सीमा शुल्क आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS
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F.No.GEN/ADJ/COMM/490/2026-Adjn-O/o Commr-Cus-Kandla

SHOW CAUSE NOTICE

(Issuance of Show Cause Notice under Section 28(4) of the Customs Act, 1962)

M/s Samyak Tradex LLP (IEC: ADJFS7430A) (herein after referred to as exporter for the sake of brevity), having address at Second Floor, Plot No. 42, Sector 1 A, Gandhidham, Gujarat, Pin Code 370201 is indulged in the evasion of Customs duty through export of 'Iron Ore Concentrate' classifiable under CTH 26011150, by mis-declaring it as 'Iron Ore Fines having purity below 58% under CTH 26011142 of the first Schedule of the Customs Tariff Act, 1975. By resorting to the above mis-declaration, the exporter was evading Export duty @ 30% on *ad valorem* basis on FOB (Free on board) value of export consignments, which is applicable on Export of Iron Ore Concentrates, as per Notification No. 58/2022-Customs dated 18.11.2022. Further, from the data analysis, it was also noticed that the said exporter was claiming wrongful IGST Refund @18% instead of 5% on export of Red Ochre, correctly classifiable under CTH 2530, by mis-declaring it as 'Iron Ore Fines' under CTH 2601.

2. Whereas, acting upon the intelligence, a search was conducted at the premises of M/s Samyak Tradex LLP, Gandhidham, Kutch, 370201, under Panchnama dated 05.03.2024 **(RUD-1)**. During the search, it was informed by Shri Vishal Morabia, the operation manager of the exporter, that Shri Nirav Mehta and his wife Smt. Urvi Mehta are the partners in M/s Samyak Tradex LLP. He further informed that another partnership firm by the name of M/s Mahi Tradelink, is also functioning from the said address, in which Shri Nirav Mehta and his wife Smt. Urvi Mehta are also partners and that he looks after the work related to finance and export of both the firms. Shri Vishal Morabia further informed that M/s Mahi Tradelink used to procure the goods viz. Red Ochre Fines, Iron Ore concentrate, iron ore fines from the domestic market, which were then directly sold to the M/s Samyak Tradex LLP, however, M/s Samyak Tradex also procures iron ore locally and exports the same. Shri Vishal Morabia further informed that they were around 11 employees for the routine office work and that they did not have any additional premise/processing unit in the name of M/s Samyak Tradex LLP. During the search proceedings, certain incriminating documents, as mentioned in the said Panchnama dated 05.03.2024 were recovered and resumed by the officers of DRI Gandhidham.

3. Whereas, a search was also conducted by the officers of DRI Gandhidham under Panchnama dated 05.03.2024 **(RUD-2)** at the office premises of M/s K S. Chhaya Consolidators Pvt. Ltd. Plot No. 145, 2nd Floor, Akshat, Ward DC-2, Gandhidham, Kutch Gujarat, 370201, who is the Custom House Agent (CHA) of the exporter M/s Samyak Tradex LLP.

4. **Whereas, t**he live consignments meant for export by M/s Samyak Tradex LLP as per details mentioned below at **Table-1**, were put on hold at Kandla Port by DRI Gandhidham for examination and sampling in order to ascertain the exact nature of the consignment.

TABLE-1

Port of Export	Shipping Bill No. & Date	Invoice No.	Exporter Name	Declared Description of Goods	Quantity (in MT)	Name of the Overseas Buyer
Kandla Port (Port Code: INIXY1)	7344687, dated 07.02.2024 ***(later purged and new SB no. 8463751 dated 19.03.24 was filed against it)***	Exp/ 010/2023-24, dated 06.02.2024 in r/o BE 7344687, dated 07.02.24 ***(Exp/ 013/2023-24, dated 19.03.2024 in r/o BE 8463751, dated 19.03.24)***	M/s Samyak Tradex LLP	Iron Ore Fines (Fe 55.90 PCT)	55000 in r/o BE 7344687, dated 07.02.24 ***(50415 in r/o BE 846375, dated 19.03.24)***	M/s Equentia Natural Resources PTE Ltd., Singapore
	7427323, dated 10.02.2024	Exp/ 011/2023-24, dated 09.02.2024	M/s Samyak Tradex LLP	Iron Ore Fines (0-40 mm Particle Size) (Fe content 49.60 PCT)	25000	M/s Union Cement Company (UCC), UAE.

5. Whereas, examination and sampling of the cargo mentioned at **Table-1** above was carried out by officers of DRI Gandhidham at Kandla Port, under Panchnama dated 06.03.2024 **(RUD-3).**

FIRST STATEMENT OF SHRI NIRAV PRADIPBHAI MEHTA, PARTNER OF M/S SAMYAK TRADEX LLP, GANDHIDHAM RECORDED ON 07.03.2024.

6. Whereas, the statement of Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP was recorded on 07.03.2024 under Section 108 of the Customs Act, 1962 **(RUD-4)**, wherein, he interalia submitted that:

6.1 M/s Samyak Tradex LLP is a partnership firm in which he along with his wife Smt. Urvi Nirav Mehta are the partners, however all the decisions in respect of the said partnership firm are taken by him as his wife is only a silent partner.

6.2 M/s Samyak Tradex LLP is involved mostly in export of Iron ore, however they also do business in the domestic market for the trade of Iron ore.

6.3 He looks after overall works of both the firms M/s Samyak Tradex LLP and M/s Mahi Tradelink.

6.4 They have made total 7 exports of Iron Ore Shipments from M/s Samyak Tradex LLP during 2023-24 and 2 Shipments are pending at Kandla Port.

6.5 He is procuring Iron Ore Fines from Rajasthan and Madhya Pradesh and also procuring it from his other firm M/s Mahi Tradelink.

6.6 On being asked to explain the fact that the they (M/s Samyak Tradex LLP) were procuring goods under HSN 26011190 from M/s Mahi Tradelink and goods under HSN 25309070 (Red Ochre Lumps), HSN 260111 (Iron Ore Concentrates) and HSN 26011290 (Iron Ore Fine Pallets) from some other suppliers, but declaring the same as 'Iron Ore Fines' under HSN 2601142, Shri Nirav Mehta informed that HSN provided by their suppliers is based on Fe content and they generally procure goods under CTH 2601 which is specified for Iron ore fines. Also, their other firm Mahi Tradelink issues invoices to them base on Fe content. They have third party lab reports for confirmation of Fe, on the basis of which they further issue invoice.

6.7 He was exporting Iron Ore Fines for which the Fe content is less than 58% and therefore, they were declaring the same under CTH 26011142 on which there was no export duty.

6.8 He however, informed that he will ascertain the quantity and value of the "Iron Ore Concentrates" exported by M/s Samyak Tradex LLP, under wrong description/classification, and agreed to pay the applicable export duty as per Notification No. 58/2022- Customs dated 18.11.2022.

6.9 With regard to availment of excess refund, in cases where the exporter procured 'Red Ochre' (applicable GST is 5%) and exported the same under CTH 26011142 as "Iron Ore Fines' (applicable IGST is 18%), he agreed that there were some mis-classification.

DOCUMENTS SUBMITTED BY THE EXPORTER:

7. Whereas, the exporter, vide their letter dated 12.03.2024 **(RUD-5),** submitted details of purchases made by them (M/s Samyak Tradex LLP) & their other firm M/s Mahi Tradelink during the year 2023-24 viz. Supplier Name, HSN, Item description and quantity. Further, vide the said letter, details of sales/exports made by M/s Samyak Tradex LLP, during the year 2023-24 were submitted along with some files pertaining to transactions with their suppliers namely M/s 4mann Industries Pvt Ltd & M/s Pacific Iron manufacturing Ltd.

VOLUNTARY PAYMENT TOWARDS EXPORT DUTY AND INTEREST BY THE EXPORTER:

8. Whereas, the exporter, vide their letter dated 14.03.2024, submitted a copy of challan no. 494, dated 14.03.2024 **(RUD-6 colly)**, wherein they had made a voluntary payment of Rs. 90 lakhs in respect of the instant investigation. Vide, the said letter it was also submitted that it was never their intention to export any goods by mis-declaring description etc., however, they have learnt that the observation made by DRI has a duty implication of around Rs. 90 lakhs, when viewed in terms of Notification No. 58/2022-Cus, dated 18.11.2022. Accordingly, they have decided to deposit an amount of Rs. 90 lakhs towards Duty (and interest payable thereon) and close the issue on hand without exploring any legal avenues. The exporter further requested, vide the said letter, to appropriate the same towards duty liability from the exports by treating the same as voluntary payment made with the sole objective to achieve closure of the matter. The exporter also requested in the said letter to inform about the differential amount, if any, payable by them, to make good the same without delay.

SECOND STATEMENT OF SHRI NIRAV PRADIPBHAI MEHTA, PARTNER OF M/S SAMYAK TRADEX LLP, GANDHIDHAM RECORDED ON 12.04.2024.

9. Whereas, during the investigation, statement of Shri Nirav Mehta was recorded on 12.04.2024 under Section 108 of the Customs Act, 1962 **(RUD-7)**, wherein, he interalia submitted that:

9.1 As per his knowledge all the quantity of 'Red Ochre' purchased/procured by M/s Samyak Tradex LLP has been exported, however he will confirm if there is any local supply.

9.2 The first shipment of Red Ochre was done in the month of January, 2024, vide Shipping Bill No. 7086577, dated 29.01.2024**.** In the Shipping Bill for export, they have declared the 'Red Ochre' in CTH 2601 i.e. for 'Iron Ore' based on Fe content on the basis of reports received from Independent Laboratory. The 'Fe' content in 'Red Ochre' varies from state to state in India and in many states it is known as 'Iron Ore' and it is also known as 'Laterite' in few states, which is also an 'Iron Ore'.

9.3 When asked about claiming of refund of higher IGST, in view of the fact that IGST on 'Iron Ore' falling under CTH 2601 is 18%, while on 'Red Ochre' falling under CTH 2530, it is only 5%, he stated that he has not claimed any IGST refund till date on export of 'Red Ochre' exported by M/s Samyak Tradex LLP and agreed that there is some mis-classification and that he will claim only the applicable IGST.

STATEMENT OF SHRI KANVA PRADIP CHHAYA, DIRECTOR OF M/S K.S. CHHAYA CONSOLIDATORS PVT. LTD, GANDHIDHAM, WHO IS THE CUSTOM HOUSE AGENT OF M/S SAMYAK TRADEX LLP, GANDHIDHAM, RECORDED ON 30.04.2024.

10. Whereas, during the investigation, statement of Shri Kanva Pradip Chhaya was recorded on 30.04.2024 under Section 108 of the Customs Act, 1962 **(RUD-8)**, wherein, he interalia submitted that:

10.1 He is the 'F Card' holder in M/s K.S. Chhaya Consolidators Pvt. Ltd and is supervising and looking after all Customs clearances work.

10.2 M/s Samyak Tradex LLP is engaged in exports of Iron Ore Fines in bulk from Kandla Port and is their client since last 3 years. He further stated that in the last one year, they have done around 10 export shipments of 'Iron Ore Fines.

10.3 He was never informed by the exporter, regarding the purchase of 'Red Ochre' and exporting the same by mis-declaring as 'Iron Ore Fines'.

10.4 He was never informed by the exporter about the purchase and exports of 'Iron Ore Concentrates' in their shipments.

RECEIPT OF TEST REPORTS FROM CUSTOM HOUSE LABORATORY KANDLA IN RESPECT OF LIVE CONSIGNMENTS OF EXPORTS PERTAINING TO SHIPPING BILLS NO. 7344687, DATED 07.02.2024 & SB No. 7427323, DATED 10.02.2024

11.1 Whereas, the test reports & remnant samples were received from Custom House Laboratory, Kandla vide their letter Doc. No. KCL/QR-32, dated 01.05.2024 **(RUD-9 colly)** in respect of the 12 samples that were forwarded vide Test Memo No's 81/2024 to 92/2024 all dated 18.03.2024, pertaining to the Shipping Bills (live consignment) No's 7344687 dated 07.02.2024 & 7427323 dated 10.02.2024.

11.2 Whereas, the test reports received above are summarized herein below at **Table-2** below:

(Please also see note below)*

TABLE-2

SI No.	Shipping Bill No. & Date	Test Memo No.	Description of goods declared in Shipping Bill	Test report details
1	7427323, dated 10.02.2024 **(Lot No. 1)**	81/2024	'Iron Ore Fines (0-40 MM Particle), (Fe Content 49.60 PCT), (CTH 2601 1141)	The sample as received is in the form of heterogeneous mixture of brownish coarse powder along with small hard friable lumps having following constants. 1. Moisture content (% by weight) = 1.22 2. Iron content on dry basis (% by weight) =49.57 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 48.96 4. Silica Content as SiO2 (% by weight) = 17.74 5. LOI at 550 degree Celsius on dry basis (% by weight) = 6.78
2	7427323, dated 10.02.2024 **(Lot No. 1)**	82/2024	'Iron Ore Fines (0-40 MM Particle), (Fe Content 49.60 PCT), (CTH 2601 1141)	The sample as received is in the form of heterogeneous mixture of brown coarse powder along with small hard friable lumps having following constants. 1. Moisture content (% by weight) = 5.43 2. Iron content on dry basis (% by weight) =48.37 3. Iron content on WMT basis excluding impurities inclusive of

				moisture (% by weight) = 45.74 4. Silica Content as SiO2 (% by weight) = 10.30 5. LOI at 550 degree Celsius on dry basis (% by weight) = 6.75
2	7427323, dated 10.02.2024 **(Lot No. 1)**	83/2024	'Iron Ore Fines (0-40 MM Particle), (Fe Content 49.60 PCT), (CTH 2601 1141)	The sample as received is in the form of heterogeneous mixture of brown coarse powder along with small hard friable lumps having following constants. 1. Moisture content (% by weight) = 5.59 2. Iron content on dry basis (% by weight) =50.43 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 47.61 4. Silica Content as SiO2 (% by weight) = 9.11 5. LOI at 550 degree Celsius on dry basis (% by weight) = 7.31
4	7427323, dated 10.02.2024 **(Lot No. 2)**	84/2024	'Iron Ore Fines (0-40 MM Particle), (Fe Content 49.60 PCT), (CTH 2601 1141)	The sample as received is in the form of heterogeneous mixture of moist brown coarse powder along with small hard friable lumps having following constants. 1. Moisture content (% by weight) = 5.44 2. Iron content on dry basis (% by weight) =47.69 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 45.09 4. Silica Content as SiO2 (% by weight) = 4.91 5. LOI at 550 degree Celsius on dry basis (% by weight) = 6.45
5	7427323, dated 10.02.2024 **(Lot No. 2)**	85/2024	'Iron Ore Fines (0-40 MM Particle), (Fe Content 49.60 PCT), (CTH 2601 1141)	The sample as received is in the form of heterogeneous mixture of moist brown coarse powder along with small hard friable lumps having following constants. 1. Moisture content (% by weight) = 6.02 2. Iron content on dry basis (% by weight) =53.46 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 50.24 4. Silica Content as SiO2 (% by weight) = 4.86 5. LOI at 550 degree Celsius on dry basis (% by weight) = 6.51
6	7427323, dated 10.02.2024 **(Lot No. 2)**	86/2024	'Iron Ore Fines (0-40 MM Particle), (Fe Content 49.60 PCT), (CTH 2601 1141)	The sample as received is in the form of heterogeneous mixture of light brown coarse powder along with small hard friable and non friable lumps having following constants. 1. Moisture content (% by weight) = 6.70 2. Iron content on dry basis (% by

				weight) =50.68 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 47.28 4. Silica Content as SiO2 (% by weight) = 5.24 5. LOI at 550 degree Celsius (% by weight) = 7.90
7	7344687, dated 07.02.2024 **(Lot No. 3)**	87/2024	'Iron Ore Fines, (Fe 55.90 PCT), (CTH 2601 1142)	The sample as received is in the form of heterogeneous mixture of light brown small hard friable lumps and coarse powder having following constants. 1. Moisture content (% by weight) = 1.78 2. Iron content on dry basis (% by weight) =40.61 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 39.89 4. Silica Content as SiO2 (% by weight) =29.79 5. LOI at 550 degree Celsius on dry basis (% by weight) = 6.02
8	7344687, dated 07.02.2024 **(Lot No. 3)**	88/2024	'Iron Ore Fines, (Fe 55.90 PCT), (CTH 2601 1142)	The sample as received is in the form of heterogeneous mixture of light brown small hard friable lumps and coarse powder having following constants. 1. Moisture content (% by weight) = 0.94 2. Iron content on dry basis (% by weight) =41.90 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 41.51 4. Silica Content as SiO2 (% by weight) =28.79 5. LOI at 550 degree Celsius on dry basis (% by weight) = 6.50
9	7344687, dated 07.02.2024 **(Lot No. 3)**	89/2024	'Iron Ore Fines, (Fe 55.90 PCT), (CTH 2601 1142)	The sample as received is in the form of heterogeneous mixture of light brown coarse powder along with small hard friable and non friable lumps having following constants. 1. Moisture content (% by weight) = 6.20 2. Iron content on dry basis (% by weight) =49.90 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 46.81 4. Silica Content as SiO2 (% by weight) =4.82 5. LOI at 550 degree Celsius (% by weight) = 7.21
10	7344687, dated 07.02.2024 **(Lot No. 4)**	90/2024	'Iron Ore Fines, (Fe 55.90 PCT), (CTH 2601 1142)	The sample as received is in the form of heterogeneous mixture of light brown moist coarse powder along with small hard friable and non friable lumps having following constants. 1. Moisture content (% by weight) =

				15.35 2. Iron content on dry basis (% by weight) =57.98 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 49.08 4. Silica Content as SiO_2 (% by weight) =6.10 5. LOI at 550 degree Celsius (% by weight) = 8.55
11	7344687, dated 07.02.2024 **(Lot No. 4)**	91/2024	'Iron Ore Fines, (Fe 55.90 PCT), (CTH 2601 1142)	The sample as received is in the form of heterogeneous mixture of light brown moist coarse powder along with small hard friable and non friable lumps having following constants. 1. Moisture content (% by weight) = 16.78 2. Iron content on dry basis (% by weight) =57.27 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 47.66 4. Silica Content as SiO_2 (% by weight) =4.73 5. LOI at 550 degree Celsius on dry basis (% by weight) = 8.93
12	7344687, dated 07.02.2024 **(Lot No. 4)**	92/2024	'Iron Ore Fines, (Fe 55.90 PCT), (CTH 2601 1142)	The sample as received is in the form of heterogeneous mixture of light brown moist coarse powder along with small hard friable and non friable lumps having following constants. 1. Moisture content (% by weight) = 16.13 2. Iron content on dry basis (% by weight) =56.91 3. Iron content on WMT basis excluding impurities inclusive of moisture (% by weight) = 47.73 4. Silica Content as SiO_2 (% by weight) =4.92 5. LOI at 550 degree Celsius on dry basis (% by weight) = 8.72

***Note: All the reports as summarized above have a common observation which is as under:**

"Based on the above tested parameters, it appears to be mainly composed of hydrated oxides of Iron together with small amount of oxides of Aluminium and silicious matter. However, whether, the sample is blended of various items i.e. Iron Ore, Red Ochre/ Yellow Ochre, Iron Ore Concentrate, Iron Slag etc. could not be ascertained."

