of M/s Star Marine Service Co., using software provided by the respective SEZ warehouses. These bills of entry were based on the import documents provided by Shri Ashok Bhanushali on behalf of M/s Raj International. The entries were verified by SEZ staff and digitally signed before submission to SEZ authorities for further processing.
- Shri Sultan Mandhara, an employee of M/s Star Marine Service Co., was

present at the time of examination of the cargo covered under Bill of Entry No.1001031 dated 19.01.2023.

- The transportation for the goods was arranged by Shri Ashok Damji Bhanushali of M/s Ashapura Shipping Agency, not by the individual. The individual declined the request for transportation as their trucks were used only for container transportation within Mundra port.
- The cargo was transported in the same containers (Nos. OOLU8386900, ECMU9683184, and MLCU9051949) in which it was imported. These containers were loaded onto trucks for transportation after clearing customs at Mundra SEZ.
- The specific receiver of the cargo is not known to the individual. The only information available was that the cargo was to be delivered to Palitana, arranged by Shri Ashok Bhanushali of M/s Ashapura Shipping Agency.
- The individual had a prior interaction with Shri Mahbub Usman Vidha around three years ago. Shri Mahbub Usman Vidha had inquired about the firm's services for handling imported dry dates, which the firm doesn't typically handle.
- They paid the duty amount of Rs. 8,14,084/- for goods covered under Bill of Entry No. 1001031 dated January 19, 2023, because Shri Ashok Bhanushali instructed them to make the duty payment on behalf of the importer. They issued invoices totaling Rs. 9,32,736/- to M/s Ashapura Shipping Agency for cargo handling services under Bill of Entry No. 1001031 dated January 19, 2023, and M/s Ashapura Shipping Agency paid them approximately Rs. 7 Lakhs. This payment was intended for covering customs duty, CFS charges, cargo handling charges, and other miscellaneous expenses. The balance amount of Rs. 2,32,736/- is still pending to be received from M/s Ashapura Shipping Agency. They mentioned that they will provide copies of the bills within 2 working days.
- He requested the change in the 01st Notify party in the Bill of Lading to switch from Empezar Logistics Pvt Ltd to M/s Fast Track CFS Pvt Ltd due to the better facilities offered by M/s Fast Track CFS Pvt Ltd.
- He stated that they did not have any contact with the importer M/s Raj International. They mentioned receiving all import-related documents via email from M/s Ashapura Shipping Agency. The individual sent a checklist for approval to M/s Ashapura Shipping Agency through an email dated 20.02.2023 for cargo covered under Bill of Entry No.1003513 dated 20.02.2023. They also provided a printout of the email dated 20.02.2023, which was signed by them.
- He commented that they were not present during the examination of the subject goods imported under Bill of Entry No.1003513 dated 20.02.2023, which was documented in the Panchnama dated 13/14.03.2023. They mentioned that Shri Sultan Mandhara, an employee of their firm, was present for the examination.
- He revealed that they were informed on 25.02.2023 around 11.45 AM by Custom Authorities that the cargo covered under Bill of Entry No. 1003513 dated 20.02.2023 was placed on hold for examination by DRI officers. They stated that they contacted Shri Ashok Bhanushali of M/s Ashapura Shipping Agency to inform him about this development. They clarified that they did not have the contact number of any person from M/s Raj International.
- He acknowledged their awareness of the procedure for obtaining FSSAI

clearance for imported cargo. They explained that FSSAI clearance certifies that goods are fit for human consumption. They detailed that FSSAI officers collect samples from the cargo for testing, and only after receiving a clearance report from FSSAI, the cargo is cleared by Customs authorities.

- He confirmed that they did not know Shri Abbas Hariyani of M/s Akash Trading, and they had never met him or spoken to him on the phone.
- He stated that they did not know any person by the name Vijay Mange, and they had never met him or talked to him.
- He responded that they were not aware of any concealment of Areca Nut in the first shipment, as the cargo had been examined and cleared by SEZ Customs Authorities.
- He clarified that they had no contact or relation with M/s Kings Distribution FZE, the Dubai Shipper of the cargo imported by M/s Raj International covered under Bill of Entry No. 1001031 dated 19.01.2023 and Bill of Entry No. 1003513 dated 20.02.2023.
- He explained that they generally charge Rs. 4000/- to 6000/- per container for import cargo from their clients, with the price fluctuating based on the quotes from other CHA firms.
- He elaborated on their role in the import of cargo pertaining to M/s Raj International. They stated that they were assigned the task of clearing the subject cargo from Mundra Sez by Shri Ashok Bhanushali. They were responsible for FSSAI clearance, PPQ clearance, and Customs clearance through Fast Track CFS, with M/s Fast Track CFS as the notify party. They added that Shri Ashok Bhanushali handled shipping line-related tasks.
- He mentioned not being aware of who arranged the shipping line for the subject cargo import under Bill of Entry No. 1001031 dated 19.01.2023 and Bill of Entry No. 1003513 dated 20.02.2023. They noted that Shri Ashok Bhanushali paid the shipping line charges and provided the Delivery order
- He stated that they would provide the mail correspondences between their firm, M/s Star Marine Service Co., and M/s Ashapura Shipping Agency, with dated signatures.
- He clarified that the Importer/IEC holder did not approach them after the subject consignment was placed on hold. They informed Shri Ashok Bhanushali, who mentioned that he would go to Customs for the examination of the cargo.

#### **6.6 Statement dated 27.03.2023(RUD No. 17) of Shri Geeten Dharamshi, supervisor of M/s Active Cargo Movers was recorded under Section 108 of the Customs Act, 1962**

- M/s. Active Cargo Movers was a partnership firm of two partners, namely Shri Zaver Chand A. Khona and Shri Harendra M. Karia. The office of M/s Active Cargo Movers was situated at Plot no-59, Ground Floor, Sector-1A, Behind Municipal Market, Gandhidham-370201. A branch office was also established at Plot No-147, DHRUB, GIDC, Gujarat-370421. Shri Zaver Chand A. Khona and Shri Harendra M. Karia operated from the Mundra office, overseeing all operations from that location.
- M/s Active Cargo Movers provided transportation services through

trucks/lorries, facilitating the loading of goods from Mundra Port and Gandhidham, subsequently delivering them across India based on the clients' requirements. Different clients would approach the partnership firm telephonically to book trucks/lorries for loading goods, often securing these bookings for cargo transportation through Customs House Agent (CHA) firms. The responsibility of booking trucks/lorries for container loading was undertaken by Shri Zaver Chand A. Khona and Shri Harendra M. Karia, partners of M/s Active Cargo Movers.

- The partnership firm owned approximately 150 trucks, some of which were contracted by MICT Terminal and Exim Yard CFS at Mundra port. Notably, 75 trucks were exclusively employed by MICT Terminal and Exim Yard CFS for transferring cargo between the terminal and CFS at Mundra port. Shri Harendra M. Karia received a monthly salary of Rs. 30000/- in cash from M/s Active Cargo Movers. The firm received work orders through email and WhatsApp communications.
- Sir, in case of Import cargo, we send our Trucks at the concerned CFS as asked by our client. Mostly a representative/Employee of CHA who had made the booking meet our truck drivers in front of the CFS and handover Form-6 and Bill of Entry, Invoice, E-way bill. We also provide trucks for transportsations of loaded containers from warehouses and factory premises as per our clients requirements. We only provide transportation services for transportation of containerized cargo.
- On January 28, 2023, Shri Ashok Bhanushali, a partner of M/s Ashapura Shipping Agency (CHA), initiated contact with Shri Zaver Chand A. Khona, a partner at M/s Active Cargo Movers. The purpose of this communication was to request the provision of 3 trucks for the transportation of imported cargo owned by M/s Raj International, located in Mumbai. The cargo was to be transported from M/s Empezar Logistics Pvt Ltd in Mundra to Palitana, Gujarat. Upon receiving this request, Shri Zaver Chand (contactable at Mob No-9825227319) contacted him and then instructed to make arrangements for the transportation of the cargo from Mundra to Palitana. Furthermore, he was tasked with finalizing the transportation fee in consultation with Shri Ashok Bhanushali of M/s Ashapura Shipping Agency. M/s Active Cargo Movers and M/s Ashapura Shipping Agency, sharing the same building (GMA Building) in the past. Despite this long-standing connection, Shri Ashok Bhanushali had never previously engaged their services for transportation work. Shri Ashok Bhanushali contacted the narrator, using the mobile number 9825226517, around 11:30 am on January 28, 2023. During this conversation, they successfully negotiated the rental terms for the 3 trucks required for the cargo transportation from Mundra to Palitana. Following the discussion, Shri Ashok Bhanushali informed him that his son, Shri Parth Bhanushali, would be in touch to provide all the necessary documentation needed for the loading process. In response, he assured Shri Ashok Bhanushali that they would arrange the necessary trucks for the transportation of the cargo. To facilitate the communication, he sent the freight details, truck registration numbers, number of truck drivers, and the firm's account number for advance payment via WhatsApp. This message was transmitted at 06:33 PM on January 28, 2023. Shri Parth Bhanusali (Mob

No-9687777728), son of Shri Ashok Bhanushali of M/s Ashapura Shipping Agency sent me copy of Bill of entry no.1001031 dated 19.01.2023 and E-way Bill No. 271541258780, 271541263713, 211541261368 on 28.01.2023 through whatsapp.

- The cargo was delivered to M/s Akash Trading Co. (GSTIN-24ACQPH4995M1ZT) at Palitana, Gujarat.
- On checking the E-way Bills No. 271541258780, 271541263713 and 211541261368, he found out that the place of delivery is mentioned as Thane, Maharashtra-400705, whereas he was asked to deliver the cargo to M/s Akash Trading Co. Palitana as per his discussion with Shri Ashok Bhanushali on phone. So he contacted Shri Parth Bhanushali on phone and told him to make changes in E-way Bill and correct the place of delivery as M/s Akash Trading Palitana. I asked them to change the place of delivery and Shri Parth told me that he will send New E-way Bills and Invoices.
- Shri Parth Bhanushali of M/s Ashapura Shipping Agency sent me copies of New E-way Bills No-251541287478, 291541284749 and 221541289248 and Invoice No-764, 763 and 765 all dated 28.01.2023 at 7.37 PM on 28.01.2023. He produced the copies of the E-way Bills and Invoices with his dated signature for authentication of the same.
- He details of the truck driver as follows

S.No	Truck No.	Driver's Name	Container No. Loaded	Driver's Mob No
1	GJ12BX 9896	Shri Riyaz. F Hala	OOLU8386900	9106451009
2	GJ12AZ 7361	Shri Anil Kumar Satendra Ram	ECMU96831841	9601010074, 8160180741
3	GJ12BY 4252	Shri Jalubha P. Lakha	MLCU9051949	9099302711

He produced the copies of Driving License and Aadhar Card of truck Driver Shri Jalubha P. Lakha signed by me for authentication, he don't have copies of License and Aadhar card for Shri Riyaz. F Hala and Shri Anil Kumar Satendra Ram.

- The containers No. OOLU8386900, ECMU9683184 and MLCU9051949 were laden on trucks for transportation of the cargo.
- On enquiring with one of the driver Shri Jalubha P. Lakha who stated that Wet dates and Supari(Areca Nut/Betel Nut) was unloaded from the containers stuffed with cargo imported vide Bill of Entry No. **1001031 dated 19.01.2023**. My driver told me that two person were there during the unloading of the cargo from the containers and he is not aware of their name. Shri Jalubha P. Lakha told me that wet dates were stored in front of the container and in middle and back the container was found stuffed with Areca Nut/Betel Nut upon unloading.
- The containers were loaded around 10-11 PM on 28.01.2023 from M/s Empezar Logistics Pvt. Ltd, Mundra SEZ.
- He was given Mob No. 9426271778 of Shri Abbas, Bhavnagar by Shri

Parth Bhanushali of M/s Ashapura Shipping Agency to contact Shri Abbas after reaching Palitana and he will handle the delivery of the cargo imported vide Bill of Entry No. 1001031 dated 19.01.2023.