THIRD STATEMENT OF SHRI NIRAV PRADIPBHAI MEHTA, PARTNER OF M/S SAMYAK TRADEX LLP, GANDHIDHAM RECORDED ON 30.09.2024.

12. Whereas, during the investigation, statement of Shri Nirav Mehta was recorded on 30.09.2024 under Section 108 of the Customs Act, 1962 **(RUD-10)**, wherein, he interalia submitted that:

12.1 After perusing the reports received from Custom House Laboratory, Kandla, in respect of Test Memo No. 81/2024 to 92/2024, he stated that the Fe content found is as per their declaration made in the said Shipping Bills and as duty on iron ore is calculated on WMT basis, none of the reports were falling under the dutiable category.

12.2 M/s Samyak Tradex LLP had purchased Red Ochre falling under HSN 2530 from M/s Inani Export. Further their other firm M/s Mahi Tradelink had purchased Red Ochre (HSN 2530) from M/s Rspl Red Ochre Mines Gwalior, which was further sold to M/s Samyak Tradex LLP. Thus, M/s Samyak Tradex LLP received Red Ochre from M/s Inani Export & M/s Mahi Tradelink

12.3 25000 MT of Red Ochre was to be exported under Shipping Bill No. 7427323, dated 10.02.2024 by declaring as 'Iron Ore Fines (0-40 MM Particle Size)', under HSN 2601 1141. *(This was one of the two Shipping Bills of the live consignment for which sampling and testing was done by DRI as mentioned in above paras).*

12.4 After initiation of investigation by DRI officers, the description in Shipping Bill No. 7427323, dated 10.02.2024 was changed from 'Iron Ore Fines-HSN 2601 1141 to "Red Ochre (Other Processed Earth Colour Ochre)- under CTH 2530. Thereafter, they have been exporting under LUT only.

12.5 Till date of visit by DRI officers i.e. 05.03.2024, he had got 'Let Export Order' in 7 Shipping Bills for which he provided a sheet detailing the said Shipping Bills **(RUD-11)**. The sheet also contained other details pertaining to quantity of local purchase/sales data of iron ore concentrate & iron ore fines.

12.6 He has made payment of Rs. 90 lakhs voluntarily and will deposit the remaining amount once the case is concluded.

FOURTH STATEMENT OF SHRI NIRAV PRADIPBHAI MEHTA, PARTNER OF M/S SAMYAK TRADEX LLP, GANDHIDHAM RECORDED ON 20.12.2025.

13. Whereas, during the investigation, statement of Shri Nirav Mehta was recorded on 20.12.2025 under Section 108 of the Customs Act, 1962 **(RUD-12)**, wherein, he interalia submitted that:

13.1 They are engaged in trading/export of Iron ore fines which they supply to Pipe Coating Firms and Sponge Iron manufacturers. They are also exporting Iron Ore fines to Saudi Arabia and Qatar to pipe coating firms. He produced a copy of purchase order placed by M/s Equentia Natural Resources PTE Ltd. (Singapore) and M/s Wasco Coating Middle East QFZ LLC, Doha (Quatar).

13.2 They place order to various mines located at Madhya Pradesh and Rajasthan to supply Iron Ore Fines on phone verbally as the said mines are mining the ore as per the specifications required by them for further supply, except the size of the iron ore. Iron ore fines supplied to pipe coating firms is based on density of the Iron Ore which is required to be 4.3 (+-0.1) and contents of Fe do not matter in the export consignment, however to maintain the density of the Iron Ore Fines, contents of Fe are required between 49 to 56.

13.3 Customs Authority is sampling each and every consignment they export and assessment of Shipping Bills and LEO is done after receipt of samples. He produced copy of sample report along with respective Shipping Bill in support of his submission.

13.4 He has followed proper procedure of Customs and also paid Customs Duty as per assessment of Customs for export of Iron Ore fines, which can be seen from the sample report submitted by him with the respective Shipping Bills.

13.5 He is ready to pay Duty liability if any arises during the investigation.

FIFTH STATEMENT OF SHRI NIRAV PRADIPBHAI MEHTA, PARTNER OF M/S SAMYAK TRADEX LLP, GANDHIDHAM RECORDED ON 02.06.2026.

14. Whereas, during the investigation, statement of Shri Nirav Mehta was recorded on 02.06.2026 under Section 108 of the Customs Act, 1962 **(RUD-13)**, wherein, he interalia submitted that:

14.1 He is the common partner in M/s Samyak Tradex LLP and M/s Mahi Trade Link and also the sole decision maker in all matters of both the firms.

14.2 On being asked, he produced a copy of Lease Agreement dated 26.06.2023 **(RUD-14)**, vide which land property of M/s Mahi Tradelink (Revenue Survey no. 355, Paiki Village, Bhimasar, Taluka Anjar, Kutch) has been leased for a period of 7 years till 30.06.2030 to M/s Samyak Tradex LLP for business purpose.

14.3 On being asked to explain the details of processing/blending activity carried out by M/s Samyak Tradex LLP, he informed that there are two methods by which crushing/ blending of iron ore fines is carried out by M/s Samyak Tradex LLP. In some instances, the boulders of Iron Ore along with Iron ore fines (0-10mm/ 0-15mm) are crushed together in a crusher to produce 0-6mm size of fines according to sieve analysis. This results in the final product which is exported or sold locally. Alternately, they produce iron ore fines from boulders of iron ore first and subsequently mix them with 0-6mm iron ore fines using excavator and loader. The resultant product is then exported or sold locally. He also submitted/emailed a submission, explaining the aforementioned activity **(RUD-15).**

14.4 On being asked to provide the details of the procurement and local sales/export of Iron Ore Concentrate and Red Ochre done by M/s Samyak Tradex LLP from 2021-22 to 2025-26, he stated that he had previously emailed the required details of the procurement and local sales/export of Iron Ore Concentrate and Red Ochre to DRI Gandhidham's office email id in excel format on 20.05.2026 **(RUD-16 colly)**. He also submitted copies of invoices and other documents i.e. E-way bills, Lorry receipts, weighment slips and electronic transit pass in relation to procurement/ local sales of Iron ore concentrate in four Box files (2 Box files titled "Enr V1" and other two titled "Local"). Further, he also submitted/emailed a copy of the invoice GST/0037/2023-24, dated 29.05.2023 **(RUD-17)** in relation to local sales of Red Ochre to M/s New Kandla Salt and Chemicals Co. Pvt. Ltd., Gandhidham in support of the detail mentioned in the aforementioned excel sheet.

14.5 It was observed from the data shared in excel format that supply of Iron Ore Concentrate/Red Ochre to M/s Mahi Tradelink has also been included in the quantity of Iron Ore Concentrate/Red Ochre sold in the domestic market or exported by M/s Samyak Tradex LLP. On being asked to explain the treatment of such transactions in the books of account of M/s Samyak Tradex LLP, he stated that the transactions for supply of goods from M/s Mahi Tradelink to M/s Samyak Tradex LLP are duly recorded in the books of accounts. However, the HSN mentioned in such invoices is either 26011190/26011142/2601 with corresponding description as Iron Ore fines/Iron Ore. He submitted/emailed copies of Invoice no. MT/002 (HSN 26011190), dated 31.05.2022 & Invoice no. MT/RJ/517, dated 03.09.2023 (HSN 26011142) as sample invoices in support of his claim. **(RUD-18 colly)**

14.6 On being asked, he provided the bifurcation of the Iron Ore Concentrate exported by M/s Samyak Tradex LLP under various Shipping Bills (**6306968 dated 26.12.23, 7086577 dated 29.01.24 & 7304202 dated 06.02.24**) from 2021-22 to 2025-26 as per **Table 3** below: **(RUD-19 colly)**

TABLE-3

Details in respect of Export of Iron Ore Concentrate		
Sr. No.	**Shipping Bill No. and Date**	**Quantity (in MT)**
1	6306968 dated 26.12.23	978
2	7086577 dated 29.01.24	1848.52
3	7304202 dated 06.02.24	2697.06
Total export quantity		**5523.58**

14.7 On being asked, he provided the bifurcation of the Red Ochre exported by M/s Samyak Tradex LLP under various Shipping Bills (**7086577 dated 29.01.24, 7304202 dated 06.02.24, 7427323 dated 10.02.24, & 8463751 dated 19.03.24**) from 2021-22 to 2025-26 as per **Table 4** below: **(RUD-20 colly)**

TABLE-4

Details in respect of Export of Red Ochre		
Sr. No.	**Shipping Bill No. and Date**	**Quantity (in MT)**
1	7086577 dated 29.01.24	1948
2	7304202 dated 06.02.24	5708
3	7427323 dated 10.02.24	24992
4	8463751 dated 19.03.24	19686
Total export quantity		**52334**

14.8 Whereas, during the investigation it was observed that in respect of a Shipping Bill No. 3799237 dated 08.09.2023 **(RUD-21)**, a CRCL Kandla Sample Test report **(RUD-22)**, as per which the Fe percentage was ascertained at 56.17% on WMT basis, which when converted to DMT basis (*as per universally accepted Formula*), results in Fe content of 58.4%, thereby making the said export consignment dutiable @30% advalorem as per Notification No. 58/2022-Customs dated 18.11.2022. In this regard, on being asked the reasons for not bringing out this crucial parameter by virtue of which, export duty to the tune of more than Rupees Eleven Crores was evaded, Shri Nirav Mehta stated that he was not aware that such a Supplementary Note was inserted vide Finance Act, 2022 (w.e.f. 01.05.2022) under Chapter 26, for calculation of percentage of Fe content on Dry weight or DMT basis and not WMT basis. Further, he stated that they have exported the goods under Shipping Bill No. 3799237 dated 08.09.2023, as per CRCL Lab report findings only.

14.9 On being asked, he produced/emailed the details of four Shipping Bills (SB No. 4660618 dated 07.10.22, SB No. 4873937, dated 17.10.22, SB No. 3967199 dated 05.09.22 & SB No. 2951583, dated 20.07.22, as downloaded from ICEGATE containing details of the export consignments under CTH 260111, in which export duty was paid by M/s Samyak Tradex LLP @50% from 2021-22 to 2025-26**. (RUD-23 colly)**

14.10 As regards Bank Statements, in respect of export payments received by M/s Samyak Tradex LLP for all exports made between 2021-22 to 2025-26, he submitted/emailed bank account statement for PNB Account no. 0190008700004403 for the aforementioned period. Further, for the Bank of Baroda Account no. 10080200002026, he submitted/emailed statement for the period 01.04.22 to 31.03.23 and 01.04.24 to 31.03.25. **(RUD-24 colly)**

14.11 On being asked about the method of invoicing for the period, when export duty@50% was applicable in terms of Notification no. 28/2022-Customs, dated 21.05.2022 on exports under CTH 260111 & 260112, Shri Nirav Mehta stated that M/s Samyak Tradex LLP have FOB contracts with their overseas buyers. Therefore, invoicing for the exports done during 21.05.2022 till 17.11.2022, was done on FOB basis only. However, since export duty @50% became applicable in terms of Notification no. 28/2022-Customs, dated 21.05.2022, therefore, he had directed their overseas buyers to remit back the export duty separately that was paid by M/s Samyak Tradex LLP at the time of exports of iron ore fines. Accordingly, on his directions, their overseas buyers remitted the FOB value of the export consignment to M/s Samyak Tradex LLP and also remitted the export duty to M/s Samyak Tradex LLP separately.

15. Documents obtained from Bank:

Whereas, with reference to Bank of Baroda Account no. 10080200002026 of M/s Samyak Tradex LLP, DRI Gandhidham had sought details/documents from Bank of Baroda in respect of foreign inward remittance received by the exporter M/s Samyak Tradex LLP during Financial Year 2022-23. In reply, Bank of Baroda vide email dated 05.06.2026 had forwarded **(i)** copies of Bank Realisation Certificates in respect of four Shipping Bills filed during the said period and further, vide email dated 26.06.2026 they had forwarded **(ii)** Copies of contract and subsequent addendums between M/s Samyak Tradex LLP and their overseas buyer M/s Wasco Coating Middle East QFZ LLC, Doha (Quatar), **(iii)** Copies of Disposal Instruction for foreign inward remittance along with swift message in respect of foreign inward remittance during the said periond, **(iv)** Copy of reimbursement note dated 25.07.2022 issued by M/s Samyak Tradex LLP in respect of reimbursement of USD 15,88,950 (Export duty) pertaining to export of 33000 MTS of Iron Ore fines to M/s Wasco Coating Middle East QFZ LLC and **(v)** A corresponding letter dated

06.08.2022 issued by the exporter M/s Samyak Tradex LLP to Bank of Baroda, intimating the receipt of export duty USD 15,88,950 from M/s Wasco Coating Middle East QFZ LLC. **(RUD-25 colly)**

16. **Extension under Section 28BB of the Customs Act, 1962** -

Since the investigation could not be completed within the mandated Two -year period, the competent authority granted a further extension up to 04.09.2026 under Section 28BB of the Customs Act, 1962.

DISCUSSION OF THE DOCUMENTS AND EVIDENCES:

17 EXPORT OF RED OCHRES CORRECTLY CLASSIFIABLE UNDER CTH 2530 BY MIS-DECLARING AS IRON ORE FINES UNDER CTH 2601:

17.1 Shri Nirav Mehta initially stated in his statement dated 12.04.2024 that, all the quantity of 'Red Ochre' purchased/procured by M/s Samyak Tradex LLP has been exported, however he will confirm if there is any local supply. He further stated that the first shipment of Red Ochre was done in the month of January, 2024, vide Shipping Bill No. 7086577, dated 29.01.2024. In the said Shipping Bill for export, they have declared the 'Red Ochre' under CTH 2601 i.e. for 'Iron Ore', based on Fe content reports received from Independent Laboratory. He stated that the 'Fe' content in 'Red Ochre' varies from state to state in India and in many states it is known as 'Iron Ore' and it is also known as 'Laterite' in few states, which is also an 'Iron Ore'. He further stated that in the given case, they have exported 'Red Ochre' procured by them but the same was processed/mixed at their plants before export.

17.2 Further, with regard to consignment of Red Ochre meant to be exported under Shipping Bill No. 7427323, dated 10.02.2024, Shri Nirav Mehta in his statement dated 30.09.2024, stated that after initiation of investigation by DRI officers and on being pointed by them, the description and classification in Shipping Bill No. 7427323, dated 10.02.2024 was amended from 'Iron Ore Fines-CTH 2601 1141 to "Red Ochre (Red Ochre Fines (0-40 mm particle size) Fe content 49.60 PCT)- CTH 2530 9070. It is pertinent to mention that this was one of the two Shipping Bills of the live consignments for which sampling and testing was done by DRI as mentioned in above paras.

17.3 Shri Mehta in his statements attempted to justify the classification of Red Ochre exported by M/s Samyak Tradex LLP, under CTH 2601 1141 by relying on Fe content reports from an independent laboratory and by claiming that 'Red Ochre' is known as 'Iron Ore' or 'Laterite' in certain states. **However, in terms of General Rules for Interpretation, tariff classification under the Customs Tariff Act, 1975 is determined according to the terms of the headings and any relative Section or Chapter Notes, and not by regional trade nomenclature or Fe content alone**.