- Shri Ashok arranged the transportation of the above mentioned cargo to Palitana through me. The Mobile number 9909944119 belongs to me and he must have quoted my name wrong. My name is Geeten Dharamshi not Jiten.
- Sir, the truck No. GJ12BY 4252 and GJ12AZ 7361 reached Palitana in evening of 29.01.2023 and made the delivery the very same day. Truck No. GJ12BX 9896 reached on 30.01.2023 and made delivery to M/s Akash Trading at Palitana Mumbai. He don't know the exact location of delivery as after reaching palitana.
- Shri Ashok Bhanushali or **Shri Parth Bhanushali** never contacted us for delivery of any other cargo at Palitana or to some other place.
- All the payments regarding the transporting the goods was received in their Current Account. Shri Ashok Bhanushali credited Rs. 60000/- as advance in their bank account on 30.01.2023 and remaining amount of Rs. 87840/- was received in thier bank account on 24.03.2023. He produced print of screen shot for payment of Rs. 60000/- received by us.
- He did not knew Shri Abbas Hariyani. He never met him or talked to him on phone. Shri Parth Bhanushali son of Shri Ashok Bhanushali told him that the delivery was to be made to Shri Abbas Hariyani at Palitana.
- He did not knew any person by the name Vijay Mange and he never met him or talked to him.
- He did not knew any person by the name Mehbub Usman Vidha and he never met him or talked to him. They only talked to Shri Ashok Bhanushali and Shri PArth Bhanushali regarding the cargo imported vide Bill of Entry No. 1001031 dated 19.01.2023.
- No sir no such instructions were given to me by Shri Ashok Bhanushali or Parth Bhanushali.
- He do not have any knowledge about classification of goods or HSN code of Customs. The E-way Bill and Invoice both were provided to us by Shri Parth Bhanushali of M/s Ashapura Shipping. He can provide the answer for different HSN codes for same goods in E-way Bill no. 251541287478 dated 28.01.2023 and Invoice No.784 dated 28.01.2023.

#### **6.7 Statement dated 19.05.2023(RUD No. 18) of Shri Parth Bhanushali, son of Shri Ashok Damji Bhanushali was recorded under Section 108 of the Customs Act, 1962**

- He did a BBA degree from DNV College, Gandhidham. They do not hold any designation in firm M/s Ashapura Shipping. They have not qualified any exam related to CHA/Customs Broker.
- He does not own any movable or immovable assets.
- He joined their family business of forwarding and clearing in the year 2018 in M/s Ashapura Shipping. They handle work related to firm M/s Ashapura Shipping agency, including handling clients, arranging transportation, and all documentation formalities related to Customs clearance of Import and Export Cargo.
- Their firm has 10 employees. Shri Piyush Mali (documentation), Shri Bharat Bhanushali, Shri Umesh Parwani (documentation), Rajesh Charan (Office boy), and Dilip Charan (Field Boy), Shri Pradeep (Driver), and Shri

Parth Bhanushali help in running the day-to-day business. Shri Kamlesh, Shri Jigar, and Shri Kashyap Thakkar handle the Mundra Office.

- The firm mainly deals in goods like Rice, Sugar, Tobacco, Talcum Powder, color pigments, and Pomegranate. They mainly deal in export items. Their main parties are M/s Renuka Sugar, M/s Green Exim, M/s Dinesh Jagdale, and M/s Maxsun for import of Polyester. They handle all permissible items on behalf of their clients.
- Shri Bharat Bhanushali prepares the documents related to Import cargo and files the Bill of Entry using the allotted password.
- No power of attorney has been given to Shri Bharat Bhanushali, and he has not cleared any examination under CBLR 2013/2018.
- As KYC requirement, the firm calls for a self-attested copy of PAN Card, IEC Certificate, GSTIN Registration Certificate, address proof, Bank Details, and Signature verification from Bank, etc.
- The firm generally does not take up work for importers without references from trusted sources. They verify the genuineness of the importer based on self-certified documents produced by the importer or their representative issued by Government Departments.
- According to the individual's knowledge, their father has known Shri Mahbub Usman Vidha for the past 20 years. They had previously handled Import clearance for wet dates cargo for Shri Bashir Bhai in his firm M/s Bridge Agro. In 2021-22, M/s. Raj International approached them for handling export cargo.
- His father has been acquainted with Shri Mahbub Usman Vidha for the past two decades. Shri Mahbub Usman Vidha had engaged in the export of agricultural products through the former Mundra Port during that period. Roughly 2 to 3 years ago, they facilitated the Import clearance for a consignment of wet dates, which had been imported by Shri Bashir Bhai, Shri Mahbub Usman Vidha's brother, through his enterprise, M/s Bridge Agro. In the year 2021-22, Shri Mahbub Usman Vidha approached the individual's firm to manage the export logistics for his venture, M/s Raj International. This particular export shipment comprised tobacco. Additionally, their firm has been involved in the export of cargo for M/s M.A. Agro and M/s Raj Enterprises, along with A & Z International. These enterprises are affiliated with relatives and familiar associates of Shri Mahbub Usman Vidha, who is the proprietor of M/s Raj International. Their primary focus has been on tobacco exports for M/s M.A. Agro and A & Z International, as well as other connected entities, over the previous two years.
- The Bill of entry no. 1001031 dated 19.01.2023 was prepared by M/s Star Marine Service Co. and filed by M/s Empezar logistics Pvt Ltd, sez and bill of entry no. 1003513 dated 20.02.2023 was prepared by M/s Star Marine Service Co. and filed by M/s Fast Track Cfs Pvt Ltd on behalf of M/s Raj International. The bill of entries were prepared by M/s Empezar Logistics Pvt Ltd and M/s Fast Track CFS Pvt Ltd on the basis of documents forwarded by our M/s Ashapura Shipping Agency to M/s Star Marine Service Co. Afterwards M/s Star Service co. submitted these documents to M/s Empezar Logistics Pvt Ltd and M/s Fast Track CFS Pvt Ltd respectively. The documents including Bill of Lading, Invoice, Packing List, COO certificate, Phyto certificate for clearing of said cargo were sent by Shri Mahbub Usman Vidha of M/s Raj International through whatsapp

on my mobile no. 9687777728.

- All the details related to delivery of said cargo were received through whatsapp on my mobile no. 9687777728. His father arranged the transport for said cargo. M/s Active Cargo was used as transporter and the delivery of the said cargo was given to M/s Akash trading Co. (GSTIN-24ACQPH4995M1ZT), Palitana, Bhavnagar, Gujarat. He handled all the coordination work related to documents with M/s Active Cargo.
- Shri Mahbub Bhai asked his father to arrange for transportation to deliver the cargo at Palitana, Bhavnagar, Gujarat. They paid approx. Rs.44000/- per container to M/s Active Cargo through RTGS on behalf of M/s Raj International for transportation of said goods. They were told by Shri Mahbub Usman Vidha that the cargo is to be delivered at Palitana, Bhavnagar, Gujarat.
- The same containers No. OOLU8386900, ECMU9683184 and MLCU9051949 in which the cargo was imported cargo were laden on trucks for transportation of the cargo.
- He was not aware of norms followed in SEZ for DTA clearance of import cargo. All the arrangements for clearance of cargo from Mundra SEZ was done by Star marine Service Co they can provide all the details.
- Neither did he nor anyone from his firm attended the examination of Cargo under Bill of Entry no.1001031 dated 19.01.2023. The process of examination and clearance was handled by M/s Star Marine Service Co.
- Shri Mahbub Bhai asked his father to arrange for transportation to deliver the cargo at Palitana, Bhavnagar, Gujarat. They paid approx. Rs.44000/- per container to M/s Active Cargo through RTGS on behalf of M/s Raj International for transportation of said goods. They were told by Shri Mahbub Usman Vidha that the cargo is to be delivered at Palitana, Bhavnagar, Gujarat.
- They had relied upon the documents provided by Shri Manbub Usman Vidha. As he was known to my father, so my father trusted him completely and the bill of entry was filed on behalf of documents provided by him as the declared goods were "Iraqi Wet dates" Therefore it was classified under CTH 08041020.
- He did not sent check list for approval before filling bills of entry.
- The financial and payment part is all decided by his father Shri Ashok Bhanusali, as his father is the one who deals with all their clients regarding financial matters. All the payments all handled by his father Shri Ashok Bhanushali and their accountant Shri Naveen Prajapati. He work on the directions given by his father.
- He was not present during the examination of the cargo under Bill of entry no. 1003513 dated 20.02.2023 as he was present at office of their firm M/s Ashapura Shipping. His father Shri Ashok Bhanusali was present at the time of examination of the cargo under Bill of entry no. 1003513 dated 20.02.2023 and he told me that areca nut/betel nut was concealed behind the boxes of declared item Iraqi wet dates.
- He only came to know on 13.03.2023 that the cargo under Bill of entry no.1003513 dated 20.02.2023 was on hold by DRI for examination.
- He agreed that the place of delivery in the E-way Bill No. 271541258780, 271541263713, 211541261368 is mentioned as Thane, Maharashtra. However when Shri Geeten of M/s Active Cargo pointed out this thing to him and asked him to change the delivery address to Palitana, he

contacted Shri Mahbub Usman of M/s Raj International and told him about this mistake, afterwards he sent a new E-way Bill no 251541287478, 291541284749 and 221541289248 and Invoice No-764, 763 and 765 all dated 28.01.2023 on 28.01.2023 and he forwarded the same to Shri Geeten of M/s Active Cargo.

- Shri Mahbub Usman Vidha of M/s Raj International (IEC:039901648) informed him on call and sent import documents on whatsapp(9687777728) on 13/14.02.2023. They forwarded the same documents through email to M/s Star Marine Service Co.
- He did not know the owner of M/s Akash Trading, Palitana but Shri Mahbub Usman Vidha told him that the buyer of goods covered under bill of entry no.1001031 dated 19.01.2023 was from Palitana and also sent him the Mob No. 9426271778 of Shri Abbas, to forward to Truck drivers to contact after reaching Palitana for delivery of the Cargo covered under after reaching Palitana and he would handle the delivery of the cargo imported vide Bill of Entry No. 1001031 dated 19.01.2023.
- He received the numbers of truck drivers from Shri Geeten of M/s Active Cargo and he shared the same with Shri Mahbub Usman Vidha. He did not remember the mobile number of drivers right now.
- He did not know Shri Abbas Hariyani personally, One mobile no. 9426271778 with name Shri Abbas was forwarded to me by Shri Mahbub Usman and I forwarded the same to Shri Geeten and the Truck drivers but I have never met him or talked to him on phone.
- On shown the statement dated 15.03.2023 of Shri Mahbub Usman Vidha in which he said that Rs.1000000/- was sent to Shri Ashok D. Bhanushali by Shri Abbas through Havaala he did not know any knowledge about any such transaction.

**6.8 Statement of Sh. Abbas Hariyani, S/o Sh. Gulam Husain Hariyani Proprietor of M/s Adarsh Trading was recorded on 17.03.2023(RUD No. 19) wherein he *inter alia* admitted that**

- He is a proprietor of M/s. Adarsh Trading, Khatriwad, Khoja Masjid, Palitana 364270. The above firm is in existence since more than last 20 years. M/s. Adarsh Trading is engaged in the trading of Areca Nuts. They purchase whole areca nuts mostly from Mangalore, Karnataka. They also purchase from Depots at Rajkot, Ahmedabad etc. They sell whole areca nuts as well as cut areca nuts also. They have machines for cutting the areca nuts in small pieces of desired size and shape. They have family business of trading of Areca Nut, Tea, Snuff, Tobacco, Bidis etc. In addition to above firm, they have 02 more firms in their family business, running from the same address viz. M/s. Adarsh Tobacco and M/s. Babool Tea Packers. Shri Mustaq Hariyani, my elder brother is Proprietor of M/s. Adarsh Tobacco. M/s. Adarsh Tobacco is engaged in the trading of snuff, plain cut tobacco, scented tobacco (mostly Bagban brand), unbranded Bidi etc. They also manufacture unbranded bidi. They manufacture unbranded bidi from cut tobacco and kandy leaves (Timru Pan). Shri Misham Hariyani, his nephew is Proprietor of M/s. Babool Tea Packers, which is engaged in the trading of tea. We purchase different kinds of tea from Assam, blend them and sell the same in the local market. In addition to above 03 firms, my cousin Shri Mehdi Hariyani runs a firm namely M/s. Akash Trading. Darbar Chowk, Palitana. This firm is also engaged in

the trading of Areca Nut and Tea. We have no financial stake in each other's firms. But, sometimes we purchase/sell the goods from each other's firm(s).

- He looked after purchase of M/s. Adarsh Trading, M/s. Adarsh Tobacco and M/s. Babool Tea Packers. He looked after purchase of areca nuts and tea. His brother Mustaq looks after purchase of tobacco and his nephew Misham looks after accounts of all the three firms. Sale (Marketting) of the goods is mostly looked after by Shri Mohmad Abbas Mustaq Husain Hariyani, his nephew. In addition to him, they (hismselfself, Mustaq and Misham) also look after sale of goods. M/s. Akash Trading is owned by his cousin Shri Mehdi Hariyani. This firm is also engaged in the trading of Areca Nut and Tea. In M/s. Akash Trading, we help in purchase and sale of areca nut and tea to my cousin Shri Mehdi Hariyani.
- As stated earlier, M/s. Adarsh Trading is engaged in the trading of Areca Nuts (both whole and cut), M/s. Adarsh Tobacco is engaged in the trading of snuff, plain cut tobacco, scented tobacco (mostly Bagban brand), unbranded Bidi etc. M/s. Babool Tea Packers is engaged in the trading of tea. M/s. Akash Trading is engaged in the trading of Areca Nut and Tea.
- They procure betel nuts mainly from Mangalore, Karnataka. However, sometimes they also purchase betel nut from Depots at Rajkot, Ahmedabad etc. They had also imported two containers of areca nuts 2 to 3 years back in their firm M/s. Adarsh Trading Co.
- They had imported 02 consignments of areca nuts 2 to 3 years back. They had imported these 02 consignments directly in their firm M/s. Adarsh Trading Co. In past they had also procured imported areca nuts in India in small quantities. They had purchased imported areca nuts from Nagpur and Ahmedabad.
- They had not procured areca nut from Dubai.
- He knew Mahbub Usman Vidha since last 2 to 3 years. He came in his contact through facebook. They had supplied scented tobacco to him during last 2 to 3 years.
- In past they had imported 02 containers of areca nuts in M/s. Adarsh Trading Co. They had imported these 02 containers from Myanmar. They had purchased around 75 MT wet dates from M/s. Raj International in M/s. Akash Trading almost a month back.
- They had neither imported any goods nor they had procured any imported goods.
- They sell the betel nuts to retail customers in and around Bhavnagar District. They generally sell areca nuts after cutting. In case of inferior quality areca nuts, sometimes they sell to their buyers in Nagpur.
- He knew one Kishan Goswami, who is having IEC and imports betel nuts. However, he did not knew name of his firm. M/s. Raj International, Mumbai (Mahbub Vidha) is also importing betel nuts.
- He have contacts in the market of betel nut. He arranged purchase of areca nuts from Indonesia and also arrange subsequent supply of areca nut to Dubai and Bangkok. In Dubai he supply the areca nuts to the persons namely Vicky, Irfan, Mama (nick name, do not know his proper name). In Bangkok they supply areca nuts to Mamu & Co., whose activities were looked after by one Shri Firo.

#### **6.8 Statement of Sh. Anil Kumar S/o Sh. Satender Ram, driver of lorry**

**No. GJ12AZ7361 was recorded on 31.03.2023(RUD No. 20) wherein he *inter alia* admitted that**

He drove the lorry No. GJ12AZ7361 laden with container No. EMCU96831841 declared to stuffed with Wet dates imported vide Bill of Entry No. 1001031 dated 19.01.2023 for the deliver of cargo at Palitana. Shri Anil Kumar confirms that he noticed the pieces of Areca Nut and wet dates inside the container No. EMCU96831841 after the destuffing of the cargo from the respective container.

**6.9 Statement of Sh. Lakha Jaluba Paragji S/o Sh.Paragji, driver of lorry No. GJ12BY4252 was recorded on 28.03.2023(RUD No. 22) wherein he *inter alia* admitted that**

He drove the lorry No. GJ12BY4252 laden with container No. MLCU9051949 declared to stuffed with Wet dates imported vide Bill of Entry No. 1001031 dated 19.01.2023 for the deliver of cargo at Palitana. Shri Lakha Jaluba Paragji confirms that he noticed the pieces of Areca Nut and wet dates inside the container No. MLCU9051949 after the destuffing of the cargo from the respective container.

**6.10 Statement of Sh. Hala Daras Rizwan S/o Sh. Mustaq Ali, driver of lorry No. GJ12BX9896 was recorded on 03.04.2023 (RUD No. 21) wherein he *inter alia* admitted that**

He drove the lorry No. GJ12BX9896 laden with container No. OOLU8386900 declared to stuffed with Wet dates imported vide Bill of Entry No. 1001031 dated 19.01.2023 for the deliver of cargo at Palitana. Shri Lakha Hala Daras Rizwan confirms that he noticed the pieces of Areca Nut and wet dates inside the container No. OOLU8386900 after the destuffing of the cargo from the respective container.

**6.11 Statement of Sh. Milind Kumar Dashrath S/o Sh. Dashrath Daultrao Bhosale, Deputy Manager of M/s Fast Track CFS, Pvt. Ltd. was recorded on 02.02.2024 (RUD No. 23) wherein he *inter alia* admitted that;**

- He handled the work related to filing of Bills of Entry for the import consignments in the Warehouse. Also, the work related to DTA clearances were also looked after by him.
- M/s Raj International had imported one cargo declared as "Iraqi Wet Dates" at our warehouse vide Bill of Entry No. 1003513 dated 20.02.2013. M/s Raj International was the party of M/s Star Marine. M/s Star Marine was forwarder firm to whom they had provided one Sub user id for drafting the Bill of entry for the consignment brought by them for the clearance at our warehouse. M/s Raj International never approached them, they directly approached M/s Star Marine for the clearance of subject goods.
- They did not knew M/s Raj International and they did not submitted any KYC documents directly to them. They received the KYC documents pertaining to M/s Raj International through M/s Star Marine Shipping Company. They did not verified the genuineness of KYC documents submitted by M/s Star Marine Shipping Company.
- The consignments covered under the Bills of Entry Nos. 1003513 dated 20.02.2023 was filed by their company whereas the concern Bill of Entry was drafted by M/s Star Marine Shipping Services to whom they had given maker Id/Sub ID for the handing of cargo brought by them.

- M/s. Fast Track CFS Pvt. Ltd. approved the draft Bill of Entry on the basis of the document provided by M/s Star Marine Shipping Company by matching the weight and description of the goods with details mentioned in the Bill of Lading.
- The draft Bill of Entry was prepared by M/s Star Marine Shipping Company and we only filed the final Bill of Entry No. 1003513 dated 20.02.2023 for the clearance of subject goods on the basis of draft Bill of Entry. We did not forward any Checklist to the importer for the clearance of the subject cargo.
- M/s Star Marine Shipping Company contacted M/s Fast Track CFS, Pvt. Ltd for the clearance of subject goods. He had seen the statement of Shri Ismail Jat and in token of seeing the same he put his dated signature. He agree that they have provided them sub ID for preparing draft Bill of Entry and on that basis they filed the final Bill of Entry.

**6.12 Statement of Sh. Mahbub Usman Vidha, S/o Sh. Usman Vidha Proprietor of M/s Raj Intnl. was recorded on 24.01.2024 (RUD No. 24), wherein he stated that:**

- He did not knew current whereabouts of Shri Abbas Hariyani and Abbas is not in contact from the day of concealment of Areca Nut was found in the cargo of Wet Dates imported vide M/s Raj International vide Bill of Entry No. 1003513 dated 20.02.2023.
- Shri Abbas asked him for the import of Wet Dates in my firm M/s Raj International as he was not having any IEC. Shri Abbas offered me Rs. 2/- per KG as Commission. He was not aware about the concealment of Areca Nut with Wet dates in cargo imported vide Bill of entry No. 1001031 dated 19.01.2023 by my firm M/s Raj International. As the cargo of wet dates was purchased in Dubai by his known person Shri Yakub Hamda of M/s Yakub Hamda Foods stuff LLC and handed over to M/s Kings Distribution FZE, Dubai, UAE. The loading of Wet Dates in the container was done in presence of Shri Yakub Hamda through whom he arranged Wet Dates in Dubai. As per his knowledge same cargo was shipped from Dubai. After receiving Custom clearance in India the cargo was directly transported and delivered to Akash trading, Palitana. He had no knowledge about concealment of Areca Nut in the cargo imported under Bill of entry No. 1001031 dated 19.01.2023 by his firm M/s Raj International. When the subject cargo was delivered to Shri Abbas he told him about his planning of importing Areca Nut in future cargo for which he offered me Rs. 100 per Kg.
- No one contacted him regarding the payment for the said cargo imported vide Bill of Entry No. 1003513 dated 20.02.2023. It was decided that he had to make payment through his firm bank account on receiving the amount for the sale to Shri Abbas.

7. Summons vide DIN No. CBIC-DIN- 22303DDZ1000000301 dated 17.03.2023 (**RUD NO. 25**), 202303DDZ1000092499D dated 27.03.2023 (**RUD NO. 26**), 202305DDZ10000666A56 dated 02.05.2023(**RUD NO. 27**) and 202310DDZ2100008378BA dated 20.10.2023(**RUD NO. 28**) were issued to the Shri Abbas Hariyani S/o Shri Gulam Hussain Proprietor of M/s Adarsh Trading, Khatriwad, Khoja Masjid, Palitana, Gujarat-364270 who in accomplice with Shri Mahbub Usman Vidha planned to smuggle the Areca Nut. Shri Abbas

was summoned to get the required details/documents and his version in the matter, and to appear before investigating officer, but no response received from them against the Summons but he have opted for not responding to the same and deliberately avoided their 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. Shri Abbas Hariyani has not considered it necessary to respond factually to the summons issued to him and also not provided the documents/details being asked for from him. Thereby, Shri Abbas has committed offence, which is punishable under the provisions of Section 174, 175, 176 and 228 of the Indian Penal Code, 1860. It is apparent that by not attending the inquiry and by not providing the documents Shri Abbas Hariyani has interrupted the judicial proceedings of inquiry under the Customs Act, 1962 and also intentionally obstructed the DRI in the exercise of the powers conferred under Section 108 of the Customs Act, 1962. Even after receipt of the summons, by not attending the inquiring officer, Shri Abbas has intended for insulting the proceedings of inquiry. Therefore, DRI has filed criminal complaint against Shri Abbas Gulam Hariyani under Sections 174, 175, 176 and 228 of Indian Penal Code, 1860 before the additional Chief Judicial Magistrate, Gandhidham on 22.02.2024

#### **8. Finding of the Investigation:**

**8.1.** In view of above, it emerges that Shri Mahbub Usman Vidha has been the front person and mastermind of the smuggling racket wherein he has been floating different firms and smuggling high value and higher duty involving goods by resorting to mis-declaration on successive imports. He was aware about importation of dry fruits and import export procedures as he admitted that since year 1999 as he has been engaged in the trading of imported dry fruits since year 1999 as well as export of rice/machineries etc. The smuggling racket seems to be hatched up by duo of Abbas Hariyani with Shri Mahbub Usman Vidha who are admittedly aware that import of Betel Nuts/Areca Nuts was to be carried out under Tariff Rates fixed under Notification issued under Section 14(2) of the Customs Act, by the Board. He has agreed to have imported Areca Nut under guise of Wet Dates of Iraq origin from UAE to earn higher commission amounts and to evade the enormous actual duty applicable. He allowed the usage of his firm's name and bank accounts for facilitating such import unabashedly into India. He helped the other accomplices to remain incognito on records and helped in high value transactions through legal façade of import of wet dates. His advance knowledge is obvious from the pre-planning with his accomplices as well as the higher commission amounts he has contracted for clearing of the successive consignments under name of his firm. His foreign visits and knowledge since last one year does implicate more chances of such instances than the three such concealments admitted by him. He has taken due care in not preserving the earlier records, chats or transaction evidences in his mobile or email.