17.4 In this regard, for ease of reference, **the relevant headings as per the First Schedule to the Custom Tariff Act, 1975** are reproduced herein below:

Tariff Item	***Description of Goods***
2530	***MINERAL SUBSTANCES NOT ELSEWHERE SPECIFIED OR INCLUDED***
2530 90	*- Other :*
2530 90 40	*--- Ores and concentrates of rare earth metals*
2530 90 50	*--- Wollastonite*
2530 90 60	*--- Earth colour ochre, crude*
2530 90 70	*--- Other processed earth colour ochre*

Tariff Item	***Description of Goods***
2601	***IRON ORES AND CONCENTRATES, INCLUDING ROASTED IRON PYRITES***
	- Iron ores and concentrates, other than roasted iron pyrites :
2601 11	*-- Non-agglomerated :*
	--- Iron ore fines (below 62% Fe)
2601 11 41	*---- below 55% Fe*
2601 11 42	*---- 55% Fe or more but below 58% Fe*
2601 11 43	*---- 58% Fe or more but below 60% Fe*
2601 11 49	*---- 60% Fe or more but below 62% Fe*
2601 11 50	*--- Iron ore concentrate*
2601 12	*-- Agglomerated :*
2601 12 10	*--- Iron ore pellets*

17.5 For better understanding of the above relevant tariff headings, relevant portion from **Explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System)** are also reproduced as below:

25.30 • MINERAL SUBSTANCES NOT ELSEWHERE SPECIFIED OR INCLUDED.

2530.10 • ***Vermiculite, perlite and chlorites, unexpanded***

2530.20 • ***Kieserite, epsomite (natural magnesium sulphates)***

2530.90 • ***Other***

(A) EARTH COLOURS, WHETHER OR NOT CALCINED

OR MIXED TOGETHER; NATURAL MICACEOUS IRON OXIDES

The colours classified here are usually naturally occurring clays mixed with white or coloured mineral substances, particularly iron oxide; because of their colouring properties, they are generally used as pigments.

They include :

(1) ***Ochres*** *(yellow, brown, red, Spanish red, etc.).*

(2) ***Siennas*** *(Italian sienna, yellow•brown; and burnt sienna, orange•brown, etc.).*

(3) ***Umbers*** *(including burnt umber), which are brown or dark brown.*

(4) ***Black earths*** *and* ***natural vandyke brown*** *(Cassel and Cologne earths).* ***Soluble*** *vandyke brown is a prepared pigment which falls in* ***heading 32.06****.*

(5) ***Verona earth*** *and* ***Cyprus earth*** *(green).*

Calcination or the mixing together of various earth colours does not affect their classification. However, when mixed with other substances or presented as dispersions in water, oil, etc., they fall in **Chapter 32***.*

The heading excludes iron ores (heading 26.01) and earth colours containing 70 % or more by weight of combined iron evaluated as *$Fe2O3$ (**heading 28.21**).*

However, ***micaceous iron oxides****, used mainly as anti•rust pigments are classified in this heading although they naturally contain more than 70 % by weight of combined iron.*

17.6 From the above it is clearly evident that 'Red Ochre' is specifically classifiable under Heading 2530, whereas Heading 2601 covers iron ores and concentrates, which are distinct commodities**. As per the Rule 3(a) of the General Rules for the Interpretation of the First Schedule to the Custom Tariff Act,** the heading which provides the most specific description shall be preferred to headings providing a more general description. Therefore, **as per the Customs Tariff Act, 1975, 'Red Ochre' is specifically classifiable under Chapter Heading 2530**, **which covers "mineral substances not elsewhere specified or included", explicitly including "ochres". Further, the Harmonized System Explanatory Notes to Heading 2530 explicitly includes "ochres" and simultaneously, explicitly excludes iron ores (heading 26.01) from the description under Heading 2530**. Therefore, the reliance placed on Fe content and regional terminology appears to be untenable. Accordingly, it appears that the goods in question are correctly classifiable under CTH 2530 and not under CTH 2601, as claimed by the exporter.

17.7 Significantly, Shipping Bill No. 7427323 dated 10.02.2024 was amended by the exporter to change the description from 'Iron Ore Fines' (CTH 2601 1141) to 'Red Ochre (Red Ochre Fines (0-40 mm particle size) Fe content 49.60 PCT) (CTH 2530 9070) only after initiation of investigation by DRI officers. Such amendment also establishes that the original declaration with regard to the classification of the goods being exported was not made correctly.

17.8 With regard to test reports issued by Custom House Laboratory, Kandla under Test Memo Nos. 81/2024 to 86/2024 for Shipping Bill No. 7427323 dated

10.02.2024, Shri Mehta contended that the Fe content was in line with their declarations and that no export duty was payable as the consignments did not fall under the dutiable category on WMT basis. However, as discussed in the foregoing paras, Red Ochres is specifically classified under CTH 2530 of the First Schedule to the Custom Tariff Act, 1975, so placing reliance on the Fe content alone is inconsequential.

17.9 Further, Shri Mehta in his statement dated 07.03.2024 also agreed that there was mis-classification in the export of Red Ochre. It was observed that Red Ochres (CTH 2530) by virtue of being misclassified as Iron Ore fines under CTH 2601 was exported with payment of IGST @ 18%, instead of applicable 5% under Shipping Bill No. 7086577, dated 29.01.2024 and when Shri Nirav Mehta was questioned regarding claim of inadmissible refund of IGST paid on the said exports, Shri Mehta stated that no refund had been claimed till date and, agreed to claim only the applicable IGST. This admission further establishes that the goods exported were apparently not classified correctly at the time of filing the Shipping Bills.

17.10 The exporter M/s Samyak Tradex LLP submitted details pertaining to procurement and sales (domestic sales and Export) of Red Ochres in the form of excel sheet vide email. Also, Shri Nirav Mehta, in his statement dated 02.06.2026 provided a breakdown of the Red Ochre exported by M/s Samyak Tradex LLP vide Four Shipping Bills, as detailed in **Table-4 at Para 14.7** above. It is observed from the aforesaid submission, that **the exporter had procured Red Ochres, from two firms namely, M/s Inani Export and M/s Mahi Tradelink**, which is one of other firms in which Shri Nirav Mehta is also a partner. Further, M/s Mahi Tradelink in turn had procured the said Red Ochres from one firm namely M/s Rspl Red Ochre Mines Gwalior. The summary of the analysis of the said details is tabulated herein below at **TABLE-5**:

TABLE-5

Name of the Supplier of Red Ochre to M/s Samyak Tradex LLP	Quantity supplied to M/s Samyak Tradex LLP (in MT)	Quantity sold by M/s Samyak Tradex LLP in domestic market (in MT).
M/s Inani Export	12475.76	0
M/s Mahi Tradelink *(procured from M/s Rspl Red Ochre Mines Gwalior)*	73275.82	33416.27
Total	**85751.58**	**33416.27**

17.11 Further from the analysis of invoices/e-way bill in respect of supplies made by M/s Inani Export & M/s RSPL Red Ochre Mines Gwalior in respect of the above transactions, it appears that subject goods were being procured by M/s Samyak Tradex LLP and M/s Mahi Tradelink respectively under the HSN 2530/25309070 and under the declared description Red Ochre/Red Ochre Lumps, thereby clearly establishing the nature & classification of the goods in question. To illustrate, Invoice no. E 23-24/170 dated 12.02.24, issued by M/s Inani Export to M/s Samyak Tradex LLP is under description “Red Ochre Lumps” and HSN 25309070. To illustrate further, Invoice no. 330, dated 16.04.2023 issued by M/S RSPL Red Ochre Mines Gwalior to M/s Mahi Tradelink is under Product Name “Red Ochre” and HSN 2530, accompanied by E-way bill no. 611552124704, dated 16.04.23

carrying the same description and HSN as mentioned in the said invoice **(RUD-26 colly)** Further, it is observed from the copies of the invoices for the contemporaneous period in respect of supplies made by M/s Mahi Tradelink to M/s Samyak Tradex LLP, that none of such invoices are issued under HSN 2530, as all such invoices are issued under 26011190/26011142/2601 with corresponding description as Iron Ore fines/Iron Ore. Therefore, it establishes an apparent misdeclaration in invoicing by M/s Mahi Tradelink during supplies of Red Ochre to M/s Samyak Tradex LLP.

17.12 Further, scrutiny of the records and documents submitted by the exporter revealed that **33,416.27 MT of Red Ochre** was sold locally under **Invoice No. GST/0037/2023-24 dated 29.05.2023** to M/s New Kandla Salt and Chemicals Co. Pvt. Ltd., Gandhidham.

17.13 Analysis of Shipping Bills pertaining to Export of Red Ochres:

17.13.1 As discussed in **para 17.10** above, the exporter furnished details of the Shipping Bills under which Red Ochre was exported through an Excel sheet. Simultaneously, a Shipping Bill-wise breakup of the exports of Red Ochre was provided by Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP, in his statement dated 02.06.2026 recorded under Section 108 of the Customs Act, 1962.

17.13.2 A comparison of the two sets of data reveals a discrepancy. The Excel sheet submitted by the exporter attributes the export of Red Ochre to only two Shipping Bills, namely Shipping Bill No. 7086577 dated 29.01.2024 and Shipping Bill No. 7427323 dated 10.02.2024. In contrast, the Shipping Bill-wise breakup furnished by Shri Mehta in his statement dated 02.06.2026 attributes the export of 52334 MT of Red Ochre to four Shipping Bills, including Shipping Bill No. 7304202 dated 06.02.24 and Shipping Bill No. 8463751 dated 19.03.2024, in addition to the two Shipping Bills reflected in the Excel sheet.

17.13.3 However, upon further examination of the procurement dates of Red Ochre vis-à-vis the corresponding export invoice dates, it is observed that the Shipping Bill-wise breakup furnished by Shri Mehta during his statement dated 02.06.2026 is corroborated by the underlying transaction chronology and appears to correctly reflect the exports of Red Ochre.

17.13.4 It emerges from the analysis of the aforementioned data submitted by the Exporter, that the Exporter has exported/attempted to export Red Ochres through 4 Shipping Bills by way of mis-declaration as Iron Ore fines/Iron ore for concrete pipecoating, though in one of the Shipping Bills 7427323 dated 10.02.2024, an amendment was done in the said Shipping Bill only after initiation of investigation by DRI. The details of the Shipping Bills are tabulated herein below at **Table-6:**

TABLE-6

Shipping Bill No. & Date	Declared Description of Goods	Declared CTH	Declared Qty (MT)	FOB Unit Price (in INR/MT)	Declared FOB Value (INR)	Total Quantity of Red Ochre exported/attempted to be exported by way of mis-declaration (in MT)	FOB Value Attributable to Quantity of Red Ochre exported (in INR)
7086577	Iron Ore	260111	55000	5355.2	294537127	1948.00	10431968

dated 29.01.2024	Fines (Fe 55.80%)	42		2	.50		
7304202 dated 06.02.2024	Iron Ore for Concrete Pipecoating Grade (0–7 mm particle size) (Fe 55.20%)	26011142	8400	5992.38	50335992	5708.00	34204505
7427323 dated 10.02.2024	Iron Ore Fines (0–40 mm particle size) (Fe 49.60%)	26011141	25000	3994.92	99873000	24992	99841040
8463751 dated 19.03.2024	Iron Ore Fines (Fe 55.90%)	26011142	50415	5311.14	267761123.1	19686	104555102
TOTAL						**52334**	**249032616.3**

17.13.5 From the above analysis, it is evident that at the time of procurement, the exporter, was fully aware of the correct classification and description of the goods being purchased were Red Ochres under CTH 2530. However, it appears that the exporter still exported/attempted to export the said goods by way of deliberate mis-declaration and suppression of facts in respect of the correct classification and description of the goods by declaring the goods to be exported as Iron Ore Fines/Iron ore for concrete pipecoating grade under CTH 26011141/26011142 with an intention to avail IGST refund at 18% instead of the applicable 5% on Red Ochres under CTH 2530 in the above mentioned Four Shipping Bills. However, the Shipping Bill No. 7427323 dated 10.02.2024 was later amended after initiation of DRI investigation and goods were exported under correct classification of CTH as 25309070.

18. EXPORT OF IRON ORE CONCENTRATES (CTH 26011150) BY MIS-DECLARING AS IRON ORE FINES (CTH 26011142):-

18.1 The issue relating to export of *Iron Ore Concentrates* by M/s Samyak Tradex LLP under the guise of *Iron Ore Fines* has been examined on the basis of statements recorded under Section 108 of the Customs Act, 1962, procurement records, Shipping Bills, laboratory test reports, export policy provisions and the Customs Tariff Act, 1975. Intelligence gathered by DRI Gandhidham indicated that the exporter was wilfully mis-declaring Iron Ore Concentrates, correctly classifiable under CTH 2601 11 50, as Iron Ore Fines under CTH 2601 11 41 / 2601 11 42 of the First Schedule of the Customs Tariff Act, 1975, with the intent to evade payment of export duty leviable @ 30% *ad valorem* on the FOB value as prescribed in Notification No. 58/2022-Customs dated 18.11.2022. The relevant portion of the said Notification dated 18.11.2022 is reproduced herein below:

"In the said notification, in the Table,

(i) *After S. No. 20 and the entries relating thereto, the following S. No. and entries shall be inserted, namely*

(1)	*(2)*	*(3)*	*(4)*
20A.	*2601 11 21, 2601 11 22, 2601 11 41, 2601 11 42*	*All Goods*	*Nil*
20C	*2601 11*	*All Goods, other than goods mentioned in S.No. 20A*	*30%*
20D	*2601 12*	*All Goods, other than iron ore pellets*	*30%"*

18.2 For ease of reference, the relevant headings as per the First Schedule to the Custom Tariff Act, 1975 are reproduced herein below:

Tariff Item	**Description of Goods**
2601	**IRON ORES AND CONCENTRATES, INCLUDING ROASTED IRON PYRITES**
	- *Iron ores and concentrates, other than roasted iron pyrites :*
2601 11	-- Non-agglomerated :
	--- Iron ore fines (below 62% Fe)
2601 11 41	---- below 55% Fe
2601 11 42	---- 55% Fe or more but below 58% Fe
2601 11 43	---- 58% Fe or more but below 60% Fe
2601 11 49	---- 60% Fe or more but below 62% Fe
2601 11 50	--- Iron ore concentrate
2601 12	-- Agglomerated :
2601 12 10	--- Iron ore pellets

18.3 For better understanding of the above relevant tariff headings, relevant portion from Explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System) are also reproduced as below:

CHAPTER 26

ORES, SLAG AND ASH

Chapter Notes.

2.- For the purposes of headings 26.01 to 26.17, the term "ores" means minerals of mineralogical species actually used in the metallurgical industry for the extraction of mercury, of the metals of heading 28.44 or of the metals of Section XIV or XV, even if they are intended for non•metallurgical purposes. Headings 26.01 to 26.17 do not, however, include minerals which have been submitted to processes not normal to the metallurgical industry.

GENERAL

Headings 26.01 to 26.17 are limited to metallic ores and concentrates which:

(A) *Are of mineralogical species actually used in the metallurgical industry for the extraction of the metals of Section XIV or XV, of mercury or of the metals of heading 28.44, even if they are intended for non metallurgical purposes,* ***and***

(B) *Have not been submitted to processes not normal to the metallurgical industry.*

*The term "**ores** " applies to metalliferous minerals associated with the substances in which they occur and with which they are extracted from the mine; it also applies to native metals in their gangue (e.g., metalliferous sands).*

Ores are seldom marketed before "preparation" for subsequent metallurgical operations. The most important preparatory processes are those aimed at concentrating the ores.

For the purposes of headings 26.01 to 26.17, the term "concentrates " applies to ores which have had part or all of the foreign matter removed by special treatments, either because such foreign matter might hamper subsequent metallurgical operations or with a view to economical transport*.*

Processes to which products of headings 26.01 to 26.17 may have been submitted include physical, physicochemical or chemical operations, provided they are normal to the preparation of the ores for the extraction of metal. With the exception of changes resulting from calcination, roasting or firing (with or without agglomeration), such operations must not alter the chemical composition of the basic compound which furnishes the desired metal.

The physical or physico•chemical operations include crushing, grinding, magnetic separation, gravimetric separation, flotation, screening, grading, agglomeration of powders (e.g., by sintering or pelleting) into grains, balls or briquettes (whether or not with the addition of small quantities of binders), drying, calcination, roasting to oxidise, reduce or magnetise the ore, etc. (but not roasting for purposes of sulphating, chloridating, etc.).

The chemical processes are aimed at eliminating the unwanted matter (e.g., dissolution).

18.4 As per the First Schedule to the Customs Tariff Act, 1975, Heading 2601 covers "Iron ores and concentrates, including roasted iron pyrites." Sub-heading 2601 11 specifically relates to non-agglomerated iron ores and concentrates. The tariff further clearly distinguishes *iron ore concentrates* (CTH 2601 11 50) from *iron ore fines* (CTH 2601 11 41 / 2601 11 42), the latter being classified primarily on the basis of Fe content below or above 58%. Iron Ore Concentrates are distinct commercial commodities obtained through beneficiation processes such as crushing, grinding, screening, washing, magnetic separation or other physical processes, resulting in enrichment of iron content and removal of gangue. Such concentrates are recognized separately under the tariff and are not merely classifiable based on Fe percentage alone.