**8.2** There was clear pattern in loading of containers found where first three rows from container door were systematically loaded with yellow coloured cartons of wet dates whereas the rear side was loaded with similar sized albeit green colour cartons having around same weights. The rear side cartons were applied PP Tapes for better security and for suppressing detection by spillage. The cartons were uniformly stacked and weighments were so devised that from outside they appeared same with similar marking of wet date cartons. The documents of Import were prepared meticulously suppressing the actual

consignment and uniformly reflecting 2500 cartons of 10 kg each of Wet Dates Iraq origin crop of 2022 in the IGM, B/L, Commercial Invoice, Packing List and COO. The bottle seals were found intact during the examination, hence the same load was exported from Jebel Ali, UAE by the supplier who was hand in glove with the importer Sh.Mahbub Usman Vidha.

**8.3** The investigation revealed that Shri Mahbub Usman Vidha contacted his known Shri Ashok Damji Bhanushali, Customs Broker whom he knew from the last 20 years. Shri Mahbub requested him for the clearance of three containers of Iraqi Wet Dates from Dubai for buyer at Palitana, Gujarat from Mundra Port. Shri Ashok advised him that the subject cargo must be imported at Mundra, SEZ for the fast clearance. He then contacted Shri Ismail Jat of M/s Star Marine Service Co., Mundra for handling the clearance of cargo at Mundra Sez as his firm M/s Ashapura Shipping Agency does not handle cargo clearance of cargo at Mundra SEZ. Shri Ismail Jat of M/s Star Marine agreed to handle the subject import cargo and asked that the B/L should be prepared as Notify party M/s Empezar Logistics Pvt. Ltd. SEZ. M/s Ashapura Shipping Agency had charged Rs. 14000/- per container as their fess for the cargo handling. Shri Ashok Damji Bhanushali stated that he had arranged the transportation for the deliver of the cargo to M/s Akash Trading Co., Palitana, Bhavnagar, Gujarat on the request of Shri Mahbub Usman Vidha for which he had charged Rs. 48000/- (including Rs. 4000/- his commission). Shri Ashok Damji Bhanushali arranged the transportation of the cargo through M/s Active Cargo who charged Rs. 44000/- per truck for the deliver of the container at Palitana, Bhavnagar, Gujarat. The investigation further revealed that M/s Raj International had imported Iraqi Wet Dates in the past also and the delivery of the cargo was made to M/s Akash Trading Co., Palitana. M/s Raj International imported the Wet Dates covered under Bill of Entry No. 1001031 dated 19.01.2023 and Shri Mahbub Usman Vidha arranged the Wet Dates from Dubai and the same was delivered to the supplier firm M/s Kings Distribution FZC on the direction of Shri Abbas Hariyani. Earliar the cargo was imported at M/s Empezar Logistics Pvt. Ltd. SEZ whereas the current has been imported at M/s Fast Track CFS Pvt. Ltd. The investigation revealed that the past consignment was delivered to M/s Akash Trading Co. and the current cargo are also meant for M/s Akash Trading Co.

**8.4** Shri Ashok Damji Bhanushali contacted Shri Ismail Jat Osman of M/s Star Marine Service Company who has maker Id/Sub Id of M/s Fast Track CFS Pvt. Ltd for preparing draft Bill of Entry. M/s Star Marine Service Company prepared the draft Bill of Entry on which basis M/s Fast Track CFS Pvt. Ltd filed the Bill of Entry No. 1003513 dated 20.02.2023 for the clearance of cargo found concealed with 53.31 MTs of Areca Nut. Neither M/s Star Marine Service Company nor M/s Fast Track CFS Pvt. Ltd. forwarded the Checklist to M/s Raj International for verification for the filing of Bill of Entry. The Bill of Entry was filed without obtaining any approval for Checklist from M/s Raj International. Moreover, M/s Fast Track CFS Pvt. Ltd. was not approached by M/s Raj International for the clearance of subject cargo and they had not received any KYC from M/s Raj International, the KYC they received from M/s Star Marine Service Company was not verified by them.

**8.5** Investigation has revealed that Shri Mahbub Usman Vidha is in active connivance with other conspirator Shri Abbas Hariyani and he allowed his firm's importer Exporter Code (IEC) and Food Safety and Standards Authority of India (FSSAI) License for illegal import of Areca Nut at Mundra port. It is evident he played a pivotal role in the smuggling of high value goods on documents having incomplete/false material particulars and caused to be made

documents having false details issued through the supplier. Thus, he had made/signed/used and/or caused to made/used/signed the import documents/Bill of entry having false material particular

**8.6.** Shri Mahbub Usman Vidha, S/o Sh. Usman Vidha was admittedly aware that the import of Areca Nut/Betel Nut would attract Tariff Rate Notification for valuation issued by Board under Section 14(2) of the Customs Act, 1962. Thus, Shri Mahbub Usman Vidha, S/o Sh. Usman Vidha has done an act i.e. knowingly concerned himself with smuggled goods liable for confiscation and also indulged himself in removing, depositing, harbouring, keeping, concealing, selling and dealing with such smuggled goods which resulted in contravention of the provisions of Customs Act, 1962 and rules made there under and thus, he has made goods liable to confiscation under Section 111 of the Customs Act, 1962.

**8.7** Shri Mahbub Usman Vidha, S/o Sh. Usman Vidha has willfully and deliberately indulged into conspiracy of importing Tariff Value attracting goods in guise of general cargo at transaction value, by way of mis-declaration and concealing the same in the consignment of other goods imported at Mundra. From the evidences gathered during investigation and facts admitted in his statement, it is evident that Mahbub Usman Vidha, S/o Sh. Usman Vidha was part of the smuggling cartel and has played a pivotal role in the smuggling of high value goods on fabricated documents and abetting the forging/fabricating/manipulating the documents issued through the supplier. He has knowingly deleted the evidences, abetted forging/fabrication of the documents and knowingly concerned himself in mis-declaration of high value goods importable under Tariff Rate valuation by way of concealment thereof in other cargo and also concerned himself in selling, purchasing of such goods which he knows or has reason to believe that the same are liable to confiscation under Section 111 of Customs Act, 1962. The modus operandi adopted by the syndicate belonging to him is reflecting as pre-planned manner of organized smuggling, where not only the concealment of the high value goods specified for tariff rate Notifications and attracting higher duty rates, has taken place but claimed to have allowed usage of his firm in other transactions. The other person Shri Abbas Hariyani who facilitated the Shri Mahbub Usman Vidha has not joined the investigation.

**8.8** Shri Abbas gave a lucrative offer of Rs. 100/- per Kg to Shri Mahbub if the imports were made in the name of his firm M/s Raj International. Shri Abbas himself placed the order of Areca Nut to M/s Kings Distributors and requested Shri Mahbub to provide the Wet Dates to M/s Kings Distributors for the purpose of concealment of Areca Nut. Shri Abbas himself arranged the money at Dubai through "Hawala" for the purchase of Wet Dates meant for concealment. The investigation revealed that Shri Abbas provided the copy of Bill of Lading, Packing List, Commercial Invoice and other relevant documents to Shri Mahbub for the purpose of filing Bill of Entry for the clearance of the subject goods. Shri Abbas did not joined the investigation to unearth the various facts which clearly indicates that he is the part of the syndicates.

**8.9** The investigation revealed that in past also M/s Raj International had also imported the cargo of goods declared as Iraqi Wet Dates vide Bill of Entry No. 1001031 dated 19.01.2023 and the shipper of the cargo was found to be same firms M/s Kings Distribution FZE. M/s Raj International had imported 75 MTs of goods declared as Iraqi wet Dates at Mundra Port vide Bill of Entry No. 1001031 dated 19.01.2023 in three containers. Shri Mahbub Usman Vidha

and his associates followed the same modus operandi for the import of Cargo vide Bill of Entry No. 1001031 dated 19.01.2023 as they followed for import of cargo vide Bill of Entry No. 1003513 dated 20.02.2023. The shipper and weight of the imported cargo was which clearly indicating the sign of chances of concealment of Areca nut with cargo declared as Iraqi Wet Dates. The statement of the three lorry drivers who transported the cargo imported vide Bill of Entry No. 1001031 dated 19.01.2023 was recorded to confirm the concealment of Areca Nut with Iraqi Wet Dates. All the three lorry drivers who drove the vehicle laden with respective containers confirm that they had seen the pieces of Areca Nut and dates in the respective empty containers after destuffing of the cargo.

A testimony of all the three lorry drivers confirms the concealment of Areca Nut with imported Wet dates vide Bill of Entry No. 1001031 dated 19.01.2023. Shri Mahbub Usman Vidha and his associates also imported the Areca Nut by concealing with Wet Dates without declaring the correct description and actual Tariff Value. The import of Areca nut is an item importable at fixed values which are called "Tariff Values", under Notification issued under Section 14(2) of the Customs Act, 1962. 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) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. However, the actual quantity of Areca Nut imported vide Bill of Entry No. 1001031 dated 19.01.2023 could not be ascertain as the importer did not confirmed that they had imported the Areca Nut by concealing with Wet Dates.

**8.10** Instead of Tariff Values fixed under Section 14(2) Notification by the Board, Sh. Mahbub Usman Vidha Prop. M/s Raj Intnl., Mumbai has misdeclared the consignment and as such chose to produce Import documents for declaring "Transaction Value" under Section 14(1) of Customs Act. Section 14(1) states that 'value' of imported and export goods will be the 'transaction value' of such goods i.e. the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale, subject to such other conditions as may be specified in the rules made in this behalf. Here as the documents associated with import are found fabricated, the value shown as transaction value cannot be accepted for the concealment cargo of Wet Dates too as reflected on the fabricated documents.

**8.11** The quantity of 53.31 MT Betel Nuts/ Areca Nuts whole/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. 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) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Hence, in order to avoid the correct tariff value of USD 14026/MT (14026\*83.65\*53.31= 62547285) as per the applicable Notification No.09/2023-Cus (NT) dated 15.02.23 issued under Section 14(2) of the Customs Act 1962 and they have smuggled Areca Nut having value of Rs. 62547285/-, the importer has sought clearance of Wet Dates with declared values of USD 354/MT. Further the product Supari correctly classifiable under CTH 080280 is attracting much higher Customs Duty rate (of 110%) than the declared item, Wet Dates (CTH 08041020) assessable at 20% duty ad valorem, thus to evade high value of Custom Duty the said Areca Nuts was imported

illegally by way of concealment in the goods imported by him under bill of entry no. 1003513 dated 20.02.2023. He was actively involved in with 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. 6.88 Crore.

**8.12** In the instant case of import, Areca Nuts have been attempted to be imported under the pro-rata CIF value of Rs. 30/- per Kg in the subject Bill of Entry against the MIP of Rs. 1173/Kilogram specified by the EXIM Policy. Thus, the whole live consignment of 53.31 MTs 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.

**8.13** It is also to be mentioned that during investigation, Shri Mahbub Usman Vidha was arrested on 16.03.2023 for violations of the provisions of the Customs Act, 1962 and to make sure he doesn't hamper the ongoing investigation. They were thereafter produced before Hon'ble CJM Court, Mundra on 16.03.2023 and considering the facts and evidences on record, role and culpability of the two accused vis-à-vis the violations committed, the Hon'ble CJM Court, Mundra ordered for their judicial custody. Upon application for bail with the Hon'ble CJM court Mundra, the same came to be rejected after considering the departments' plea. Consequently, the accused had filed bail applications before the Hon'ble Sessions Court of Bhuj on 27.03.2023, which were also rejected by the Hon'ble Sessions Court vide judgement dated 06.04.2023.

**9. Confiscation of goods:-** M/s. Raj International filed Bill of Entry No. 1003513 dated 20.02.2023 of declared goods as Iraqi Wet Dates' having declared assessable Value of Rs. 22,20,515/- M/s. Raj International sought clearance thereof through M/s. Fast Track CFS Pvt. Ltd., APSEZ, Mundra, however, during examination total 53.31 MTs Betel Nuts/ Areca Nuts whole/splits, (CTH 080280) were found concealed in the import consignment alongwith total 15.08 MTs of Wet Dates. It was revealed that M/s. Raj International 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. Raj International were also aware with tariff Notification No.09/2023-Cus (NT) dated 15.02.23, 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. 30/- per Kg in the subject Bill of Entry against the MIP of Rs. 1173/Kilogram specified by the EXIM Policy. Thus, the whole live consignment 53.31 MTs 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. Therefore, M/s. Raj international deliberately and knowingly not declared and mis-declared the subject goods with intention to evade the applicable Customs Duty. Accordingly, total 53.31 MTs of Betel Nuts/ Areca Nuts whole/splits, (CTH 080280) found concealed with the declared 'Wet Dates' were liable for confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act, 1962. Also, total 15.08 MTs of Wet Dates appeared to have been used for concealment of 53.31 MTs of Betel Nuts/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 53.31 MTs which was found concealed in the import consignment falls under the category of smuggled goods.

## **10. Role and Culpability of Various persons**

**10.1 Role or Culpability of Shri Mahbub Usman Vidha:** Shri Mahbub Usman Vidha is implicated as the key orchestrator and front person in a sophisticated smuggling racket. His involvement spans multiple aspects of the illicit operation, showcasing a deep understanding of import-export procedures. Admitting to engagement in trading imported dry fruits since 1999, he knowingly participated in smuggling activities, particularly in the importation of high-value goods, such as Areca Nuts, through deceptive practices. Central to his culpability is the deliberate use of his firm's name and bank accounts to facilitate the illegal importation of goods into India. Collaborating with individuals like Shri Abbas Hariyani, he played a pivotal role in the well-organized smuggling syndicate. Meticulously fabricating import documents, including Bills of Entry, Inward General Manifest, Commercial Invoice, Packing List, and Certificate of Origin, he engaged in a systematic pattern of misdeclaration with false material particulars. Shri Mahbub Usman inform Shri Parth Bhanushali s/o Shri Ashok Bhanushali on the arrival of the Cargo and provided the relevant documents to him for clearance of the subject goods. Shri Mahbub Usman Vidha actions extended to concealing the actual details, values, and classifications of the imported consignment, specifically misdeclaring the nature of the goods to evade customs duties. Shri Mahbub Usman Vidha was an active participant in the conspiracy and pre-planning of the smuggling activities, demonstrating a high level of involvement in the illegal operation. Notably, he attempted to import Areca Nuts under the pro-rata CIF value against the Minimum Import Price specified by the EXIM Policy, rendering the entire consignment as "Prohibited Goods." The smuggling activities were geared towards evading high customs duties, estimated to be around Rs. 6.88 Crore. Shri Mahbub Usman Vidha's role in the alleged smuggling operation is comprehensive, involving planning, execution, and collaboration, with a focus on deception, misdeclaration, and evasion of customs duties. He has indulged himself in importing, removing, depositing, harboring, keeping, concealing, selling and dealing with mis-declared goods which were liable for confiscation in terms of Section 111 of Customs Act, 1962.

**10.1.2** The omission and commission on the part of Shri Mahbub Usman Vidha 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 (Qty. 53.31 MTs, Market Value- Rs. 62547285/-)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act,1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under section 119 of the Customs Act,1962. Also, since Shri Mambub Usman Vidha 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 **Section 112 (b)** of the Customs Act, 1962. Since Shri Mambub Usman Vidha 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 liable to penalty under **Section 114AA** of the Customs Act, 1962. For various acts of mis-leading the investigation by not revealing the correct facts and details of other key persons involved in this case, as discussed above, Shri Mahbub Usman Vidha is liable to penalty under **Section 117** ibid too.

**10.2 Role of Shri Abbas Hariyani :** Shri **Abbas Hariyani** 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 his known importer M/s Raj International. The supplier firm, M/s. Kings Distribution, FZE in Dubai, is known to Shri Abbas and their buyers firms M/s Akash Trading Co. and M/s Adarsh Trading Co, solidifying his pivotal role. His role extends to misdeclaring imported Arecanuts as 'Wet Dates' to evade Customs Duty. Shri Abbas gave a lucrative offer of Rs. 100/- per Kg to Shri Mahbub if the imports were made in the name of his firm M/s Raj International. Shri Abbas himself placed the order of Areca Nut to M/s Kings Distributors and requested Shri Mahbub to provide the Wet Dates to M/s Kings Distributors for the purpose of concealment of Areca Nut. Shri Abbas himself arranged the money at Dubai through "Hawala" for the purchase of Wet Dates meant for concealment. The investigation revealed that Shri Abbas provided the copy of Bill of Lading, Packing List, Commercial Invoice and other relevant documents to Shri Mahbub for the purpose of filing Bill of Entry for the clearance of the subject goods. Shri Abbas did not join the investigation to unearth the conspiracy which clearly indicates that he is the part of the syndicate Shri Abbas Hariyani 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 has taken place.

**10.2.2** The omission and commission on the part of Shri Abbas Hariyani 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 nuts (Qty. 53.31 MTs, Market Value- Rs. 62547285/)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act,1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under Section 119 of the Customs Act, 1962. Also, since Shri Abbas Hariyani 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 **Section 112 (b)** of the Customs Act, 1962. Since Shri Abbas 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 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 Abbas is liable to penalty under **Section 117** ibid too.

**10.3 Role of Shri Ashok Bhanushali:** Shri Ashok, associated with M/s Ashapura Shipping Agency, played a significant role in the import process of cargo covered under Bill of Entry no. 1003513 dated 20.02.2023, which included concealed Areca Nut behind the declared goods of Iraqi wet dates. Shri Ashok Bhanushali suggested Shri Mahbub that they should import the subject goods at Mundra, SEZ. Shri Ashok Bhanushali contacted Shri Ismail Jat of M/s Star Marine Service Co. who was having sub id at Fast Track Warehouse, Mundra Sez for the clearance of subject goods. Upon being informed by Shri Mahbub Usman Vidha about the hold for examination and potential concealment, Shri Ashok took steps to manage the situation. He arranged for the transportation of the cargo to Palitana, Bhavnagar, Gujarat, and received payments for handling the clearance. Shri Ashok mentioned that he relied on the documents provided by Shri Mahbub Usman Vidha and trusted him completely. However, Shri Ashok Bhanushali being fully aware of the Customs law did not share the Checklist with the importer M/s Raj International.

**10.3.1** The omission and commission on the part of Shri Ashok Bhanushali of M/s Ashapura Shipping allowed M/s Star Marine Service Co. for the Bill of Entry without verifying the approval for Checklist received from the Importer or not have rendered the subject illegally imported goods **Areca/Betel (Qty. Qty. 53.31 MTs, Market Value- Rs. 62547285)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act, 1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under section 119 of the Customs Act, 1962. Also, since Shri Ashok 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

**Section 112 (b)** of the Customs Act, 1962. Since Shri Ashok 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 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 Ashok is liable to penalty under **Section 117** ibid too

**10.4 Role of Shri Ismail Jat Osman:** Shri Ismail Jat, Partner of M/s Star Marine Service Company was approached by Shri Ashok Bhanushali for the filing of Bill of Entry No.1001031 dated 19.01.2023 and current Bill of Entry No. 1003513 dated 20.02.2023. Shri Ismail Jat of M/s Star Shipping Service Co. was having sub id at Fast Track Warehouse, Mundra Sez for the clearance of subject goods Shri Ismail Jat himself suggested that the clearance of subject goods would be easier at Mundra SEZ. However, Shri Ismail filed the draft Bill of Entries merely on the recommendation of Shri Ashok Damji Bhanushali without verifying the KYC of the importer. Shri Ismail Jat prepared the draft Bill of Entry which was finally filed by M/s Fast Track CFS Pvt. Ltd. Shri Ismail Jat forwarded the checklist to M/s Ashapura Shipping for getting approval from the Importer, however M/s Ashapura Shipping did forward the Checklist to the

importer. The Bill of entry was filed without obtaining any approval for the checklist the importer.

**10.4.1** The omission and commission on the part of Shri Ismail Jat allowed M/s Fast Track CFS, Pvt. Ltd. made the filing of Bill of Entry without verifying the approval for Checklist received from the Importer or not have rendered the subject illegally imported goods **Areca/Betel (Qty. Qty. 53.31 MTs, Market Value- Rs. 62547285)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act,1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under section 119 of the Customs Act,1962. Also, since Shri Ashok was knowingly concerned in importing, concealing and dealing with such goods, he has rendered himself liable to penalty under **Section 112 (a)** and **Section112 (b)** of the Customs Act, 1962. Also, since Shri Ismail Jat prepared the draft 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 Ismail Jat is liable to penalty under **Section 117** ibid too.

**10.5 Role of M/s Fast Track CFS:** M/s Fast Track CFS Pvt. Ltd has given the sub Id to Shri Ismail Jat of M/s Star Marine Service Company for filing draft Bill of Entry which was finally filed by M/s Fast Track CFS Pvt. Ltd. Shri Ismail Jat of M/s Star Marine Service Company prepared the draft Bill of Entry which was finally filed by M/s Fast Track CFS Pvt. Ltd. M/s Fast Track CFS Pvt. Ltd did not verify the KYC and genuineness of M/s Raj International. The Bill of entry was filed without obtaining any approval for the checklist the importer.

**10.5.1** The omission and commission on the part of M/s Fast Track CFS, Pvt. Ltd. filed Bill of Entry without verifying the approval for Checklist received from the Importer or not have rendered the subject illegally imported goods **Areca/Betel (Qty. Qty. 53.31 MTs, Market Value- Rs. 62547285)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act, 1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under section 119 of the Customs Act,1962. Also, since M/s Fast Track CFS Pvt. Ltd was knowingly concerned in importing, concealing and dealing with such goods, he has rendered himself liable to penalty under **Section 112 (a)** and **Section112 (b)** of the Customs Act, 1962. Also, since M/s Fast Track CFS, Pvt Ltd. filed the 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 they are 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, M/s Fast Track CFS, Pvt. Ltd. is liable to penalty under **Section 117** ibid too.

**11.1** Now, therefore, **M/s. Raj International (IEC No.0399016481), F 64 Mezzanine Floor APMC Masala market-1, Phase-2, Sector-19, Vashi- Turbe, Navi Mumbai Muni. Corp., Thane Zone-4** are hereby called upon to show cause in writing to the Additional Commissioner of Customs (Import), Customs House, Mundra having office situated at office of the Pr. Commissioner of Customs, 1st Floor, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of the notice, as to why:-

- a. The illegally imported goods i.e. **Areca Nut (Qty. 53315.5 Kg)** should not be confiscated under section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act,1962.
- b. The declared imported goods **Iraqi Wet Dates(Qty. 15080.5 KG)** , used for the purpose of concealment of smuggled 53315 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.

**11.2.** Now therefore, **the following further persons/companies/firms/concerns as appearing in Column 2 of the following Table, are hereby individually and separately are**/is hereby called upon to show cause in writing to the Additional Commissioner of Customs (Import), Customs House, Mundra having office situated at office of the Pr. Commissioner of Customs, 1st Floor, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of the 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**

<b>S. No.</b>	<b>Name (S/Shri/Ms/Smt/ M/s)</b>	<b>Penal provisions under Customs Act, 1962</b>			
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>
1	Shri Abbas Hariyani	112(a)	112(b)	114AA	117
2	Shri Ashok Damji Bhanushali	112(a)	112(b)	114AA	117
3	Shri Ismail Jat Osman	112(a)	112(b)	114AA	117
4	M/s Fast Track CFS	112(a)	112(b)	114AA	117

## **12. Personal Hearing**

**12.1** Personal hearing in this case was given on 09.12.2024, In response to which no one attended the PH.

**12.2** Another Ph was given on 02.01.2025 in response to which Shri Gevasis Thomas, Advocate represented Shri Ismail Jat Osman and stated that his client is a private person and not a custom broker. His role is limited only to provide clerical assistance under SEZ rules. Shri V.R. Sambhus, Consultant, Kautilya Consultancy services attended the PH on behalf of M/s Raj International and asked for the cross-examination of the 03 lorry drivers statement of whom has been relied upon during the investigation.