18.5 Further, The Tariff rate of Customs Duty on export of iron ore was @ 50% ad valorem w.e.f. 21.05.2022. However, by virtue of exemption Notification No. 58/2022-Customs dated 18.11.2022, export of *Iron Ore Concentrates* attracts export duty @ 30% *ad valorem* on FOB value, whereas export of *Iron Ore Fines* having Fe content below 58% is exempt from export duty. Thus, correct classification of the goods is critical, as mis-declaration directly impacts the applicability of export duty.

18.6 In his statements dated 07.03.2024 and 30.09.2024, Shri Nirav Pradipbhai Mehta, Partner of M/s Samyak Tradex LLP, admitted that for meeting contractual requirements of Fe content and density, they procured and used *Iron Ore Concentrates* along with other grades of iron ore. He further admitted that Iron Ore Concentrates were blended with iron ore fines prior to export. Importantly, in his statement dated 30.09.2024 & 02.06.26, Shri Mehta categorically admitted that **Iron Ore Concentrates** had been exported by M/s Samyak Tradex LLP, while declaring the goods as *Iron Ore Fines* under CTI 2601 11 42.

18.7 The exporter's contention that classification was done merely on the basis of Fe content appears to be untenable as **in terms of General Rules for Interpretation, tariff classification under the Customs Tariff Act, 1975 is determined according to the terms of the headings and any relative Section or Chapter Notes, and not by regional trade nomenclature or Fe content alone**. In fact, *iron ore concentrates* (CTH 2601 11 50) are recognized separately under the tariff and are not merely classifiable based on Fe percentage alone.

18.8 Further, iron ore concentrate is a manufactured product within the meaning of Section 2(f) of the Central Excise Act, 1944, read with Chapter Note 4 to Chapter 26 of the Central Excise Tariff. Chapter Note 4, inserted vide the Finance Act, 2011, expressly provides that the conversion of ores into concentrates shall amount to manufacture for the purposes of this Chapter. Consequently, iron ore concentrate emerges as a product having a separate and identifiable classification, properties, clearly distinguishable from iron ore or iron ore fines. Once iron ore has undergone a process recognized in law as manufacture and has resulted in iron ore concentrate, such concentrate continues to remain a manufactured commodity and does not lose its manufactured status merely on account of subsequent handling or physical association with other forms of iron ore. No provision under Section 2(f) of the Central Excise Act or under any Chapter Note of Chapter 26 recognizes any process by which a manufactured concentrate is reconverted into iron ore fines. Accordingly, iron ore concentrate, even when cleared or presented along with other iron ore forms, continues to be classifiable as a manufactured product under Chapter 26. It cannot be classified or treated as iron ore or iron ore fines for the purposes of levy, exemption, or tariff classification, as such treatment would be contrary to the explicit legal recognition of manufacture under Chapter Note 4 and inconsistent with the structure of tariff classification under Chapter 26.

18.9 Further the fact that the exporter himself agreed in his statement dated 30.09.2024 that Iron Ore Concentrates were exported under their Shipping Bills, establishes conscious knowledge of the nature of the goods being exported.

18.10 The exporter M/s Samyak Tradex LLP submitted/emailed details & documents pertaining to procurement and sales (domestic sales and Export) of Iron Ore Concentrates in the form of excel sheet, along with corresponding invoices, e-way bills and other related documents. Also, Shri Nirav Mehta, in his statement dated 02.06.2026 provided a breakdown of the Iron Ore Concentrates exported by M/s Samyak Tradex LLP vide Three Shipping Bills, as detailed in **Table-3 at Para 14.6** above. It is observed from the aforesaid submission, that **the exporter had procured Iron Ore Concentrates, from two firms namely, M/s Pacific Iron Manufacturing Ltd, and M/s Mahi Tradelink**, which is one of other firms in which Shri Nirav Mehta is also a partner. Further, M/s Mahi Tradelink in turn had procured the said Iron Ore Concentrate from one firm namely **M/s 4mann Industries Pvt Ltd**. The summary of the analysis of the said details is tabulated herein below at **TABLE-7**:

TABLE-7

Name of the Supplier of Iron Ore Concentrate to M/s Samyak Tradex LLP	**Quantity of Iron Ore supplied (in MT) to M/s Samyak Tradex LLP**	**Quantity sold by M/s Samyak Tradex LLP in domestic market (in MT).**	**Quantity Exported by M/s Samyak Tradex LLP (in MT) (**
M/s Pacific Iron Manufacturing Ltd	6567.28	4847.68	1719.6
M/s Mahi Tradelink *(procured from* M/s 4mann Industries Pvt Ltd)	4965.78	1161.8	3803.98
Total	**11533**	**6009.48**	**5523.58**

18.11 Analysis of documents in respect of supply of Iron Ore Concentrates by M/s Pacific Iron Manufacturing Ltd.:

18.11.1 It is observed that the sales invoices issued by M/s Pacific Iron Manufacturing Ltd. to M/s Samyak Tradex LLP, clearly mention the description of goods as Iron Ore Concentrate, though, the HSN is mentioned upto 6 digits only as 260111. Further the accompanying e-way bills describe the goods under HSN 260111 with the description as Iron Ore Concentrate & Iron Ore Concentrate.

18.11.2 To illustrate further, one such Invoice No. PIML/4617/23-24, dated 17.12.2023, issued by M/s Pacific Iron Manufacturing Ltd clearly mentions the description of goods as Iron Ore Concentrate, though, the HSN is mentioned upto 6 digits only as 260111. The corresponding e-way bill no. 681656096524, dated 17.12.2023 also describes the goods under HSN 260111, with the description Iron Ore Concentrate & Iron Ore Concentrate. Further, the accompanying copy of Electronic Transit Pass (eTP) No. 2311082033, dated 17.12.2023 in respect of the registration of vehicle with Mineral Resources Department, Govt. of Madhya Pradesh, clearly indicate the grade of Iron Ore as **"Concentrates prepared by beneficiation and/or concentration of low grade Iron ore"**. From the combined analysis of the Invoice No. PIML/4617/23-24, dated 17.12.2023 along with e-way bill no. 681656096524, dated 17.12.2023 & Electronic Transit Pass (eTP) No. 2311082033, dated 17.12.2023 **(RUD-27 colly)**, it is clearly evident that the goods being procured by M/s Samyak Tradex LLP are actually Iron Ore Concentrates correctly classifiable under CTH 26011150). In fact, the explicit description of the grade in Electronic Transit Pass (eTP) as "Concentrates prepared by beneficiation and/or concentration of low grade Iron ore, leaves no ambiguity with regard to correct classification of the goods being supplied under the said transaction.

18.12 Analysis of documents in respect of supply of Iron Ore Concentrates by M/s 4mann Industries Pvt Ltd.:

18.12.1 It is observed that the invoices issued by M/s 4mann Industries Pvt Ltd. clearly mention the description of goods as Iron Ore Concentrate, though, the HSN is mentioned upto 6 digits only as 260111. Further the accompanying e-way bills describe the goods under HSN 260111 with the description as Iron Ore Concentrate.

18.12.2 To illustrate further, one such Invoice No. GST/3564/23-24, dated 16.12.2023, issued by M/s 4mann Industries Pvt Ltd clearly mentions the description of goods as Iron Ore Concentrate (Fe-63.25%), though, the HSN is mentioned upto 6 digits only as 260111. Further, the corresponding e-way bill no. 631655873572, dated 16.12.2023 also describes the goods under HSN 260111, with the description Iron Ore Concentrate. Further, the accompanying copy of Electronic Transit Pass (eTP) No. 2311077755, dated 16.12.2023 in respect of the registration of vehicle with Mineral Resources Department, Govt. of Madhya Pradesh, clearly indicate the grade of Iron Ore as **"Concentrates prepared by beneficiation and/or concentration of low grade Iron ore"**. From the combined analysis of the Invoice No. GST/3564/23-24, dated 16.12.2023 with e-way bill no. 631655873572, dated 16.12.2023 & Electronic Transit Pass (eTP) No. 2311077755, dated 16.12.2023 **(RUD-28 colly)**, it is clearly evident that the goods being procured are actually Iron Ore Concentrates correctly classifiable under CTH 26011150. In fact, the explicit description of the grade in Electronic Transit Pass (eTP) as "Concentrates prepared by beneficiation and/or concentration of low grade Iron ore, leaves no ambiguity with regard to classification of the goods being supplied.

18.12.3 Further, with respect to invoices issued by M/s 4mann Industries Pvt Ltd, it is also observed that such invoices are billed and shipped to M/s Mahi Tradelink Gandhidham, Gujarat and not directly in the name of the exporter M/s Samyak Tradex LLP. It is pertinent to note that M/s Mahi Tradelink is one of the other firms associated with Shri Nirav Mehta, partner in M/s Samyak Tradex LLP. In this regard, the exporter has submitted copies of invoices issued by M/s Mahi Tradelink to M/s Samyak Tradex LLP for the contemporaneous period. However, on analysis of the said invoices, it is observed that none of the supplies from M/s Mahi Tradelink to M/s Samyak Tradex LLP has been made under the description or HSN pertaining to Iron Ore Concentrates. Instead, the HSN mentioned in such invoices is either 26011190/26011142/2601 with corresponding description as Iron Ore fines/Iron Ore. To illustrate further one such invoice under the said three CTHs is being discussed herein below **(RUD-29 colly):**

- Invoice No. MT/556, dated 23.09.2023 issued by M/s Mahi Tradelink to M/s Samyak Tradex LLP, describes the goods as Iron Ore Fines under HSN 26011190,
- Invoice no. MT/RJ/522, dated 04.09.2023 describes the goods as Iron Ore under HSN 26011142
- Invoice No. MT/751, dated 30.01.2024 describes the goods as Iron Ore under HSN 2601.

The above establishes an apparent mis-declaration in invoicing during supply of Iron Ore Concentrates received by M/s Samyak Tradex LLP from M/s Mahi Tradelink as none of the invoices have been issued under the description and classification of Iron Ore Concentrates.

18.13 Further, scrutiny of the records and documents submitted by the exporter revealed that **6009.48 MT of** Iron Ore Concentrates was sold locally under two invoices namely Invoice No. GST/0200/2023-24, dated 11.11.2023 & Invoice No. GST/0217/2023-24, dated 28.12.2023 **(RUD-30 colly)**, both issued to M/s New Kandla Salt and Chemicals Co. Pvt. Ltd., Gandhidham. The said goods were declared under **CTH 26011142** and described as "**Iron Ore Fines**", whereas the actual goods were **Iron ore concentrate**.

18.14 Analysis of Documents pertaining to Export of Iron Ore Concentrates:

18.14.1 As discussed in **para 18.10** above, the exporter furnished details of the Shipping Bills under which Iron ore concentrate was exported through an Excel sheet. Simultaneously, a Shipping Bill-wise breakup of the exports of Iron ore concentrate was provided by Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP, in his statement dated 02.06.2026 recorded under Section 108 of the Customs Act, 1962.

18.14.2 A comparison of the two sets of data reveals a discrepancy. The Excel sheet submitted by the exporter attributes the export of Iron ore concentrate to only two Shipping Bills, namely Shipping Bill No. 7086577 dated 29.01.2024 and Shipping Bill No. 6306968 dated 26.12.2023. In contrast, the Shipping Bill-wise breakup furnished by Shri Mehta in his statement dated 02.06.2026 attributes the export of 5523.58 MT of Iron ore concentrates to three Shipping Bills, which also includes Shipping Bill No. 7304202 dated 06.02.24, in addition to the two Shipping Bills reflected in the Excel sheet.

18.14.3 However, upon further examination of the procurement dates of Iron ore concentrate vis-à-vis the corresponding export invoice dates, it is observed that the Shipping Bill-wise breakup furnished by Shri Mehta during his statement dated

02.06.2026 is corroborated by the underlying transaction chronology and appears to correctly reflect the exports of Iron ore concentrate.

18.14.4 It emerges from the analysis of the aforementioned data submitted by the Exporter, that the Exporter has exported Iron ore concentrates through 3 Shipping Bills by way of mis-declaration as Iron Ore fines/Iron ore for concrete pipecoating grade. The details of the Shipping Bills are tabulated herein below at **Table-8:**

TABLE-8

Shipping Bill No. & Date	Declared Description of Goods	Declared CTH	Declared Qty (MT)	FOB Unit Price (in INR/MT)	Declared FOB Value (INR)	Total Quantity of Iron Ore Concentrate exported by way of mis-declaration (in MT)	FOB Value Attributable to Quantity of Iron ore concentrate exported (in INR)
6306968 dated 26.12.2023	Iron Ore Fines(0-6 mm particle size)(Fe 55.09 pct)	26011142	30000	6028.83	18,08,64,900	978	5896195.74
7086577 dated 29.01.2024	Iron Ore Fines (Fe 55.80%)	26011142	55000	5355.22	294537127.50	1848.52	9899231.27
7304202 dated 06.02.2024	Iron Ore for Concrete Pipecoating Grade (0–7 mm particle size) (Fe 55.20%)	26011142	8400	5992.38	50335992	2697.06	16161808.4
TOTAL						**5523.58**	**31957235**

18.14.5 It appears from the above analysis that out of the 93400 MT of goods declared as Iron Ore Fines/ Iron Ore for Concrete Pipecoating grade (CTH 26011142) in the above three Shipping Bills, the exporter had apparently exported 5523.58 MT of Iron Ore Concentrate (CTH 26011150), by way of mis-classification & mis-declaration in the said Shipping Bills.

18.15 From the discussion supra, it is forthcoming that the 5523.58 MT of iron ore fines/Iron Ore for Concrete Pipecoating grade exported under the above tabulated Three Shipping Bills appear to be correctly classifiable under CTH 26011150 instead of the declared classification under CTH 26011142 and therefore were leviable to 30% Customs (Export) duty *ad valorem* on FOB value of the said shipment in terms of Notification No. 58/2022-Customs, dated 18.11.2022. Accordingly, the exporter M/s Samyak Tradex LLP is liable to pay the said Export duty on the quantity of iron ore concentrate exported by them vide the said Shipping Bills.

18.16 Further, from the analysis of the documents viz. invoices, e-way bills, issued at the time of procurement of the goods being exported under the said shipping bills, it is evident that the exporter was fully aware of the correct classification and description of the subject goods was Iron Ore Concentrate under CTH 26011150, However, it appears that the exporter still exported the said goods by way of deliberate misstatement and suppression of facts in respect of the correct classification and description of the goods by declaring the goods to be exported as Iron Ore Fines under CTH 26011142 with an intention to evade applicable Customs (Export) duty @ 30% Customs (Export) duty *ad valorem* on FOB value of the said shipment in terms of Notification No. 58/2022-Customs, dated 18.11.2022. This is further established by the fact that the exporter voluntarily deposited an amount of Rs. 90 lakhs towards export duty and interest vide challan dated 14.03.2024, admitting the duty implication (as per his own calculation) arising out of incorrect classification of Iron Ore Concentrates in the Shipping Bills.

19. ANALYSIS OF THE TEST REPORTS ISSUED BY CUSTOM HOUSE LABORATORY, KANDLA, PERTAINING TO SHIPPING BILLS FILED BY M/S SAMYAK TRADEX LLP FOR GOODS DECLARED AS IRON ORE FINES (CTH 26011141/42):

19.1 Whereas, during the course of investigation, during statement dated 20.12.2025 recorded under Section 108 of the Customs Act, 1962, Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP, stated that the Customs Authority was drawing samples from each export consignment and that assessment of the Shipping Bills and grant of Let Export Order (LEO) was undertaken only after receipt of the sample reports. In support of his submissions, he submitted copies of some sample reports along with the corresponding Shipping Bills.

19.2 It is pertinent to mention that vide the Finance Act, 2022, a Supplementary Note was inserted under Chapter 26 of the First Schedule to the Customs Tariff Act, 1975 **with effect from 01.05.2022**, which is reproduced herein below:

"Supplementary Note : 1. For the products of heading 2601, the percentage of Fe content, wherever specified, shall be calculated on the Dry Weight or Dry Metric Tonne (DMT) basis"

19.3 Accordingly, the CRCL test reports of the previously exported consignments of the exporter were scrutinised and a discrepancy was observed in One Test Report of CRCL, pertaining to Shipping Bill 3799237 dated 08.09.2023. The summary of the sample test report in respect of the said Shipping Bill is as per **Table-9** below:

TABLE-9

Port of Export **(Port Code)** **(1)**	**Shipping Bill No & Date.** **(2)**	**Description as per Shipping Bill** **(3)**	**Moisture content (% by weight)** **(As per Sample Report of Custom House Laboratory Kandla)** **(4)**	**% of Fe content in WMT** **(As per Sample Report of Custom House Laboratory Kandla)** **(5)**	**% of Fe content on DMT basis ,** **(As per Sample Report of Custom House Laboratory Kandla)** **(6)**	**% of Fe content converted on DMT basis, as per Formula Iron content (on as received basis)/WMT basis = Fe x (100-M) / 100** **(Where Fe is percentage of iron content on dry basis, M is moisture content in the sample)** **(7)**
KANDLA (INIXY1)	3799237 dated 08.09.2023	Iron Ore for concrete pipecoating grade (0-7 mm Particle Size) (Fe Content 55.78 PCT)	3.72	56.17	Not mentioned	58.34

19.4 On examination of the aforementioned sample report, it is observed that in respect of a Shipping Bill No. 3799237 dated 08.09.2023, the CRCL Sample report indicated Fe content only on WMT basis and did not specify Fe content on DMT basis. In view of the statutory requirement prescribed under the Supplementary Note to Chapter 26, Fe content on DMT basis was arrived at during investigation by applying the universally accepted formula:

"Iron content (on as received/WMT basis) = Fe × (100 − M) / 100 (where *Fe* denotes percentage of iron content on dry basis and *M* denotes moisture content in the sample)."