**12.3** In another PH scheduled on 13.02.2025 Shri V.R. Sambhus, Consultant, Kautilya Consultancy services attended the PH on behalf of M/s Raj International and repeated his request for the cross-examination of the 03 lorry drivers statement of whom has been relied upon during the investigation. Further, Shri Anil Gidwani, Advocate appeared for the PH on behalf of M/s Fast Track CFS, Pvt. Ltd. wherein he stated that the role of the CFS is very limited

and they operate within the SEZ rules. They have nothing to do with either with the KYC of the importer or the content of the goods. He requested to drop the charges levied against his client.

### 13. Discussion and Findings

**13.1** I have carefully gone through the records of the case. The record of personal hearing held on 09.12.2024, 02.01.2025 and 13.02.2025 and other available records. I find that in the present case principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of documentary evidences available on record. The points to be decided in the instant case are: -

- a. Whether the illegally imported goods i.e. **Areca Nut (Qty. 53315.5 Kg)** should be confiscated under section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act, 1962.
- b. Whether the declared imported goods **Iraqi Wet Dates (Qty. 15080.5 KG)**, used for the purpose of concealment of smuggled 53315 KG Areca Nut, should be confiscated under the provisions of Section 119 of the Customs Act, 1962.
- c. Whether penalty should be imposed on **M/s. Raj International (IEC No.0399016481)** under Section 112(a) & 112(b), 114AA & 117 of the Customs Act, 1962.
- d. Whether penalty should be imposed on each of the persons/companies/firms /concerns as appearing in Column 2 of the following Table, individually under below mentioned penal provisions, respectively under the Customs Act, 1962:

<b>S. No.</b>	<b>Name (S/Shri/Ms/Smt/ M/s)</b>	<b>Penal provisions under Customs Act, 1962</b>			
		<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>
<b>(1)</b>	<b>(2)</b>				
1	Shri Abbas Hariyani	112(a)	112(b)	114AA	117
2	Shri Ashok Damji Bhanushali	112(a)	112(b)	114AA	117
3	Shri Ismail Jat Osman	112(a)	112(b)	114AA	117
4	M/s Fast Track CFS	112(a)	112(b)	114AA	117

**14.** I find that M/s. Raj International had filed Bill of Entry No. 1003513 dated 20.02.2023 for warehousing of the import goods at M/s. Fast Track CFS Pvt. Ltd. (SEZ Mundra) Plot No.3, Block-C, Sector-11, APSEZ Mundra, Kutch Gujarat-37042, a Mundra SEZ Unit. The declared description of the goods in the said import consignment was 'Iraqi Wet Dates' classified under HS Code 08041020 and imported through total 03 (40 ft.) containers bearing No. MSCU8982019, INKU6680930 and MEDU8092475.

**14.1** I further find that the said import consignment was to be cleared for home consumption into India. During examination of the import consignment, it was noticed that the containers were laden with cartons of around 10 kg each with two types of cargo. Initial three rows comprised of yellow colored box having on printed markings of '**Zahidi dates**' on top of each box and '**Al-Khayma Dates**'. Behind the said three rows there were different green colored cartons of the

same size albeit having printed markings of '**Khayma dates**' on top of each box and with pp tapes around, which were found stuffed with **Areca Nuts/Betel Nuts in Splits/Mix and Whole** with weight range from 8 kg to 13 kg each.

**14.2** Whereas, the Areca Nuts/Betel Nuts were found concealed in the import consignment of declared goods 'Iraqi Wet Dates'. The above quantity of 53.31 MT Betel Nuts/ Areca Nuts whole/splits, (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 of USD 14026/PMT, as per the applicable Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) 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 rendered the whole import consignment liable for confiscation under the provisions of the Customs Act, 1962.

## **15. Confiscation of the Goods under section 111 of the Customs Act, 1962.**

**15.1** The 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(a) .....

.....

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 <sup>1</sup> [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 (m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 <sup>3</sup> [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];

**15.2** I find that M/s. Raj International filed Bill of Entry No. 1003513 dated 20.02.2023 of declared goods as Iraqi Wet Dates' having declared assessable Value of Rs. 22,20,515/- M/s. Raj International sought clearance thereof through M/s. Fast Track CFS Pvt. Ltd., APSEZ, Mundra, however, during examination total 53.31 MTs Betel Nuts/ Areca Nuts whole/splits, (CTH 080280) were found concealed in the import consignment alongwith total 15.08 MTs of Wet Dates. It was revealed that M/s. Raj International 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. Raj International were also aware with tariff Notification No.09/2023-Cus (NT) dated 15.02.23, 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. 30/- per Kg in the subject Bill of Entry against the MIP of Rs. 1173/Kilogram specified by the EXIM Policy. Thus, the whole live consignment 53.31 MTs 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. Therefore, M/s. Raj international deliberately and knowingly not declared and mis-declared the subject goods with intention to evade the applicable Customs Duty. Therefore, I find that the illegally imported goods i.e. Areca Nut (Qty. 53315.5 Kg) is liable for confiscation under section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act,1962.

### **15.3. Confiscation of the Goods under section 119 of the Customs Act, 1962.**

**15.3.1** The 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.*

**15.3.2** I find that during examination of the import consignment, it was noticed that the containers were laden with cartons of around 10 kg each with two types of cargo. Initial three rows comprised of yellow colored box having on printed markings of '**Zahidi dates**' on top of each box and '**Al-Khayma Dates**'. Behind the said three rows there were different green colored cartons of the same size albeit having printed markings of '**Khayma dates**' on top of each box and with pp tapes around, which were found stuffed with **Areca Nuts/Betel Nuts in Splits/Mix and Whole** with weight range from 8 kg to 13 kg each. It is evident that wet dates as declared in the import documents were used for concealment of Areca nut.

**15.3.3** Further I find that as per Section 2(39) of the Customs Act, 1962, 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, since area nut found concealed in the guise of wet dates has been held liable for absolute confiscation under section 111(d), 111(e), 111(f), 111(i),

111(m) of the Customs Act, 1962 as discussed at para 15 above (not repeated here for the sake of brevity) the same can be categorised as smuggled goods under 2(39) of the Customs Act, 1962. Therefore, I find that the declared imported goods **Iraqi Wet Dates (Qty. 15080.5 KG)** 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.

#### **16. Imposition of Redemption fine in lieu of confiscation of the goods under section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act, 1962.**

On plain reading of the provisions of the Section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act, 1962 (mentioned at Point no. 15.1) it is clear that the impugned goods i.e. areca nut was imported in violation of the tariff Notification No.09/2023-Cus (NT) dated 15.02.23, 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. 30/- per Kg in the subject Bill of Entry against the MIP of Rs. 1173/Kilogram specified by the EXIM Policy in the guise of Iraqi Wet Dates) rendering the imported goods i.e Areca Nut (Qty. 53315.5 Kg) as smuggled and **Iraqi Wet Dates (Qty. 15080.5 KG) being used** for concealment of the smuggled goods. As discussed in the foregoing para's, it is evident the Importer has deliberately misdeclared the imported goods with a malafide intention to bypass the policy condition. Therefore, I hold the impugned imported goods Areca Nut (Qty. 53315.5 Kg) liable for absolute confiscation as per the provisions of Section 111(d), 111(e), 111(f), 111(i) and 111(m) of Customs Act, 1962 and Iraqi Wet Dates (Qty. 15080.5 KG) being used for concealment of the smuggled goods liable for absolute confiscation under section 119 of the Customs Act, 1962.

**16.1** As the impugned goods are found to be liable for confiscation under Section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation in respect of the impugned goods as alleged vide subject SCNS. The 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 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit."**

**16.2** A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. I find that since the Importer is involved in misdeclaration, restricted items in violation of the tariff Notification No.09/2023-Cus (NT) dated 15.02.23 and the exim policy thus rendering the goods as smuggled and prohibited, there is no scope left for leniency in the instant case.

**17. With regards to Cross Examination sought by Shri V.R. Sambhus , Consultant, Kautilya Consultancy services on behalf of m/s Raj International, shri Abbas Hariyani and shri Ashok Damji Bhanushali**

Shri V.R. Sambhus, Consultant at Kautilya Consultancy Services, representing M/s Raj International, along with Shri Abbas Hariyani and Shri Ashok Damji Bhanushali, requested cross-examination of three lorry drivers whose statements were recorded by DRI during the investigation, as per letters dated 04.05.2024, 16.08.2024, and 30.10.2024, and in personal hearings on 02.01.2025 and 13.02.2025. After reviewing the request, I find no valid grounds for cross-examination, as the drivers merely described what they observed during the unloading of cargo and did not implicate the noticees. Additionally, none of the drivers were named as suspects by the investigation agency. Furthermore, Shri Mahbub Usman Vidha, proprietor of M/s Raj International, in his statement dated 15.03.2023, mentioned the involvement of Shri Abbas Hariyani and Shri Ashok Damji Bhanushali, which has been relied upon by the investigation agency.

Thus, the request for cross-examination appears to be a tactic to delay the proceedings. The allegations against the noticee are not based solely on the drivers' statements, which were limited to their observations. Therefore, I decline permission for cross-examination. In this connection, the following judicial and quasi-judicial rulings may be referred, Visal Lubtech Corp v. Additional Commissioner of Customs, Coimbatore [2016 (342) E.L.T. 201 (Mad)]; N S Mahesh v. Commissioner of Customs Cochin [2016 (331) E.L.T. 402 (Ker)] and Jagdish Shankar Trivedi v. Commissioner of Customs Kanpur [2006 (194) E.L.T. 290 (T-Del)].

**18. ROLE AND CULPABILITY OF M/s Raj International**

**18.1** I find that the SCN has proposed penalty under section 112(a), 112(b) and section 114AA and Section 117 of the Customs Act, 1962 against M/s **Raj International** Now I will discuss liability of them under the proposed sections of the customs act, 1962 for levying penalty against M/s **Raj International**

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

**18.2.1** I find that M/s. Raj International filed Bill of Entry No. 1003513 dated

20.02.2023 of declared goods as Iraqi Wet Dates'. However, during examination total 53.31 MTs Betel Nuts/ Areca Nuts whole/splits, (CTH 080280) were found concealed in the import consignment alongwith total 15.08 MTs of Wet Dates. It was revealed that M/s. Raj International 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. Raj International were also aware with tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 which fixed the tariff value of the concealed goods. Thus rendered the illegally imported goods i.e. **Areca nuts (Qty. 53.31 MTs, Market Value- Rs. 62547285/)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i), 111(m)of the Customs Act,1962 and declared imported goods **Iraqi Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under Section 119 of the Customs Act, 1962. Therefore, I find that M/s Raj International has rendered itself liable for penalty under Section 112(a) of the Customs Act, 1962. thus, the same is confirmed Under section 112(a) (i) of the Customs Act,1962.

**18.2.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on M/s Raj International under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

### **18.3 Imposition of Penalty under 114AA of the Customs Act, 1962**

**18.3.1** As regards the penalty on M/s Raj International under Section 114AA of the Customs Act, 1962 is concerned, 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 tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy and thereby it's clearly evident that that M/s Raj International has violated the provisions of Section 14 and Section 46 of the Customs Act, 1962. M/s. Raj International via his proprietor have knowingly and intentionally made/ signed/ used and/or caused to be made/signed/used the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, the Importer via his proprietor is liable to penalty under Section 114AA of the Customs Act, 1962.

## 18.4 Imposition of Penalty under 117 of the Customs Act, 1962

**18.4.1** 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].*

**18.4.2** I find that M/s Raj International has illegally imported areca nut in by concealing the same in the Wet dates in violation of the Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy. However, I find that the penalty under Section 117 is imposable for contravenes any provision of this Act or abets any such contravention or who fails to comply where no express penalty is elsewhere provided for such contravention or failure. In the current case the penalty expressly mentioned under section 112(a)(i) and 114AA of the Customs Act, 1962 has already been levied at above paras. Therefore, I find that the imposition of penalty under section 117 of the Customs Act, 1962 is not sustainable here.