19.5 It is pertinent to mention that the above universally recognised mathematical formula for conversion of Fe content from Wet Metric Tonne (WMT) basis to Dry Metric Tonne (DMT) basis has been judicially recognised in various case laws such as in the matter of Writ Petition No. 2016 of 2022, filed in the **Hon'ble Bombay High Court at Goa in the case of *V.M. Salgaocar & Brother Pvt Ltd.. v. Assistant Commissioner of Customs (Export), Goa.***

19.6 On application of the above formula, it is observed that the Fe content on DMT basis in respect of Shipping Bill No. 3799237 dated 08.09.2023 comes out to be 58.34%. Accordingly, the goods covered under the said Shipping Bill were classifiable under heading 26011143 and attracted export duty @ 30% in terms of Notification No. 58/2022-Customs, dated 18.11.2022. However, it is observed that the goods under the said Shipping Bill were exported without payment of export duty.

19.7 From the discussion supra, it appears that the "iron ore for concrete pipecoating grade" exported under Shipping Bill No. 3799237, dated 08.09.2023, on account of Fe content being 58.34% on DMT basis, appeared to be correctly classifiable under CTH 26011143 instead of the declared classification under CTH 26011142 and therefore were leviable to 30% Customs (Export) duty *ad valorem* on FOB value of the said Iron Ore fines shipment. Accordingly, the exporter M/s Samyak Tradex LLP is liable to pay the applicable Export duty. It is also observed that the said Shipping bill has been filed under payment of IGST. Accordingly, in terms of Section 16 of IGST Act, no refund of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty.

19.8 Further, from the history of Shipping Bills filed by M/s Samyak Tradex LLP, it is evident that the exporter is a regular exporter of iron ore/iron ore fines, fully conversant with the export duty structure in terms of Notification No. 58/2022-Customs dated 18.11.2022, prescribing export duty @ 30% *ad valorem* on FOB value of iron ore fines having Fe content of 58% or above on DMT basis. It appears that despite possessing complete knowledge of the said notification and the method of determination of Fe content, the exporter wilfully mis-stated and suppressed the facts under Shipping Bill No. 3799237 dated 08.09.2023 regarding the Fe content of iron ore fines being more than 58% when calculated on DMT basis i.e. 58.4% and deliberately relied on the sample report findings in WMT basis showing 56.17% with an intention to evade applicable export duty at the time of export.

19.9 Further, Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018 clearly mentions that it is the obligation of the Customs Broker to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. In this case, the Customs Broker of the exporter i.e. M/s K.S. Chhaya Consolidators Pvt. Ltd., has clearly failed to advise his client regarding the statutory requirement prescribed under the Supplementary Note to Chapter 26, to declare the Fe content on DMT basis. It is observed that after the CRCL Report mentioned Fe content in WMT basis, it was obligatory upon the CB to advise the exporter or bring the matter to the notice of the Deputy/Assistant Commissioner of Customs. Had he done so, the duty evasion in this case could have been prevented.

20. MIS-DECLARATION IN TRNASACTION VALUE OF EXPORTS MADE UNDER NOTIFICATION NO. 28/2022-CUS. DATED 21.05.2022

20.1 Whereas, during the investigation, it was observed that the export of Iron Ore Fines (CTH 260111) was subject to export duty @50% of the FOB value with effect from 22nd May, 2022 by virtue of Notification No. 28/2022-Cus. dated 21.05.2022.

20.2 Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP, during his statement dated 02.06.2026, was asked about the method of invoicing during the applicability of Notification no. 28/2022-Customs, dated 21.05.2022 on exports under CTH

260111 & 260112. In reply he stated that M/s Samyak Tradex LLP have FOB contracts with their overseas buyers. Therefore, invoicing for the exports done during 21.05.2022 till 17.11.2022, done on FOB basis only. However, since export duty @50% became applicable in terms of Notification no. 28/2022-Customs, dated 21.05.2022, therefore, he had directed their overseas buyers to remit back the export duty separately that was paid by M/s Samyak Tradex LLP at the time of exports of iron ore fines. Accordingly, on his directions, their overseas buyers remitted the FOB value of the export consignment and also remitted the export duty back to M/s Samyak Tradex LLP separately.

20.3 The following Four Shipping Bills **(RUD-31 colly)** as per **Table 10** were filed by the exporter during the period of applicability of Notification no. 28/2022-Customs, dated 21.05.2022 i.e. from 22.05.2022 to 18.11.2022:

TABLE-10

Shipping Bill No. & Date	Declared Description of Goods	Declared CTH	Declared Qty (MT)	Declared FOB Value (INR)	Export duty Paid (INR) by M/s Samyak Tradex LLP
2951583 dated 20.07.2022	Iron Ore Fines(Fe Content 56.70 Pct)(0-6 Mm Particle Size	26011142	30000	225919800	112959900
3967199 dated 05.09.2022	Iron Ore Fines (Fe 56.90%, 0–6 mm particle size)	26011142	35000	200803050	100401525
4660618 dated 07.10.2022	Iron Ore Fines (Fe 56.52%, 0–6 mm particle size)	26011142	20000	117660600	58830300
4873937 dated 17.10.2022	Iron Ore Fines (Fe 56.52%, 0–6 mm particle size)	26011142	6000	35298180	17649090
TOTAL			**91000**	**579681630**	**289840815**

20.4 The analysis of the documents received from Bank of Baroda in relation to foreign inward remittance received in Account No. 10080200002026 of the exporter M/s Samyak Tradex LLP is mentioned herein below:

20.4.1 STATEMENT OF BANK REALISATION:

Whereas, the Statement of Bank Realisation was called and received from Bank of Baroda in respect of the aforementioned Four Shipping Bills. The comparative data analysis of the BRC, Bank Account Statement with the declared FOB value mentioned in aforementioned Four Shipping Bills is tabulated as per **Table 11 below:**

TABLE-11

<u>INWARD REMITTANCE OF FOB VALUE RECEIVED BY M/S SAMYAK TRADEX LLP FROM OVERSEAS BUYER M/S WASCO COATING MIDDLE EAST QFZ LLC</u>

<table>
<tr><th>Shipping Bill No. & Date</th><th>Declared FOB Value (INR)</th><th>Realisation Date as per BRC</th><th>Date of Bank transaction in respect of Inward remittance of FOB value</th><th>Amount of inward remittance of FOB Value received (INR)</th></tr>
<tr><td>2951583 dated 20.07.2022</td><td>225919800</td><td>26-Aug-22</td><td>30-Aug-22</td><td>230329206</td></tr>
<tr><td rowspan="2">3967199 dated 05.09.2022</td><td rowspan="2">200803050</td><td>12-Sep-22</td><td>13-Sep-22</td><td>144602213</td></tr>
<tr><td>17-Oct-22</td><td>20-Oct-22</td><td>60528870</td></tr>
<tr><td>4660618 dated 07.10.2022</td><td>117660600</td><td>16-Nov-22</td><td rowspan="2">16-Nov-22</td><td rowspan="2">144828074</td></tr>
<tr><td>4873937 dated 17.10.2022</td><td>35298180</td><td>16-Nov-22</td></tr>
</table>

20.4.2 CONTRACT BETWEEN M/S SAMYAK TRADEX LLP AND THEIR OVERSEAS BUYER M/S WASCO COATING MIDDLE EAST QFZ LLC, DOHA (QATAR):

20.4.2.1 A copy of contract No. WASCO-SAMYAK-2021-001, dated 14.06.2021 and its subsequent addendums was provided by the Bank of Baroda. The relevant text of the addendum no. 3 dated 23.05.2022 is reproduced herein below:

"2.2 EXPORT DUTY-INDIA

a) Subject to paragraph b, below, one Hundred (100%) of the total amount of 33,000 MT at 48.15 USD/MT ("Export Duty") shall be paid in advance by electronic funds transfer to the following account:

Account Name: SAMYAK TRADEX LLP

Bank Name: BANK OF BARODA

BRANCH: GANDHIDHAM, KACHCHH, GUJARAT, INDIA

Account Number: 10080200002026

IFSC Code: BARB0GANKUT (Fifth character is Zero)

SWIFT Code: BARBINBBGAN

b. As soon as practicable after payment of the Export Duty by Seller to the relevant Governmental Authority, Seller shall deliver to Buyer the original or a certified copy of receipt issued by such Governmental Authority evidencing that the Export Duty has been duly and punctually paid.

20.4.2.2 Similarly copy of addendum no. 5 & amendment to addendum no.4 dated 05.09.2022 in respect of the aforementioned contract between exporter and M/s Wasco Coatings Middle East QFZ LLC discusses that USD 15,88,950 has been paid by the buyer (M/s Wasco Coatings Middle East QFZ LLC) towards export duty (33000 MT * 48.15 USD/MT) on 02.08.2022, however the actual tonnage was 30000 MT therefore, excess Export duty of USD 1,44,449.18 (3000 MT*48.15 USD/MT) shall be treated as prepayment towards export duty of Shipment no. 5 & 6. It further mentions that for shipment no. 5 and 6, the total export duty of USD 25,51,500 (being 70000 MT * 36.45 USD/MT) minus the prepayment above shall be paid in advance by electronic funds transfer to the account of M/s Samyak Tradex LLP in Bank of Baroda.

20.4.2.3 The above terms and conditions in the said addendum of the contract clearly establish that the exporter M/s Samyak Tradex LLP has by way of amendment in the contract with its overseas buyer designed a covert transaction mechanism to get the reimbursement of the export duty paid by them at the time of export from its overseas buyer, without revealing the same in the FOB value of the shipment with an intention to evade appropriate Customs (Export) Duty.

20.4.3 DISPOSAL INSTRUCTION FOR FOREIGN INWARD REMITTANCE:

20.4.3.1 The disposal instruction forms for the receipt of following Foreign Inward Remittance from M/s Wasco Coatings Middle East QFZ LLC were furnished by the exporter M/s Samyak Tradex LLP to Bank of Baroda. On analysis of the copies of such forms obtained from Bank of Baroda, the following remittances were received under Purpose Code P 1306 as per **TABLE-12**:

TABLE-12

Sr. No.	Purpose Code	Purpose of Remittance	Amount (USD)	Date of Disposal Instruction
1	P 1306	Receipts/ Refund of Taxes	1588950	03.08.2022
2	P 1306	Receipts/ Refund of Taxes	1275750	12.09.2022
3	P 1306	Receipts/	947700	13.10.2022

		Refund of Taxes		

20.4.3.2 It is clearly forthcoming from the discussion regarding remittance of USD 15,88,950 in the addendum no. 5 & amendment to addendum no.4 dated 05.09.2022 in respect of the aforementioned contract between M/s Samyak Tradex LLP and M/s Wasco Coatings Middle East QFZ LLC, that for reimbursement of the export duty from the overseas buyer, the exporter had declared RBI Accounting Purpose Code No. P1306, which is for refund of taxes, however, the following discussion indicates that the said purpose code is not meant for the receipt of export duty and export proceeds. The said transactions have been made under the RBI purpose code P1306. RBI purpose codes are unique identifiers assigned to international transactions to enable banks and financial institutions to classify and process remittances accurately. RBI has notified purpose codes for reporting forex transactions for Payment and Receipt purposes. The Purpose codes for reporting forex transactions (for the purpose of Receipt of amounts) are further categorized into 16 different 'Purpose Group Name' which includes Exports (of Goods), Transportation, Travel, Financial Services, Royalties & License Fees, Transfers among others. The following purpose codes pertaining to Export (of Goods) refers to the receipt of forex in respect of exports made from India as per **TABLE-13**

TABLE-13

Gr. No.	**Purpose Group Name**	**Purpose Code**	**Description**
01	Export (of Goods)	P0101	Value of export bills negotiated/purchased/discounted etc. (covered under GR/PP/SOFTEX/EC copy of Shipping Bills etc.)
		P0102	Realisation of export bills (in respect of goods) sent on collection (full invoice value)
		P0103	Advance Receipts against export contracts, which will be covered later by GR/PP/SOFTEX/SDF
		P0104	Receipts against export of goods not covered by the GR/PP/SOFTEX/EC Copy of shipping bills
		P0105	Export bills (in respect of goods) sent on collection
		P0106	Conversion of overdue export bills from NPD to collection mode
		P0107	Realisation of NPD export bills (full value of bill to be reported)

20.4.3.3 Further, the purpose code P1306 referred by the exporter for reimbursement of taxes (i.e. export duty) falls under the group 'Transfer'**.** The purpose code under Gr. No. 13 are as per **TABLE-14**

TABLE-14

Gr. No.	Purpose Group Name	Purpose Code	Description
13	Transfers	P1301	Inward remittance from Indian non-residents towards family maintenance and savings
		P1302	Personal gifts and donations
		P1303	Donations to religious and charitable institutions in India
		P1304	Grants and donations to governments and charitable institutions established by the governments.
		P1306	Receipts/Refunds of taxes.

20.4.3.4 Whereas, From the above, it is evident that the purpose codes under the group 'Transfer' pertain to forex transactions of personal nature such as personal gifts, family maintenance, donations etc., and the accounting purpose code P1306 falling under this category is clearly not associated with payments received in respect of exported goods. Thus, the exporter had used wrong purpose for receipt of the export duty amounts from the buyer and misrepresented the facts before the bank authorities to process such receipts. These amounts are not reflected in the bank realisation certificates obtained by the exporter from the bank.

20.4.4 REIMBURSEMENT NOTE:

Whereas, based on the discussion supra, the transaction of receipt of 15,88,950 USD of export duty from overseas buyer, a copy of Reimbursement Note dated 25.07.2022 is provided by Bank of Baroda. The said Reimbursement Note, issued by the exporter in respect of consignee M/s Wasco Coatings Middle East QFZ LLC, clearly mentions that the amount of 15,88,950 USD is chargeable in relation to Customs Notification 28/2022 and 29/2022, "50% Export Customs Duty on FOB value. 33000 MTS * 96.3 = 3177900 USD * 50% = 1588950 USD". Further, it also clearly mentions that the payment should be received in the Bank with Purpose Code S1306, Refund/Receipt of Tax. This clearly indicates that the exporter M/s Samyak Tradex LLP has purposefully guided the overseas buyer to remit the export duty under the specific head of RBI Accounting Purpose Code, to avoid reflection of the said amount in the bank realisation certificates.

20.4.5 LETTER DATED 06.08.2022 ISSUED BY M/S SAMYAK TRADEX LLP TO BANK OF BARODA:

The exporter M/s Samyak Tradex LLP has issued a letter dated 06.08.2022 to Bank of Baroda, Banking Circle Branch, Gandhidham under the subject **"Advance USD 15,88,950 for duty payment"**. Vide the said letter, the exporter has informed the

Bank that payment of USD 15,88,950 is received in advance for duty payment for the upcoming shipment and they will provide duty paid govt. challan to bank as soon as received. Further, the have provided the calculation for the said amount in the following manner:

33000 MTS * 96.3 USD = 3177900 (Invoice/FOB Value)

33000 MTS * 96.3 USD = 3177900 USD * 50% = 1588950 USD (50% duty)

Total Receivable = 3177900 + 1588950 = 4766850 USD

The above intimation/ calculation informed to the bank clearly establish the modus of the exporter to receive export duty separately, without including in the declared FOB value in order to evade appropriate Customs (Export) duty.

20.5 The analysis of the above- mentioned documents i.e. Contract, Disposal Instruction form for foreign inward remittance (Purpose Code), Reimbursement note when read with Bank Account Statement, the declared FOB value and the Export duty paid against the aforementioned Four Shipping Bills, clearly substantiate that the following inward remittance as tabulated under **Table 15** below was in respect of Export duty separately received by the exporter:

TABLE 15

<u>INWARD REMITTANCE OF EXPORT DUTY RECEIVED BY M/S SAMYAK TRADEX LLP FROM M/S WASCO COATINGS MIDDLE EAST QFZ LLC,</u>

<table>
<tr><th>Shipping Bill No. & Date</th><th>Export Duty Paid by M/s Samyak Tradex LLP (INR)</th><th>Amount mentioned under Purpose Code 1306 (USD) for inward remittance</th><th>Date of Bank transaction in respect of Inward remittance of Export Duty</th><th>Amount of inward remittance of Export duty (INR)</th></tr>
<tr><td>2951583 dated 20.07.2022</td><td>112959900</td><td>1588950</td><td>08.08.2022</td><td>125288708*</td></tr>
<tr><td>3967199 dated 05.09.2022</td><td>100401525</td><td>1275750</td><td>13.09.2022</td><td>100848038</td></tr>
<tr><td>4660618 dated 07.10.2022</td><td>58830300</td><td rowspan="2">947700</td><td rowspan="2">13.10.2022</td><td rowspan="2">77957802</td></tr>
<tr><td>4873937 dated 17.10.2022</td><td>17649090</td></tr>
</table>

** The excess amount in export duty received in respect of Shipping Bill No. 2951583 dated 20.07.2022 is due to the fact that it was remitted for 33000 MTS* 48.15 USD as per the contract discussed above, however the actual tonnage was 30000 MT therefore, excess Export duty of USD 1,44,449.18 (3000 MT*48.15 USD/MT) was treated as prepayment towards export duty of future shipments.*

20.6 Whereas, the above tabulated transactions clearly substantiate that the exporter has received both the declared FOB value and export duty paid thereon separately in respect of the aforementioned four Shipping Bills. This further corroborates the admission made by Shri Nirav Mehta during his statement dated 02.06.2026 that they had directed their suppliers to deposit the export duty @50% separately on the consignments exported during the applicability of Notification No. 28/2022-Cus. dated 21.05.2022.