## 19. ROLE AND CULPABILITY OF Shri Abbas Hariyani

**19.1** The investigation has unearthed that shri Abbas Hariyani operates through his known importer M/s Raj International. The supplier firm, M/s. Kings Distribution, FZE in Dubai, is known to Shri Abbas and their buyers firms M/s Akash Trading Co. and M/s Adarsh Trading Co, solidifying his pivotal role. Shri Mahbub Usman Vidha the proprietor of M/s Raj International in his statement has clearly stated that the order for import was placed by him and Shri Abbas Hariyani with M/s Kings Distribution FZE, Dubai, UAE. His role extends to misdeclaring imported Arecanuts as 'Wet Dates' to evade Customs Duty. Shri Abbas gave a lucrative offer of Rs. 100/- per Kg to Shri Mahbub if the imports were made in the name of his firm M/s Raj International. Shri Abbas himself placed the order of Areca Nut to M/s Kings Distributors and requested Shri Mahbub to provide the Wet Dates to M/s Kings Distributors for the purpose of concealment of Areca Nut. Shri Abbas himself arranged the money at Dubai through "Hawala" for the purchase of Wet Dates meant for concealment. The investigation revealed that Shri Abbas provided the copy the of Bill of Lading, Packing List, Commercial Invoice and other relevant documents to Shri Mahbub for the purpose of filing Bill of Entry for the clearance of the subject goods. Shri Abbas did not join the investigation to unearth the conspiracy which clearly indicates that he is the part of the syndicate Shri Abbas Hariyani 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 has taken place. From above discussion I find that Shri Abbas Haryani is the beneficial owner of the goods who has operated from behind the curtains has emerged as the the key conspirator of the intricate smuggling operation, orchestrating the illegal import of Arecanuts by employing deceptive practices.

## **19.2 Imposition of Penalty under 112(a) & 112(b) of the Customs Act, 1962**

**19.2.1** I find that the omission and commission on the part of Shri Abbas Hariyani 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 nuts (Qty. 53.31 MTs, Market Value- Rs. 62547285/)** liable to confiscation under section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act, 1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under Section 119 of the Customs Act, 1962. Therefore, I find that Shri Abbas Hariyani being the back stage operator and not is the beneficial owner of the illegally imported has rendered itself liable for penalty under Section 112(b) of the Customs Act, 1962. thus, the same is confirmed under section 112(b) (i) of the Customs Act, 1962.

**19.2.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Abbas Hariyani under Section 112(a) of the Act wherever, penalty under Section 112(b) of the Customs Act, 1962, is to be imposed.

## **19.3 Imposition of Penalty under 114AA of the Customs Act, 1962**

**19.3.1** As regards the penalty on Shri Abbas Hariyani under Section 114AA of the Customs Act, 1962 is concerned, 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 tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy and thereby it's clearly evident that that Shri Abbas Hariyani has violated the provisions of Section 14 and Section 46 of the Customs Act, 1962. Shri Abbas Hariyani has knowingly and intentionally caused the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, I find that Shri Abbas Hariyani is liable to penalty under Section 114AA of the Customs Act, 1962.

## **19.4 Imposition of Penalty under 117 of the Customs Act, 1962**

**19.4.1** 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].*

**19.4.2** Shri Abbas Haryani is the beneficial owner of the goods who has

operated from behind the curtains has emerged as the the key conspirator of the intricate smuggling operation, orchestrating the illegal import of Arecanuts by employing deceptive practices to smuggle the goods into in violation of tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy..However, I find that the penalty under Section 117 is imposable for contravenes any provision of this Act or abets any such contravention or who fails to comply where no express penalty is elsewhere provided for such contravention or failure. In the current case the penalty expressly mentioned under section 112(b)(i) and 114AA of the Customs Act, 1962 has already been levied at paras above. Therefore, I find that the imposition of penalty under section 117 of the Customs Act, 1962 is not sustainable here.

## **20. ROLE AND CULPABILITY OF Shri Ashok Damji Bhanushali**

**20.1** I find that Shri Ashok, associated with M/s Ashapura Shipping Agency, played a significant role in the import process of cargo covered under Bill of Entry no. 1003513 dated 20.02.2023, which included concealed Areca Nut behind the declared goods of Iraqi wet dates. Shri Ashok Bhanushali suggested Shri Mahbub that they should import the subject goods at Mundra, SEZ. Shri Ashok Bhanushali contacted Shri Ismail Jat of M/s Star Marine Service Co. who was having sub id at Fast Track Warehouse, Mundra Sez for the clearance of subject goods. Upon being informed by Shri Mahbub Usman Vidha about the hold for examination and potential concealment, Shri Ashok took steps to manage the situation. He arranged for the transportation of the cargo to Palitana, Bhavnagar, Gujarat, and received payments for handling the clearance. Shri Ashok mentioned that he relied on the documents provided by Shri Mahbub Usman Vidha and trusted him completely. However, Shri Ashok Bhanushali being fully aware of the Customs law did not shared the Checklist with the importer M/s Raj International.

### **20.2 Imposition of Penalty under 112(a) & 112(b) of the Customs Act, 1962**

**20.2.1** The omission and commission on the part of Shri Ashok Damji Bhanushali of M/s Ashapura Shipping allowed M/s Star Marine Service Co. for the Bill of Entry without verifying the approval for Checklist received from the Importer or not have rendered the subject illegally imported goods **Areca/Betel (Qty. Qty. 53.31 MTs, Market Value- Rs. 62547285)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act,1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs,** liable to confiscation under section 119 of the Customs Act,1962. Also, since Shri Ashok Damji Bhanushali was knowingly concerned in importing, concealing, purchasing/selling and dealing with such goods, Therefore, I find that Shri Ashok Damji Bhanushali of M/s Ashapura Shipping has rendered himself liable for penalty under Section 112(a) of the Customs Act, 1962. thus, the same is confirmed Under section 112(a) (i) of the Customs Act,1962.

**20.2.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Abbas Hariyani under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

### **20.3 Imposition of Penalty under 114AA of the Customs Act, 1962**

**20.3.1** As regards the penalty on Shri Ashok Damji Bhanudshali under Section 114AA of the Customs Act, 1962 is concerned, 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 tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy and thereby it's clearly evident that that Shri Ashok Damji Bhanushali has violated the provisions of Section 14 and Section 46 of the Customs Act, 1962. Shri Ashok Damji Bhanushali has knowingly and intentionally caused the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, Shri Ashok Damji Bhanushali is liable to penalty under Section 114AA of the Customs Act, 1962.

### **20.4 Imposition of Penalty under 117 of the Customs Act, 1962**

**20.4.1** 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].*

**20.4.2** Shri Ashok Damji Bhanushali has assisted M/s Raj International in illegal import of Arecanuts by employing deceptive practices to smuggle the goods into in violation of tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy. However, I find that the penalty under Section 117 is imposable for contravenes any provision of this Act or abets any such contravention or who fails to comply where no express penalty is elsewhere provided for such contravention or failure. In the current case the penalty expressly mentioned under section 112(b)(i) and 114AA of the Customs Act, 1962 has already been levied at paras above. Therefore, I find that the imposition of penalty under section 117 of the Customs Act, 1962 is not sustainable here.

## **21. ROLE AND CULPABILITY OF Shri Ismail Jat Osman**

**21.1** I find that Shri Ismail Jat Osman, Partner of M/s Star Marine Service Company was approached by Shri Ashok Bhanushali for the filing of Bill of Entry No.1001031 dated 19.01.2023 and current Bill of Entry No. 1003513 dated 20.02.2023. Shri Ismail Jat of M/s Star Shipping Service Co. was having sub id at Fast Track Warehouse, Mundra Sez for the clearance of subject goods

Shri Ismail Jat himself suggested that the clearance of subject goods would be easier at Fast Track CFS Pvt. Ltd. rather than that at Empazer CFS. However, Shri Ismail filed the draft Bill of Entries merely on the recommendation of Shri Ashok Damji Bhanushali without verifying the KYC of the importer. Shri Ismail Jat prepared the draft Bill of Entry which was finally filed by M/s Fast Track CFS Pvt. Ltd. Shri Ismail Jat forwarded the checklist to M/s Ashapura Shipping for getting approval from the Importer, however M/s Ashapura Shipping did forward the Checklist to the importer. The Bill of entry was filed without obtaining any approval for the checklist the importer.

**21.1.1** As per the procedure laid down in the **SEZ Online Manual Bill of Entry Version 2.0**, the SEZ unit creates two role i.e. Entity maker/ CHA and Entity approver.

*Preparation of Bill of Entry by the Entity Maker or Customs House Agent (CHA) and its submission to the Entity Approver*

*To allow the Entity Maker/CHA user to file for Bill of Entry transactions, Unit Admin has to assign the functionality of “Bill of Entry” to the user. Entity Maker/CHA user will be provided with a link named “Bill of Entry”. On assignment of the “Bill of Entry” functionality, user will be able to view Bill of Entry form once he clicks on Bill of Entry link.*

Implementing a Maker-Checker concept, the Bill of Entry document prepared by Entity Maker/CHA will be verified by Entity Approver, after which it is submitted to Customs office by using a digital signature certificate. It clearly mandates that the SEZ unit provides the user IDs of the Entity Maker/ CHA user to the person concerned with the importer consignment and later verifies the entries himself by the user id named Entity approver. From above it is evident that the SEZ unit issues the user id. of Entity Maker/CHA to shri ismail Jat Osman, partner of M/s Star Marine Service co. who has concerned himself with the the import consignment and filed the bill of entry. The investigation has also unraveled that Shri Mahbub Usman Vidha the proprietor of **M/s Raj International has stated in his statement dt. 15.03.2023 that he was advised by shri Ismail Jat Osman to carry out the clearance at M/s Fast Track CFS as the services will be fast.** This clearly makes it evident that shri ismail Jat Osman, partner of M/s Star Marine Service co. is involved in the illegal import of Areca Nut in the guise of Wet Dates is part of the well spun conspiracy to bypass tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy.

## **21.2 Imposition of Penalty under 112(a) & 112(b) of the Customs Act, 1962**

**21.2.1** The omission and commission on the part of Shri Ismail Jat Osman allowed M/s Fast Track CFS, Pvt. Ltd. made the filing of Bill of Entry without verifying the approval for Checklist received from the Importer or not have rendered the subject illegally imported goods **Areca/Betel (Qty. Qty. 53.31 MTs, Market Value- Rs. 62547285)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act,1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs)**, liable to confiscation under section 119 of the Customs Act,1962. Also, since Shri Ismail Jat Osman was knowingly concerned in importing, concealing, purchasing/selling and dealing with such goods, Therefore, I find that Shri Ismail Jat Osman, Partner of M/s Star Marine Service Company has rendered himself liable for penalty under Section 112(a) of the Customs Act, 1962. thus, the same is confirmed Under

section 112(a) (i) of the Customs Act, 1962.

**21.2.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Shri Ismail Jat Osman, Partner of M/s Star Marine Service Company under Section 112(b) of the Act wherever, penalty under Section 112(a) of the Customs Act, 1962, is to be imposed.

### **21.3 Imposition of Penalty under 114AA of the Customs Act, 1962**

**21.3.1** As regards the penalty on Shri Ismail Jat Osman, under Section 114AA of the Customs Act, 1962 is concerned, 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 tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy and thereby it's clearly evident that that Shri Ismail Jat Osman has violated the provisions of Section 14 and Section 46 of the Customs Act, 1962. Shri Ismail Jat Osman has knowingly and intentionally caused the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, Shri Ismail Jat Osman, is liable to penalty under Section 114AA of the Customs Act, 1962.

### **21.4 Imposition of Penalty under 117 of the Customs Act, 1962**

**21.4.1** 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].*

**21.4.2** Shri Ismail Jat Osman, has assisted M/s Raj International in illegal import of Areca nuts by employing deceptive practices to smuggle the goods into in violation of tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy. However, I find that the penalty under Section 117 is imposable for contravenes any provision of this Act or abets any such contravention or who fails to comply where no express penalty is elsewhere provided for such contravention or failure. In the current case the penalty expressly mentioned under section 112(a)(i) and 114AA of the Customs Act, 1962 has already been levied at paras above. Therefore, I find that the imposition of penalty under section 117 of the Customs Act, 1962 is not sustainable here.