20.7 Accordingly, M/s Samyak Tradex LLP appears to have resorted to wilful mis-declaration and suppression of the actual FOB value of the export goods i.e. Iron Ore Fines read with section 14(1) of the Customs Act, 1962 and CBIC Circular No. 18/2008-Cus dated 10.11.2008, wherein it has been provided that the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation. Accordingly, transaction value in the instant case shall also include the amount of export duty reimbursed by the overseas buyer in addition to the FOB value declared to the Customs Authorities.

20.8 The valuation of export goods for the purpose of assessment of Customs duty is governed by the provisions of Section 14 of the Customs Act, 1962, which lay down that the goods are to be valued at their Transaction Value, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation. Further, as per Rule 3(1) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, subject to Rule 8, the value of export goods shall be the Transaction Value. As such, the sum total of price paid by the overseas buyer for delivery at the time and place of exportation would be the "Transaction Value" of such goods. Further, for the purpose of charging export duty, the value to be considered is the FOB price. This is so because the terms "for export from India for delivery at the time and place of exportation" appearing in Section 14 of the Customs Act, 1962 means FOB (Free on Board) value only. This has also been clarified by the Central Board of Indirect Taxes and Customs (CBIC), vide Circular No. 18/2008-Cus dated 10.11.2008, wherein it has been provided that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation.

20.9 FOB value is the value at which the exporter/seller delivers the export goods to the master of the conveyance, who receives the goods on behalf of the buyer and issues receipt, certifying receipt of the goods. In other words, such FOB value is sum total of all the cost & expenses incurred on the export goods till the delivery of the same to the master of the conveyance. Accordingly, such FOB value is inclusive of export duty paid by the overseas buyer, which in this case has not been declared correctly by the exporter in the aforementioned Four Shipping Bills in order to evade appropriate Customs (Export) Duty.

21. Legal Provisions:

21.1 CUSTOMS ACT, 1962, STIPULATES THAT:

21.1.1 Section 11-H. Definitions

In this Chapter, unless the context otherwise requires,—

(a) ―illegal export means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

21.1.2 Section 17. -Assessment of duty

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify [the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

[Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

[(3) For [the purposes of verification] under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.]

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

21.1.3 Section 18. Provisional assessment of duty. —

(1) Notwithstanding anything contained in this Act but without prejudice to the provisions of section 46 and section 50,-

(a) where the importer or exporter is unable to make self-assessment under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry,

the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed as the case may be, and the duty provisionally assessed.

(1A) Where, pursuant to the provisional assessment under sub-section (1), if any document or information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.

(2) When the duty leviable on such goods is assessed finally or reassessed by the proper officer in accordance with the provisions of this Act, then —

- *(a) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty finally assessed or reassessed, as the case may be, and if the amount so paid falls short of, or is in excess of the duty finally assessed or re-assessed, as the case may be, the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;*
- *(b) in the case of warehoused goods, the proper officer may, where the duty finally assessed or re-assessed, as the case may be, is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.*

(3) The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order or re-assessment order under sub-section (2), at the rate fixed by the Central Government under section 28AA from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.

(4) Subject the sub-section (5), if any refundable amount referred to in clause (a) of sub-section (2) is not refunded under that sub-section within three months from the date of assessment, of duty finally or re-assessment of duty, as the case may be, there shall be paid an interest on such un-refunded amount at such rate fixed by the Central Government under section 27A till the date of refund of such amount.]

(5) The amount of duty refundable under sub-section (2) and the interest under sub-section (4), if any, shall, instead of being credited to the Fund, be paid to the importer or the exporter, as the case may be, if such amount is relatable to:

(a) the duty and interest, if any, paid on such duty paid by the importer, or the exporter, as the case may be, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(b) the duty and interest, if any, paid on such duty on imports made by an individual for his personal use;

(c) the duty and interest, if any, paid on such duty borne by the buyer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(d) the export duty as specified in section 26;

(e) drawback of duty payable under sections 74 and 75

21.1.4 Section 28 - Recovery of duties not levied or not paid or short-levied or short- paid or erroneously refunded -

(1) Where any duty has not been levied or not paid or short-levied or short-paid] or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any willful mis-statement or suppression of facts,-

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of,-

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

> *Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.*

(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (2).

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

> *(a) collusion; or*
>
> *(b) any willful mis-statement; or*
>
> *(c) suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

21.1.5 Section 28AA – Interest on delayed payment of duty -

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section 2, whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten percent and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,—

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

21.1.6 Section 50. Entry of goods for exportation.

(1) The exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export [in such form and manner as may be prescribed]:

[Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases cases where it is not feasible to make entry by presenting electronically [on the customs automated system] , allow an entry to be presented in any other manner.]

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:—

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

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

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

21.1.7 Section 113- Confiscation of goods attempted to be improperly exported, etc.

The following export goods shall be liable to confiscation:—

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

(h) any [1] [***] goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77 ;

21.1.8 Section 114. Penalty for attempt to export goods improperly, etc.

— Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -

- ***(i)*** *……..*
- ***(ii)*** *in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:*
- ***(iii)*** *in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.]*

21.1.9 Section 114A - Penalty for short-levy or non-levy of duty in certain cases -

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation . - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;*

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

21.1.10 Section 114AA - Penalty for use of false and incorrect material

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

21.2 Circular No. 18/2008-Cus Dated 10.11.2008:

...

"5. It has also been decided that with effect from 1 st January, 2009, the practice of computation of export duty shall be changed. It is proposed that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation. For example if the transaction is at Rs 100 FOB, and the duty is 15%, the export duty will be 15% of FOB price, that is Rs 15. In case the transaction is on CIF basis, the FOB price may be deduced from the CIF value, and then the export duty be calculated as 15% of such FOB price."

21.3 Notification No. 28/2022-Customs, dated 21.05.2022:

G.S.R. (E).- Whereas, the Central Government is satisfied that export duty should be levied or increased on certain articles and that circumstances exist which render it necessary to take immediate action.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 8 of the Customs Tariff Act, the Central Government, hereby directs that the Second Schedule to the Customs Tariff Act shall be amended in the following manner, namely:-

In the Second Schedule to the Customs Tariff Act, -

(1) against Sl. No. 21, for the entry in column (4), the entry "50%" shall be substituted;

(2) against Sl. No. 22, for the entry in column (4), the entry "50%" shall be substituted;

(3)..............................

(4)..............................

2. *This notification shall come into force on the 22nd day of May, 2022.*

21.4 Notification No. 58/2022-Customs dated 18.11.2022:

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 27/2011- Customs dated the 1st March, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 153(E), dated the 1st March, 2011, namely :-

In the said notification, in the Table,: -

(i) After S. No. 20 and the entries relating thereto, the following S. No. and entries shall be inserted, namely

(1)	*(2)*	*(3)*	*(4)*
20A.	*2601 11 21, 2601 11 22, 2601 11 41, 2601 11 42*	*All Goods*	*Nil*
20C	*2601 11*	*All Goods, other than goods mentioned in S.No. 20A*	*30%*
20D	*2601 12*	*All Goods, other than iron ore pellets*	*30%"*

(ii)....................

(ix).......................

2. *This notification shall come into force on the 19th day of November, 2022*

21.5 Customs Valuation (Determination of Value of Export Goods) Rules, 2007

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Rule 3. Determination of the method of valuation. –

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.

(3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.

***Rule 4. Determination of export value by comparison**. —*

(1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-
(i) difference in the dates of exportation,
(ii) difference in commercial levels and quantity levels,
(iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
(iv) difference in domestic freight and insurance charges depending on the place of exportation.

***Rule 5. Computed value method**. —*
If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-
(a) cost of production , manufacture or processing of export goods;
(b) charges, if any, for the design or brand;
(c) an amount towards profit.

***Rule 6. Residual method**. —*
(1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

***Rule 7. Declaration by the exporter**.-*
The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.

***Rule 8**. **Rejection of declared value**.-*
(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

(2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).
……………

22. REDETERMINATION OF THE TRANSACTION VALUE IN RESPECT OF FOLLOWING SHIPPING BILLS:

(i) 2951583 dated 20.07.2022,

(ii) 3967199 dated 05.09.2022,

(iii) 4660618 dated 07.10.2022 &

(iv) 4873937 dated 17.10.2022:

22.1 Whereas, the valuation of export goods under the Customs Act, 1962 is governed by the provisions of Section 14 of the Customs Act, 1962, ibid, read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 [here-in-after referred as the 'CVR (E),2007']. The export proceeds receivable in full consequent to negotiation and finalization of sale price between the exporter from India and their overseas buyer form 'Transaction Value' of such goods. The Export Customs duty is leviable on the actual sale price at which the goods were sold. Where such sale price has been mis-declared and under-stated by the exporter, the actual sale price i.e. the Transaction Value needs to be taken into account for the purpose of valuation of the impugned export goods.

22.2 In respect of the shipments of Iron Ore Fines covered under Four Shipping Bills as mentioned at **Para 22 above**, it appears that the M/s Samyak Tradex LLP negotiated and finalized one price with their overseas buyer, however the said negotiated price was not declared by the exporter in the shipping bills, instead they declared FOB value after availing abetment of export duty and made arrangement with the overseas buyer wherein the overseas buyer had to pay to the exporter the export duty component in addition to the FOB value declared to the Customs Authorities.

22.3 Hence, it appears that the Total FOB value of **Rs. 57,96,81,630/-** declared by M/s Samyak Tradex LLP to the Customs Authorities as the Transaction Value of Iron Ore Fines covered under aforementioned 04 (Four) Shipping Bills, are not the true Transaction Values and accordingly, the same are liable to be rejected under Rule 8 of the CVR(E), 2007 and the impugned export goods are liable to be valued at their actual Transaction Value as established by the present investigation, in accordance with the provisions of Section 14 of the Customs Act, 1962, read with Rule 6 and Rule 3 of the CVR(E), 2007.

22.4 Whereas, the amount excluded i.e. the export customs duty portion from the FOB price was indeed part of the consideration negotiated and finalized between the exporters Samyak Tradex LLP and their respective overseas buyer. Therefore, the total differential value i.e. customs(export) duty of **Rs. 28,98,40,815/-** as shown in **Table 10 at Para 20.3 above** appears to be includible in the total FOB value of **Rs. 57,96,81,630/-** of the aforementioned Four Shipping Bills to arrive at the correct Transaction Value at which the said goods were sold for export from

India and export Customs duty as per the prevailing rate needs to be charged on the said value. Accordingly, FOB value of export goods has been re-determined at **Rs. 86,95,22,445/-** in accordance with the provisions of Section 14 of the Customs Act, 1962 read with Rule 6 and Rule 3 of the CVR(E), 2007.

23: DUTY CALCULATION:

23.1 <u>SHIPPING BILLS AS DETAILED IN ANNEXURE A, WHERE TRANSACTION VALUE IS RE-DETERMINED</u>

(i) 2951583 dated 20.07.2022,

(ii) 3967199 dated 05.09.2022,

(iii) 4660618 dated 07.10.2022

(iv) 4873937 dated 17.10.2022:

TABLE-16

Shipping Bill No. & Date	Declared Description of Goods & CTH	Declared Qty (MT)	Declared FOB Value (INR)	Export Duty Paid (INR)	Re-determined FOB Value (INR)	Total Export duty payable @ 50% (INR)	Differential export duty to be paid (INR)
As per Annexure A	Iron Ore Fines 26011142	91000	579681630	289840815	869522445	434761222.5	144920407.5

23.2 <u>SHIPPING BILLS AS DETAILED IN ANNEXURE B PERTAINING TO EXPORT OF IRON ORE CONCENTRATE BY MIS-DECLARATION:</u>

(i) 6306968 dated 26.12.2023

(ii) 7086577 dated 29.01.2024

(iii) 7304202 dated 06.02.2024

TABLE-17

Shipping Bill No. & Date	Total Quantity of Iron Ore Concentrate exported by way of mis-declaration (in MT)	FOB Value of Iron ore concentrate exported by way of mis-declaration (in INR)	Total Export Duty payable @30% (INR)

As per Annexure B	5523.58	31957235.42	9587170.625

23.3 <u>SHIPPING BILL NO. 3799237 dated 08.09.2023, WHERE CRCL SAMPLE REPORT WHEN CONVERTED IN DMT RESULTS IN Fe CONTENT >58 % THEREBY CLASSIFIABLE UNDER CTH 26011143 (DECLARED CTH 26011142) WHICH IS DUTIABLE @30%</u>

TABLE-18

Shipping Bill No/Date	**Total Quantity of Iron Ore Fine (CTH 26011143) exported by way of mis-declaration (in MT)**	**Declared FOB Value of Iron Ore Fine exported (in INR)**	**Total Export Duty payable @30% (INR)**
3799237 dated 08.09.2023	35000	209733300	62919990

23.4 Whereas, during the investigation, M/s Samyak Tradex LLP vide letter dated vide their letter dated 14.03.2024, had submitted a copy of challan no. 494, dated 14.03.2024, and informed that they had made a voluntary payment of Rs. 90 lakhs towards Duty (and interest payable thereon) in respect of the instant investigation

24. VIOLATION OF LEGAL PROVISIONS, ROLE AND CULPABILITY OF VARIOUS PERSONS INVOLVED IN MIS-DECLARATION OF TRANSACTION VALUE OR MIS-CLASSIFICATION IN EXPORT OF IRON ORE CONCENTRATE/IRON ORE FINES/RED OCHRE/ TO EVADE CUSTOMS (EXPORT) DUTY OR AVAIL INELIGIBLE IGST REFUND:

(I) M/S SAMYAK TRADEX LLP, GUJARAT.

24.1 Vide Finance Act, 2011 w.e.f. 08.04.2011 "Self-Assessment" has been introduced under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a bill of entry or shipping bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the importer or exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit or exemption notification claimed, if any in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill. In the present case, **the consignments of impugned goods** were self-assessed by M/s Samyak Tradex LLP, who at the time of filing of various Shipping Bills, has failed to mention the **(i)** correct transaction value in Four Shipping Bills as detailed in **Annexure A (ii)** correct classification of “Iron Ore Concentrate (CTH 26011150)” in respect of three Shipping Bills as detailed in **Annexure B (iii)** correct classification of “Red Ochres” (CTH 2530) in respect of Four Shipping Bills as detailed in **Annexure C** and failed to mention the **(iv)** correct classification of Iron Ore Fines (CTH 26011143) in Shipping Bill 3799237 dated 08.09.2023.

24.2 SHIPPING BILLS No. (i) 2951583 dated 20.07.2022, (ii) 3967199 dated 05.09.2022, (iii) 4660618 dated 07.10.2022 & (iv) 4873937 dated 17.10.2022: MISDECLARATION OF ACTUAL TRANSACTION VALUE:

24.2.1 Whereas, by not mentioning the correct transaction value in the above four shipping Bills, M/s Samyak Tradex LLP evaded the applicable export duty in terms of Notification no. 28/2022-Customs, dated 21.05.2022 as discussed above. It is evident that the actual facts were only known to the exporter about the exported products and aforesaid fact came to light only subsequent to the investigation. By not declaring the true and correct facts at the time of export M/s Samyak Tradex LLP appears to have perpetrated the offense of suppression and wilful mis-statement of facts in order to evade the applicable customs (export) duty. Therefore, it appears M/s Samyak Tradex LLP have deliberately contravened the above said provisions with an intention to evade payment of total applicable Customs (export) Duty leviable and payable on the export of “Iron Ore Fines (CTH 26011142)”, as specified in the Second schedule of Customs Tariff Act, 1975.

24.2.2 M/s Samyak Tradex LLP have exported 91000 MT of **“Iron Ore Fines (CTH 26011142)”**, by deliberately resorting to mis-statement & suppression of the material fact, in contravention of the provisions of Section 50(2) of the Customs Act, 1962. In terms of Section 50(2) of Customs Act, 1962, the exporter was required to make a declaration as to truth of the contents of the Shipping Bills submitted for assessment of Customs duty, which in the instant case, M/s Samyak Tradex LLP had failed to fulfil in respect of the said aforementioned **exports through Kandla Sea Port (Port Code: INIXY1)**. For these contraventions and violations, the goods fall under the ambit of ‘illegal exports’ within the meaning of Section 11 (H) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962 in as much as the goods exported by M/s Samyak Tradex LLP valued at Rs. **86,95,22,445/- (Rupees Eighty Six Crores Ninety Five lakhs Twenty Two thousand four hundred and forty five)** in total did not correspond in respect with the entry under Section 50 of Customs Act, 1962 as narrated supra.

24.2.3 From the aforesaid, it appears that the said exporter had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/mis-stated the material facts regarding the goods exported by them, in the declarations made in the export documents including Check lists presented for filing of Four Shipping Bills as detailed in **Annexure A**, presented before the Customs at the time of export for assessment and clearance, with an intent to evade payment of applicable Customs (export) Duty. Therefore, the duty not paid/short paid is liable to be recovered from M/s Samyak Tradex LLP by invoking the extended period of five years as per Section 28(4) of the Customs Act, 1962, in as much as the duty is short paid on account of wilful mis-statement as narrated above. Accordingly, the total Differential Customs (export) Duty amounting to **Rs. 14,49,20,407/- (Rupees Fourteen Crores Forty Nine Lakhs Twenty Thousand Four hundred and seven)** in respect of the exports at **Kandla Sea Port (Port Code: INIXY1)** as detailed in **Annexure-A** to the Investigation Report, is liable to be recovered from M/s Samyak Tradex LLP under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA ibid.

24.2.4 The aforesaid acts of suppression of facts and wilful mis-statement by M/s Samyak Tradex LLP had led to evasion of Customs (export) duty of **Rs. 14,49,20,407/-** thereby rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the Customs (export) duty amounting to **Rs. 14,49,20,407/-** was evaded by reason of wilful mis-statement and suppression of facts with a mala-fide intention.

24.2.5 In the present case, it is also evident that the actual facts were only known to the exporter about the product and its actual transaction value. However, it appears that M/s Samyak Tradex LLP had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual transaction value of the exported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962 also.

24.3 SHIPPING BILLS NO. (I) 6306968 DATED 26.12.2023 (II) 7086577 DATED 29.01.2024 & (III) 7304202 DATED 06.02.2024 – MIS DECLARATION IN EXPORT OF IRON ORE CONCENTRATE (CTH 26011150):

24.3.1 Whereas, by not mentioning the correct classification **in respect of 5523.58 MT** of "Iron Ore Concentrate (CTH 26011150)" in Three Shipping Bills as detailed in **Annexure B**, M/s Samyak Tradex LLP availed undue benefit of Nil rate of Customs (export) duty under exemption Notification No. 58/2022-Customs dated 18.11.2022 as discussed above. It is evident that the actual facts were only known to the exporter about the exported products and aforesaid fact came to light only subsequent to the investigation. By not declaring the true and correct facts at the time of export M/s Samyak Tradex LLP appears to have perpetrated the offense of suppression and wilful mis-statement of facts in order to evade the applicable duties. Therefore, it appears M/s Samyak Tradex LLP have deliberately contravened the above said provisions with an intention to evade payment of Customs Duty leviable and payable on the export of "Iron Ore Concentrate (CTH 26011150)", as specified in the Second schedule of Customs Tariff Act, 1975. Further, in terms of Section 16 of the IGST Act, 2017, no refund of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty, therefore, by not mentioning the correct classification of Iron Ore Concentrate in the Shipping Bills as detailed in **Annexure B,** the exporter also intended to avail ineligible refund of IGST.

24.3.2 M/s Samyak Tradex LLP have exported **5523.58 MT** of **"Iron Ore Concentrate (CTH 26011150)"**, by deliberately resorting to mis-statement &

suppression of the material fact, in contravention of the provisions of Section 50(2) of the Customs Act, 1962. In terms of Section 50(2) of Customs Act, 1962, the exporter was required to make a declaration as to truth of the contents of the Shipping Bills submitted for assessment of Customs duty, which in the instant case, M/s Samyak Tradex LLP had failed to fulfil in respect of the said aforementioned **exports through Kandla Sea Port (Port Code: INIXY1)**. For these contraventions and violations, the goods fall under the ambit of 'illegal exports' within the meaning of Section 11 (H) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 113(i) & 113(h) of the Customs Act, 1962 in as much as the goods exported by M/s Samyak Tradex LLP valued at **Rs. 3,19,57,235/- (Rupees Three Crores Nineteen Lakhs Fifty Seven Thousand Two hundred and thirty five)** in total did not correspond in respect with the entry under Section 50 of Customs Act, 1962 as narrated supra.

24.3.3 Whereas, based on the aforesaid, it appears that the said exporter had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/mis-stated the material facts regarding the goods exported by them, in the declarations made in the export documents including Check lists presented for filing of Three Shipping Bills as detailed in **Annexure B**, presented before the Customs at the time of export for assessment and clearance, with an intent to evade payment of applicable Customs (export) Duty. Therefore, the Customs (export) duty not paid/short paid is liable to be recovered from M/s Samyak Tradex LLP by invoking the extended period of five years as per Section 28(4) of the Customs Act, 1962, in as much as the duty is short paid on account of wilful mis-statement as narrated above. Accordingly, the total Differential Customs (export) Duty amounting to **Rs. 95,87,170/- (Rupees Ninety Five lakhs Eighty Seven Thousand one hundred and seventy)** in respect of the exports at **Kandla Sea Port (Port Code: INIXY1)** as detailed in **Annexure-B**, is liable to be recovered from M/s Samyak Tradex LLP under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA ibid.

24.3.4 The aforesaid acts of suppression of facts and wilful mis-statement by M/s Samyak Tradex LLP had led to evasion of Customs (export) duty of **Rs. 95,87,170/-** thereby rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the Customs duty amounting to **Rs. 95,87,170/-** was evaded by reason of wilful mis-statement and suppression of facts with a mala-fide intention.

24.3.5 In the present case, it is also evident that the actual facts were only known to the exporter about the product and its actual classification. However, it appears that M/s Samyak Tradex LLP had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual classification of the exported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962.

24.4 SHIPPING BILL 3799237 DATED 08.09.2023: MIS-CLASSIFICATION IN EXPORT OF IRON ORE FOR CONCRETE PIPECOATING GRADE (CORRECTLY CLASSIFIABLE UNDER CTH 26011143)

24.4.1 Whereas, by not mentioning the correct classification of Iron Ore Fines (CTH 26011143) in Shipping Bill 3799237 dated 08.09.2023, M/s Samyak Tradex LLP availed undue benefit of Nil rate of Customs (export) duty under exemption Notification No. 58/2022-Customs dated 18.11.2022 as discussed above. It is evident that the actual facts were only known to the exporter about the exported products and aforesaid fact came to light only subsequent to the investigation. By not declaring the true and correct facts at the time of export M/s Samyak Tradex LLP appears to have perpetrated the offense of suppression and willful mis-statement of facts in order to evade the applicable duties. Therefore, it appears M/s Samyak Tradex LLP have deliberately contravened the above said provisions with an intention to evade payment of Customs (export) Duty leviable and payable on the export of Iron Ore Fines (correct CTH 26011143), as specified in the Second schedule of Customs Tariff Act, 1975. Further, in terms of Section 16 of the IGST Act, 2017, no refund of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty, therefore, by the not mentioning the correct classification under CTH 26011143, the exporter also intended to avail ineligible refund of IGST.

24.4.2 Whereas, M/s Samyak Tradex LLP have exported **"Iron Ore Fines (CTH 26011143)"**, by deliberately resorting to mis-statement & suppression of the material fact, in contravention of the provisions of Section 50(2) of the Customs Act, 1962. In terms of Section 50(2) of Customs Act, 1962, the exporter was required to make a declaration as to truth of the contents of the Shipping Bills submitted for assessment of Customs duty, which in the instant case, M/s Samyak Tradex LLP had failed to fulfil in respect of the **said aforementioned export through Kandla Sea Port (Port Code: INIXY1)**. For these contraventions and violations, the goods fall under the ambit of 'illegal exports' within the meaning of Section 11 (H) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 113(i) & 113(h) of the Customs Act, 1962 in as much as the goods exported by M/s Samyak Tradex LLP **valued at Rs. 20,97,33,300/- (Twenty Crore Ninety Seven Lakh Thirty three thousand three hundred)** in total did not correspond in respect with the entry under Section 50 of Customs Act, 1962 as narrated supra.

24.4.3 Whereas, based on the aforesaid, it appears that the said exporter had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/mis-stated the material facts regarding the goods exported by them, in the declarations made in the export documents including Check lists presented for filing of Shipping Bill 3799237 dated 08.09.2023, presented before the Customs at the time of export for assessment and clearance, with an intent to evade payment of applicable Customs (export) Duty. Therefore, the duty not paid/short paid is liable to be recovered from M/s Samyak Tradex LLP by invoking the extended period of five years as per Section 28(4) of the Customs Act, 1962, in as much as the duty is short paid on account of wilful mis-statement as narrated above. Accordingly, the

total Differential Customs (Export) Duty amounting to **Rs. 6,29,19,990/- (Six crore Twenty Nine lakhs Nineteen Thousand Nine Hundred and Ninety)** in respect of the export at **Kandla Sea Port (Port Code: INIXY1)** is liable to be recovered from M/s Samyak Tradex LLP under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA ibid.

24.4.4 The aforesaid acts of suppression of facts and wilful mis-statement by M/s Samyak Tradex LLP had led to evasion of Customs duty of **Rs. 6,29,19,990/- (Six crore Twenty Nine lakhs Nineteen Thousand Nine Hundred and Ninety)** thereby rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the Customs (export) duty amounting to **Rs. 6,29,19,990 /-**was evaded by reason of wilful mis-statement and suppression of facts with a mala-fide intention.

24.4.5 In the present case, it is also evident that the actual facts were only known to the exporter about the product and its actual classification. However, it appears that M/s Samyak Tradex LLP had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual classification of the exported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962.

24.5 SHIPPING BILLS NO. 7086577 DATED 29.01.2024, 7304202 DATED 06.02.2024 7427323 DATED 10.02.2024 & 8463751 DATED 19.03.2024: MIS-DECLARATION IN EXPORT OF RED OCHRES (CTH 2530)

24.5.1 Whereas, by not mentioning the correct classification of total **52334** MT of Red Ochres" (CTH 2530) in Four Shipping Bills as detailed in **Annexure C**, M/s Samyak Tradex LLP intended to avail ineligible IGST refund at a higher rate of 18% instead of the applicable 5% on export of Red Ochres. By not declaring the true and correct facts at the time of export M/s Samyak Tradex LLP appears to have perpetrated the offense of suppression and willful mis-statement of facts in order to avail ineligible IGST refund at a higher rate of 18% instead of the applicable 5% on the export of Red Ochres (CTH 2530).

24.5.2 Whereas, based on the aforesaid, it appears that the said exporter had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/mis-stated the material facts regarding the goods exported by them, in the declarations made in the export documents including Check lists presented for filing of **four Shipping Bills** as detailed in **Annexure C**, presented before the Customs at the time of export for assessment and clearance, with an intent to avail inadmissible refund of IGST at a higher rate.

24.5.3 Whereas, M/s Samyak Tradex LLP have exported and attempted to export **"Red Ochres (CTH 2530)"** by deliberately resorting to mis-statement & suppression of the material fact, in contravention of the provisions of Section 50(2) of the Customs Act, 1962. In terms of Section 50(2) of Customs Act, 1962, the exporter was required to make a declaration as to truth of the contents of the Shipping Bills submitted for assessment of Customs duty, which in the instant case, M/s Samyak Tradex LLP had failed to fulfil in respect of the **exports through Kandla Sea Port (Port Code: INIXY1)**. For these contraventions and violations, the goods fall under the ambit of 'illegal exports' within the meaning of Section 11 (H) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 113(i), Section 113 (ja) & Section 113(h) of the Customs Act, 1962 in as much as the goods exported/attempted to be exported by M/s Samyak Tradex LLP valued at **Rs. 24,90,32,616/- (Rupees Twenty Four Crores Ninety Lakhs Thirty two Thousand Six hundred and sixteen)** in total did not correspond in respect with the entry under Section 50 of Customs Act, 1962 as narrated supra.

24.5.4 All the aforesaid acts of omission and commission on the part of M/s Samyak Tradex LLP have rendered the subject exported goods totally valued at **Rs. 24,90,32,616/-** liable for confiscation under Section 113(i), 113 (ja) & 113(h)of the Customs Act, 1962. M/s Samyak Tradex LLP are therefore liable to penalty under Section 114 (iii) of the Customs Act, 1962.

24.5.5 In the present case, it is also evident that the actual facts were only known to the exporter about the product and its actual classification. However, it appears that M/s Samyak Tradex LLP had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual classification of the exported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962.

(II) SHRI NIRAV MEHTA, PARTNER OF M/S SAMYAK TRADEX LLP:

25. Whereas**,** Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP, is the person exercising effective control over the affairs and business operations of the firm and was responsible for decisions relating to procurement, classification, valuation and export of the goods. The evidence gathered during investigation indicates that he knowingly made, signed, used, or caused to be made, signed and used, export invoices and Shipping Bills for export of Iron Ore Concentrate/Red Ochre declared as Iron Ore Fines, and for export consignments wherein the actual transaction value/classification was allegedly not correctly declared, to evade applicable Customs (export) duty or avail inadmissible IGST refund benefits. The Shipping Bills listed in Annexures A, B and C contain declarations relating to classification or transaction value which were false or incorrect in material particulars. The statements recorded during investigation, read with the documentary evidence on record, indicate that Shri Nirav Mehta played a central role in the filing of the impugned Shipping Bills and in the acts of mis-declaration relating to the export goods. Accordingly, the goods covered under the said Shipping Bills appear liable to confiscation under Section 113(i) or Section 113(i) & 113(h) or

Section 113(i) 113 (ja) & 113(h) of the Customs Act, 1962. Consequently, Shri Nirav Mehta is liable to penal action under Sections 114(ii) of the Customs Act, 1962 in respect of Shipping Bills detailed in Annexure A & B along with Shipping Bill No. 3799237 dated 08.09.2023 & liable to penal actions under Section114(iii) of the Customs Act, 1962 in respect of Shipping Bills detailed in Annexure C. Further, by knowingly making, signing, using or causing to be made, signed and used declarations, invoices and Shipping Bills containing particulars which appear to be false or incorrect in material particulars, Shri Nirav Mehta also appears liable to penalty under Section 114AA of the Customs Act, 1962 in respect of the above mentioned Shipping Bills.

(III) M/S MAHI TRADELINK, SECOND FLOOR, PLOT NO. 42, SECTOR 1 A, GANDHIDHAM, GUJARAT, PIN CODE 370201:

26. Whereas, M/s Mahi Tradelink appears to have played an active and conscious role in the procurement and supply chain of the goods exported under the impugned Shipping Bills by M/s Samyak Tradex LLP. Investigation has revealed that M/s Mahi Tradelink procured Red Ochre under HSN 2530 from M/s RSPL Red Ochre Mines Gwalior and subsequently supplied the same to M/s Samyak Tradex LLP under invoices declaring the goods as Iron Ore/Iron Ore Fines under HSN 26011190/26011142/2601. Further, M/s Mahi Tradelink also procured Iron Ore Concentrate from M/s 4mann Industries Pvt. Ltd. and supplied the same to M/s Samyak Tradex LLP for use in export consignments under HSN 26011190/26011142/2601. The evidence on record indicates that M/s Mahi Tradelink was fully aware of the true nature, description and classification of the goods being supplied, yet appears to have knowingly issued invoices containing incorrect particulars relating to description and classification, thereby facilitating the subsequent mis-declaration of export goods by M/s Samyak Tradex LLP. By its acts and omissions, M/s Mahi Tradelink appears to have knowingly concerned itself with and abetted the export of goods liable to confiscation under Section 113(i) and 113(h) or Section 113(i) 113 (ja) & 113(h) of the Customs Act, 1962. Accordingly, M/s Mahi Tradelink appears liable to penalty under Section 114(ii) of the Customs Act, 1962 in respect of Shipping Bills detailed in Annexure B and liable to penalty under Section 114(iii) in respect of Shipping Bills detailed in Annexure C. Further, by issuing invoices and related commercial documents containing particulars which appear to be false or incorrect in material particulars, M/s Mahi Tradelink facilitated the subsequent mis-declaration of export goods by M/s Samyak Tradex LLP in respect of the Shipping Bills detailed in Annexure B and C and therefore is also liable to penalty under Section 114AA of the Customs Act, 1962.

(IV) M/S K.S. CHHAYA CONSOLIDATORS PVT. LTD., 'AKSHAT', PLOT NO. 145, WARD DC-2, GANDHIDHAM-370201:

27. Whereas, Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018 clearly mandates that it is the obligation of the Customs Broker to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. Once the CRCL report in respect of Shipping Bill No. 3799237 dated 08.09.2023, indicated Fe content only on WMT basis and did not specify Fe content on DMT basis, it was the duty of the Customs Broker M/s K.S. Chhaya Consolidators Pvt. Ltd to advise the exporter M/s Samyak Tradex LLP of the statutory requirement prescribed under the Supplementary Note to Chapter 26, to declare Fe content on DMT basis or bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Had the CB done so, the goods would have been correctly classified and the duty evasion in this case could have been prevented. Therefore, the CB has clearly violated Regulation 10(d) of the (CBLR), 2018. By its acts and omissions, M/s K.S. Chhaya Consolidators Pvt. Ltd appears to have knowingly concerned itself with and abetted the export of goods liable to confiscation under Section 113(i) and 113(h)of the Customs Act, 1962. Accordingly, M/s K.S. Chhaya Consolidators Pvt. Ltd appears liable to penalty under Section 114(ii) of the Customs Act, 1962 in respect of Shipping Bill No. 3799237 dated 08.09.2023.