## **22. ROLE AND CULPABILITY OF M/s Fast Track CFS Pvt. Ltd.**

**22.1** I find that M/s Fast Track CFS Pvt. Ltd has given the sub Id to Shri Ismail Jat of M/s Star Marine Service Company for filing draft Bill of Entry which was finally filed by M/s Fast Track CFS Pvt. Ltd. Shri Ismail Jat of M/s Star Marine Service Company prepared the draft Bill of Entry which was finally filed by M/s Fast Track CFS Pvt. Ltd. M/s Fast Track CFS Pvt. Ltd did not verify the KYC and genuineness of M/s Raj International. The Bill of entry was filed without obtaining any approval for the checklist the importer. Shri Mahbub Usman Vidha the proprietor of M/s Raj International has stated in his statement dt. 15.03.2023 that he was advised by shri Ismail Jat Osman to carry out the clearance at M/s Fast Track CFS as the services will be fast. This clearly indicated that goods arrived at Fast Track CFS based on an ill-intended preplanning.

**22.1.1** As per the procedure laid down in the SEZ Online Manual Bill of Entry Version 2.0, the SEZ unit creates two role i.e. Entity maker/ CHA and Entity approver.

Preparation of Bill of Entry by the Entity Maker or Customs House Agent (CHA) and its submission to the Entity Approver

*To allow the Entity Maker/CHA user to file for Bill of Entry transactions, Unit Admin has to assign the functionality of "Bill of Entry" to the user. Entity Maker/CHA user will be provided with a link named "Bill of Entry". On assignment of the "Bill of Entry" functionality, user will be able to view Bill of Entry form once he clicks on Bill of Entry link.*

Implementing a Maker-Checker concept, the Bill of Entry document prepared by Entity Maker/CHA will be verified by Entity Approver, after which it is submitted to Customs office by using a digital signature certificate. From above it is evident that the SEZ unit provides the user IDs of the Entity Maker/ CHA user to the person concerned with the importer consignment and later verifies the entries himself by the user id named Entity approver. The investigation has also unraveled that Shri Mahbub Usman Vidha the proprietor of M/s Raj International has stated in his statement dt. 15.03.2023 that he was advised by shri Ismail Jat Osman to carry out the clearance at M/s Fast Track CFS as the services will be fast. This mandates that Shri Ismail Osman Jat, the partner of m/s Star Marine Service Co. who was the entity maker at M/s Fast Track CFS Pvt. Ltd. was confident to get the consignment of areca nut cleared from Fast Track CFS Pvt. Ltd. because of his contacts. This clearly makes it evident that M/s Fast Track CFS Pvt. Ltd. by joining hands with shri ismail Jat Osman, partner of M/s Star Marine Service co. has indulged themselves in the illegal import of Areca Nut in the guise of Wet Dates is part of the well spun conspiracy to bypass tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy.

## **22.2 Imposition of Penalty under 112(a) & 112(b) of the Customs Act, 1962**

**22.2.1** I find that The omission and commission on the part of M/s Fast Track CFS, Pvt. Ltd. filed Bill of Entry without verifying the approval for Checklist received from the Importer or not have rendered the subject illegally imported goods **Areca/Betel (Qty. Qty. 53.31 MTs, Market Value- Rs. 62547285)** liable to confiscation under Section 111(d), 111(e), 111(f), 111(i), 111(m) of the Customs Act, 1962 and declared imported goods **Wet Dates (Qty. 15.08 MTs,** liable to confiscation under section 119 of the Customs Act,1962. Therefore, I find that by this act of omission and commission on the part of and evidence of

preplanned import of areca nut by having nexus with shri Ismail Jat Osman, Partner of Star Marine Service Company, M/s Fast Track CFS Pvt. Ltd. has rendered himself liable for penalty of under section 112(b) the same is confirmed under section 112b(i) of the Customs Act, 1962.

**22.2.2** I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty on Shri Abbas Hariyani under Section 112(a) of the Act wherever, penalty under Section 112(b) of the Customs Act, 1962, is to be imposed.

### **22.3 Imposition of Penalty under 114AA of the Customs Act, 1962**

**22.3.1** As regards the penalty on M/s Fast Track CFS Pvt. Ltd. , under Section 114AA of the Customs Act, 1962 is concerned, 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 tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy and thereby it's clearly evident that that M/s Fast Track CFS Pvt. Ltd. has violated the provisions of Section 14 and Section 46 of the Customs Act, 1962. M/s Fast Track CFS Pvt. Ltd., has knowingly and intentionally caused the import documents and other related documents which were false or incorrect in material particular such as description, value etc., with mala-fide intention, and therefore, M/s Fast Track CFS Pvt. Ltd., via its proprietor is liable to penalty under Section 114AA of the Customs Act, 1962.

### **22.4 Imposition of Penalty under 117 of the Customs Act, 1962**

**22.4.1** 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.*

**22.4.2** M/s Fast Track CFS Pvt. Ltd. , has provided subid to Shri Ismail Jat Osman, to assist the importer M/s Raj International in illegal import of Arecanuts by employing deceptive practices to smuggle the goods into in violation of tariff Notification No.09/2023-Cus (NT) dated 15.02.23, issued under Section 14(2) of the Customs Act 1962 to evade the duty liability as specified in the exim policy. However, I find that the penalty under Section 117 is imposable for contravenes any provision of this Act or abets any such contravention or who fails to comply where no express penalty is elsewhere provided for such contravention or failure. In the current case the penalty expressly mentioned under section 112(b)(i) and 114AA of the Customs Act, 1962 has already been levied at paras above. Therefore, I find that the imposition of penalty under section 117 of the Customs Act, 1962 is not

sustainable here.

**Order**

**23.** Based on the above discussion and findings I pass following order.

- a. I order for absolute confiscation of the illegally imported goods i.e. **Areca Nut (Qty. 53315.5 Kg)** confiscated under section 111(d), 111(e), 111(f), 111(i) and 111(m) of the Customs Act,1962. Unless an appeal against such order is pending, the said impugned goods would be liable for Disposal as per instructions and guidelines in CBIC disposal manual, 2019.
- b. I order for absolute confiscation of the goods **Iraqi Wet Dates (Qty. 15080.5 KG)**, used for the purpose of concealment of smuggled 53315 KG Areca Nut, should not be confiscated under the provisions of Section 119 of the Customs Act, 1962. Unless an appeal against such order is pending, the said impugned goods would be liable for Disposal as per instructions and guidelines in CBIC disposal manual, 2019.
- c. I impose penalty of **Rs.10,00,000 (Rupees TEN Lakh Only)** on M/s. Raj International (IEC No.0399016481) under Section 112(a)(i) of the Customs Act, 1962.
- d. I refrain from imposing any penalty on **M/s. Raj International (IEC No.0399016481)** under Section 112(b) of the Customs Act, 1962.
- e. I impose penalty of **Rs.10,00,000 (Rupees TEN Lakh Only)** on **M/s. Raj International (IEC No.0399016481)** via its proprietor under Section 114AA of the Customs Act, 1962.
- f. I refrain from imposing any penalty on **M/s. Raj International (IEC No.0399016481)** under Section 117 of the Customs Act, 1962.
- g. I refrain from imposing any penalty on Shri Abbas Hariyani under Section 112(a) of the Customs Act, 1962.
- h. I impose penalty of **Rs.10,00,000 (Rupees TEN Lakh Only)** on Shri Abbas Hariyani under Section 112(b)(i) of the Customs Act, 1962.
- i. I impose penalty of **Rs.10,00,000 (Rupees TEN Lakh Only)** on Shri Abbas Hariyani under Section 114 AA of the Customs Act, 1962.
- j. I refrain from imposing any penalty on Shri Abbas Hariyani under Section 117 of the Customs Act, 1962.
- k. I impose penalty of **Rs.10,00,000 (Rupees TEN Lakh Only)** on Shri Ashok Damji Bhanushali under Section 112(a)(i) of the Customs Act, 1962.
- l. I refrain from imposing any penalty on Shri Ashok Damji Bhanushali under Section 112(b) of the Customs Act, 1962.
- m. I impose penalty of **Rs.10,00,000 (Rupees TEN Lakh Only)** on Shri Ashok Damji Bhanushali under Section 114AA of the Customs Act, 1962.
- n. I refrain from imposing any penalty on Shri Ashok Damji Bhanushali under Section 117 of the Customs Act, 1962.
- o. I impose penalty of **Rs.5,00,000 (Rupees Five Lakh Only)** on Shri Ismail Jat Osman under Section 112(a)(i) of the Customs Act, 1962.
- p. I refrain from imposing any penalty on Shri Ismail Jat Osman under Section 112(b) of the Customs Act, 1962.
- q. I impose penalty of **Rs.5,00,000 (Rupees Five Lakh Only)** on Shri Ismail Jat Osman i under Section 114 AA of the Customs Act, 1962.
- r. I refrain from imposing any penalty on Shri Ismail Jat Osman under

Section 117 of the Customs Act, 1962.

- s. I refrain from imposing any penalty on Shri M/s Fast Track CFS Pvt. Ltd. under Section 112(a) of the Customs Act, 1962.
- t. I impose penalty of **Rs., 50,000 (Rupees Fifty Thausand Only)** on M/s Fast Track CFS Pvt. Ltd. under Section 112(b)(i) of the Customs Act, 1962.
- u. I impose penalty of **Rs.50,000 (Rupees Fifty Thausand Only)** on M/s Fast Track CFS Pvt. Ltd. via its proprietor under Section 114AA of the Customs Act, 1962.
- v. I refrain from imposing any penalty on M/s Fast Track CFS Pvt. Ltd. under Section 117 of the Customs Act, 1962.

**24.** The SCN No. GEN/ADJ/ADC/448/2024-Adjn -O/o Pr Commr-Cus-Mundra dt. 06.03.2024 stands disposed of on above terms.

(अमित कुमार मिश्रा)

अपर आयुक्त

सीमा शुल्क भवन मुन्द्रा

To

**By Speed Post/Email/Hand**

1. **M/s. Raj International (IEC No.0399016481),  
F 64 Mezzanine Floor APMC Masala market-1,  
Phase-2, Sector-19, Vashi- Turbe,  
Navi Mumbai Muni. Corp., Thane Zone-4, 400709**  
(emailID :rajdryfrutis@yahoo.com and  
mehboob.usman.vidha@gmail.com)
2. Shri Abbas Hariyani  
S/o Shri Gulam Husain Hariyani  
Proprietor of M/s Adarsh Trading  
Khatriwad, Khoja Masjid,  
Palitana, Gujarat-364270
3. Shri Ashok Damji Bhanushali  
Partner of M/s Ashapura Shipping Agency  
Office No. 41/42, First Floor, GMA Building  
Ward-12A, Gandhidham, Kutch-370201  
(email ID: import@damjidons.co.in )
4. Shri Ismail Jat Osman  
S/o Shri Osman Jat  
Partner of M/s Star Marine Service Co.  
Shop No-17, Avenue Park,

Swapana Plaza, Adani Port,  
Mundra-Kutch-370421  
(email ID: capt.ijat@starmarineindia.com and  
mundra@starmarineindia.com)

5. M/s Fast Track CFS, Pvt. Ltd.  
Plot No. 3, Block-C,  
Sector-11, Adani Port and SEZ Limited,  
Taluka Mundra, District-Kutch  
Mundra-370421  
(email IDs: custom@fastrack.com)

प्रति/Copy to

1. The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).
2. The Dy./Asstt. Commissioner (Legal/Prosecution), Custom House, Mundra.
3. The Dy./Asstt. Commissioner (RRA), Customs House, Mundra.
4. The Dy./Asstt. Commissioner (TRC), Customs House, Mundra.
5. The Dy./Asstt. Commissioner (EDI), Custom House, Mundra.
6. The Dy./Asstt. Commissioner (Disposal), Custom House, Mundra.
7. Notice Board (to display on Notice Board for all Noticees).
8. Guard File.