28. SUMMARY OF INVESTIGATION:

28.1 Whereas, the exporter M/s Samyak Tradex LLP has exported goods under Four Shipping Bill as detailed in **Annexure A** under description Iron Ore fines (CTH 26011142) with total quantity as 91000 MT. However, from the Evidences gathered during the investigation, it appears that the exporter in order to evade total applicable Customs (Export) duty @50% ad valorem on FOB, in terms Notification no. 28/2022-Customs, dated 21.05.2022 resorted to wilful mis-declaration of the actual transaction value declared in the Shipping Bills.

28.2 Whereas, the exporter M/s Samyak Tradex LLP has exported goods under Three Shipping Bills as detailed in **Annexure B** under description Iron Ore fines/Iron ore for concrete pipe coating grade (CTH 26011142). However, from the Evidences gathered during the investigation, it appears that the exporter in order to evade Customs (Export) duty @30% ad valorem on FOB value in terms Notification No. 58/2022-Customs dated 18.11.2022, resorted to wilful mis-declaration/mis-classification and exported 5523.58 MT of Iron Ore Concentrate correctly classifiable under CTH 26011150 under the said three Shipping Bills. By resorting to the above mis-declaration/mis-classification, the exporter also intended to avail ineligible IGST refund on dutiable exports.

28.3 Whereas, the exporter M/s Samyak Tradex LLP has exported goods under Four Shipping Bills as detailed in **Annexure C** under description Iron Ore fines/Iron ore for concrete pipecoating grade (CTH 26011141/26011142). However, from the Evidences gathered during the investigation, it appears that the exporter in order to avail ineligible IGST refund at a higher of 18% instead of the applicable 5%, resorted to willful mis-declaration/mis-classification, and exported/attempted to export 52334 MT of Red Ochre correctly classifiable under CTH 2530 under the said **four** Shipping Bills.

28.4 Whereas, the exporter M/s Samyak Tradex LLP has exported 35000 MT of goods under Shipping Bill No. 3799237 dated 08.09.2023 by declaring as Iron Ore for concrete pipecoating grade (CTH 26011142). However, from the Evidences gathered during the investigation, it appears that the exporter in order to evade

Customs (Export) duty @30% ad valorem on FOB value in terms Notification No. 58/2022-Customs dated 18.11.2022, resorted to willful mis-declaration/mis-classification as the goods meant to be exported under the said Shipping Bills were Iron Ore Fines correctly classifiable under CTH 26011143. By resorting to the above mis-declaration/mis-classification, the exporter also intended to avail ineligible IGST refund on dutiable exports.

29. Now, therefore, M/s Samyak Tradex LLP (IEC: ADJFS7430A) (having address at Second Floor, Plot No. 42, Sector 1 A, Gandhidham, Gujarat, Pin Code 370201 is hereby called upon to show cause in writing to the Commissioner of Customs, Custom House Kandla having his office at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210, Kutch, Gujarat, within 30 (thirty) days from the date of receipt of the notice as to why:-

i. The declared value of Rs. **57,96,81,630/- (Rupees Fifty Seven Crores Ninety Six Lakhs Eighty one thousand Six hundred thirty)** in respect of Four iron ore fines shipments exported through the Kandla Port, the details of which are as mentioned in **Annexure A**, which does not represent the correct 'Transaction Value', should not be rejected in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;

ii. On such rejection, FOB value should not be re-determined at **Rs. 86,95,22,445/- (Rupees Eighty Six Crores Ninety Five lakhs Twenty Two thousand four hundred and forty five)** for the purpose of re-assessment of customs (export) duty, on export of Iron Ore fines covered under four Shipping Bills mentioned in Annexure-A in terms of Section 14 (1) of the Customs Act, 1962, read with Rule 6 and Rule 3(1) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 as discussed supra at para 21

iii. The goods covered under 04 (four) Shipping Bills mentioned in Annexure-A, should not be re-assessed to customs duty of **Rs. 43,47,61,222/- (Rupees Forty three crores Forty Seven Lakhs Sixty One thousand Two hundred and twenty two)** as discussed supra;

iv. Consequent to such re-assessment of the Shipping Bills as mentioned in Para (iii) above, as the exporter has already paid export duty amounting to **Rs. 28,98,40,815/-** as mentioned in Annexure-A, the differential Customs (export) duty amounting to **Rs. 14,49,20,407/- (Rupees Fourteen Crores Forty Nine Lakhs Twenty Thousand Four hundred and seven)**, should not be demanded under section 28(4) along with applicable interest in terms of Section 28AA of the Customs Act, 1962.

v. The **91000 MT** of goods valued at re-determined value of **Rs. 86,95,22,445/- (Rupees Eighty Six Crores Ninety Five lakhs Twenty Two thousand four hundred and forty five)** as covered under said 4 Shipping Bills mentioned in Annexure A, should not be held liable for confiscation under Section 113(i) of the Customs Act, 1962.

vi. Penalty should not be imposed upon them under Section 114A and 114AA of the Customs Act, 1962, separately for the goods exported under four shipping Bills as detailed in Annexure A.

vii. The **5523.58 MT** of export goods 'Iron Ore fines/Iron Ore for concrete pipe coating grade' valued at **Rs. 3,19,57,235/- (Rupees Three Crores Nineteen Lakhs Fifty Seven Thousand Two hundred and thirty five)** as covered under 3 Shipping Bills mentioned in **Annexure B**, should not be re- classified under CTH 26011150 and description 'Iron Ore Concentrate' of Customs Tariff Act,1975 and the declared classification of the export goods 'Iron ore fines/Iron ore for concrete pipe coating grade' under CTH 26011142 should not be rejected.

viii. On such rejection, the goods covered under 03 (three) Shipping Bills mentioned in **Annexure-B**, should not be re-assessed to customs (export) duty **Rs. 95,87,170/- (Rupees Ninety Five lakhs Eighty Seven Thousand one hundred and seventy)**

ix. Consequent to such re-assessment of the Shipping Bills as mentioned in Para (viii) above, the differential Customs (export) duty totally amounting to **Rs. 95,87,170/- (Rupees Ninety Five lakhs Eighty Seven Thousand one hundred and seventy)** should not be demanded under section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962.

x. The **5523.58 MT** of 'iron ore concentrate' valued at **Rs. 3,19,57,235/- (Rupees Three Crores Nineteen Lakhs Fifty Seven Thousand Two hundred and thirty five)** as covered under said 3 Shipping Bills mentioned in **Annexure B**, should not be held liable for confiscation under Section 113(i) & 113 (h) of the Customs Act, 1962.

xi. Penalty should not be imposed upon them under Section 114A and 114AA of the Customs Act, 1962, separately for the goods exported under three shipping Bills as detailed in **Annexure B**.

xii. The **35000 MT** of export goods 'Iron Ore for concrete pipe coating grade' valued at **Rs. 20,97,33,300/- (Rupees Twenty Crore Ninety Seven Lakh Thirty three thousand three hundred)** as covered under **Shipping Bill 3799237 dated 08.09.2023**, should not be re- classified under CTH 26011143 of Customs Tariff Act,1975 and the declared classification of the export goods 'Iron ore for concrete pipe coating grade' under CTH 26011142 should not be rejected.

xiii. On such rejection, the goods covered under **Shipping Bill 3799237 dated 08.09.2023**, should not be re-assessed to customs (export) duty **Rs. 6,29,19,990/- (Six crore Twenty Nine lakhs Nineteen Thousand Nine Hundred and Ninety).**

xiv. Consequent to such re-assessment of the Shipping Bill 3799237 dated 08.09.2023, the differential Customs (export) duty amounting to **Rs. 6,29,19,990/- (Six crore Twenty Nine lakhs Nineteen Thousand Nine Hundred and Ninety)**, should not be demanded under section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962.

xv. The amount of **Rs. 90,00,000/- (Rupees Ninety Lakhs)** voluntarily paid by the exporter should not be appropriated against the duty liability.

xvi. The 35000 MT of export goods 'Iron Ore for concrete pipe coating grade' valued at **Rs. 20,97,33,300/- (Twenty Crore Ninety Seven Lakh Thirty three**

thousand three hundred) as covered under Shipping Bill 3799237 dated 08.09.2023, should not be held liable for confiscation under Section 113(i) & 113 (h) of the Customs Act, 1962.

xvii. Penalty should not be imposed upon them under Section 114A and 114AA of the Customs Act, 1962, separately for the goods exported under Shipping Bill 3799237 dated 08.09.2023.

xviii The **52,334 MT** of export goods 'Iron Ore fines/Iron Ore for concrete pipe coating grade' valued at **Rs. 24,90,32,616/- (Rupees Twenty Four Crores Ninety Lakhs Thirty two Thousand Six hundred and sixteen)** as covered under 4 Shipping Bills mentioned in **Annexure C**, should not be re- classified under CTH 25309070 and description 'Red Ochre' of Customs Tariff Act,1975 and the declared classification of the export goods 'Iron ore fines/Iron ore for concrete pipe coating grade' under CTH 26011141/26011142 should not be rejected.

xix. **52,334 MT** of export goods 'Iron Ore fines/Iron Ore for concrete pipe coating grade' valued at **Rs. 24,90,32,616/- (Rupees Twenty Four Crores Ninety Lakhs Thirty two Thousand Six hundred and sixteen)** as covered under 4 Shipping Bills mentioned in **Annexure C**, should not be held liable for confiscation under Section 113(i), 113 (ja) & 113(h) of the Customs Act, 1962.

xx. Penalty should not be imposed upon them under Section 114 (iii) of the Customs Act, 1962, for the goods exported under four shipping Bills as detailed in **Annexure C.**

30. Now therefore, **Shri Nirav Mehta, Partner M/s Samyak Tradex LLP, Second Floor, Plot No. 42, Sector 1 A, Gandhidham, Gujarat, Pin Code 370201** is called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Custom House Kandla having his office at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210, Kutch, Gujarat within 30 (thirty) days from the date of receipt of the notice as to why Penalty should not be imposed on him under Section 114 (ii) & 114AA of the Customs Act, 1962 for the goods exported under **Shipping Bill No. 3799237 dated 08.09.2023** & Shipping Bills as detailed in **Annexure A & B** and why Penalty should not be imposed upon him under Section 114 (iii) & Section 114AA of the Customs Act, 1962, for the goods exported under shipping Bills as detailed in **Annexure C.**

31. Now therefore, **M/s Mahi Tradelink, having address at Second Floor, Plot No. 42, Sector 1 A, Gandhidham, Gujarat, Pin Code 370201** is called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Custom House Kandla having his office at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210, Kutch, Gujarat within 30 (thirty) days from the date of receipt of the notice as to why Penalty should not be imposed on them under Section 114 (ii) & 114AA of the Customs Act, 1962 for the goods exported under Shipping Bills as detailed in **Annexure B** and why Penalty should not be imposed upon them under Section 114 (iii) & Section 114AA of the Customs Act, 1962, for the goods exported under shipping Bills as detailed in **Annexure C.**

32. Now therefore, **M/s K.S. Chhaya Consolidators Pvt. Ltd, having address at 'Akshat', Plot No. 145, Ward DC-2, Gandhidham-370201** is called upon to show cause in writing to the Pr. Commissioner/Commissioner of Customs, Custom House Kandla having his office at Office of the Commissioner of Customs, Custom

House, Near Balaji Temple, Kandla-370210, Kutch, Gujarat within 30 (thirty) days from the date of receipt of the notice as to why Penalty should not be imposed on them under Section 114 (ii) of the Customs Act, 1962 for the goods exported **Shipping Bill No. 3799237 dated 08.09.2023.**

33. The noticee are hereby required to produce at the time of showing cause all the evidences upon which they intend to rely in support of their defense. They are further required to indicate in their written explanation as to whether they desire to be heard in person before the case is adjudicated. If no mention is made about this in their written explanation, it will be presumed that they do not desire a personal hearing. If no cause is shown by them against the action proposed to be taken within 30 days of receipt of this notice or if they do not appear before the adjudicating authority when the case is posted for hearing, the case would be liable to be adjudicated on the basis of evidences on records.

34. This Show Cause Notice is issued without prejudice to any other actions that may be taken against the persons involved in the subject case, under the provisions of the Customs Act, 1962 or any other Allied Acts for the time being in force.

35. This Show Cause Notice is issued only in respect of issues discussed in the notice and the goods mentioned against the Shipping Bills discussed hereinabove. The Department reserves its right to add, amend, modify, etc. this notice based on any fresh facts or evidence which may come to the notice of the Department after issue of this notice but prior to adjudication thereof.

36. The documents as listed at **Annexure-R** are relied upon and scanned copies of all relied upon documents along with **Annexure-A, B & C** is enclosed with this show cause notice.

Digitally signed by
Dinesh Singh
Date: 03-09-2026
16:39:48

(Dinesh Singh)
Commissioner,
Custom House, Kandla

F. No. GEN/ADJ/COMM/490/2026-Adjn-O/o Commr-Cus-Kandla
Date: 03.09.2026
By Speed Post/Regd. Post/E-mail/Hand Delivery

To
(1) M/s Samyak Tradex LLP (IEC: ADJFS7430A),
Second Floor, Plot No. 42, Sector 1 A,
Gandhidham, Gujarat, Pin Code 370201
(E-mail: nirav@samyaktradex.com, trade@samyaktradex.com)

2) Shri Nirav Mehta, Partner M/s Samyak Tradex LLP,
Second Floor, Plot No. 42, Sector 1 A,
Gandhidham, Gujarat, Pin Code 370201

(E-mail: nirav@samyaktradex.com, accounts@samyaktradex.com)

3) M/s Mahi Tradelink,
Second Floor, Plot No. 42, Sector 1 A,
Gandhidham, Gujarat, Pin Code 370201,
(E-mail: nirav@samyaktradex.com, trade@samyaktradex.com)

4) M/s K.S. Chhaya Consolidators Pvt. Ltd,
'Akshat', Plot No. 145, Ward DC-2,
Gandhidham-370201.
(E-mail: kanva@kscco.in)

Copy to:

(1) The Additional Director General, DRI, Ahmedabad
(2) Superintendent, (EDI), CH Kandla.
(3) Guard File.

ANNEXURE R

LIST OF RELIED UPON DOCUMENTS

RUD No.	**DETAILS OF RUD**	**Total No. of Pages**
RUD-1	Panchnama dated 05.03.2024 in respect of search conducted at the premises of the exporter M/s Samyak Tradex LLP, Gandhidham.	5
RUD-2	Panchnama dated 05.03.2024 in respect of search conducted at the office premises of CHA, M/s K S. Chhaya Consolidators Pvt. Ltd. , Gandhidham.	3
RUD-3	Panchnama dated 06.03.2024 in respect of examination and sampling of the Shipping Bills (live consignment) No's 7344687 dated 07.02.2024 & 7427323 dated 10.02.2024 at Kandla Port.	3
RUD-4	Statement of Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP recorded on 07.03.2024.	3
RUD-5	Letter dated 12.03.2024 of M/s Samyak Tradex LLP in respect of submission of details /files regarding purchases made by them & M/s Mahi Tradelink during the year 2023-24	4
RUD-6 (colly)	Letter dated 14.03.2024 of M/s Samyak Tradex LLP along with a copy of challan no. 494, dated 14.03.2024 pertaining to voluntary payment of Rs. 90 lakhs.	5
RUD-7	Statement of Shri Nirav Mehta recorded on 12.04.2024.	2
RUD-8	Statement of Shri Kanva Pradip Chhaya, Director of M/s K S. Chhaya Consolidators Pvt. Ltd., Gandhidham (CHA), recorded on 30.04.2024.	2

RUD-9 (colly)	Letter Doc. No. KCL/QR-32, dated 01.05.2024 of Custom House Laboratory, Kandla along with Test reports in respect of the 12 samples that were forwarded vide Test Memo No's 81/2024 to 92/2024 all dated 18.03.2024, pertaining to the Shipping Bills (live consignment) No's 7344687 dated 07.02.2024 & 7427323 dated 10.02.2024.	25
RUD-10	Statement of Shri Nirav Mehta recorded on 30.09.2024.	2
RUD-11	A sheet provided by Shri Nirav Mehta during his statement dated 30.09.2024 containing details of the Shipping Bills in respect of export of iron ore fines for which Let Export Order was obtained before initiation of DRI Investigation along with details pertaining to quantity of local purchase/sales data of iron ore concentrate & iron ore fines.	1
RUD-12	Statement of Shri Nirav Mehta recorded on 20.12.2025.	4
RUD-13	Statement of Shri Nirav Mehta recorded on 02.06.2026.	4
RUD-14	A Copy of Lease Agreement dated 26.06.2023, between M/s Mahi Tradelink & M/s Samyak Tradex LLP.	15
RUD-15	Submission of the exporter explaining details of processing/blending activity carried out by them.	1
RUD-16 (colly)	Details of the procurement and local sales/export of Iron Ore Concentrate and Red Ochre done by M/s Samyak Tradex LLP from 2021-22 to 2025-26 in excel sheet.	125
RUD-17	A copy of the invoice no. GST/0037/2023-24, dated 29.05.2023 in relation to local sales of Red Ochre to M/s New Kandla Salt and Chemicals Co. Pvt. Ltd., Gandhidham.	1
RUD-18 (colly)	Copies of Invoice no. MT/002, dated 31.05.2022 & Invoice no. MT/RJ/517, dated 03.09.2023 issued by M/s Mahi Tradelink to M/s Samyak Tradex LLP	2
RUD-19 (colly)	Copies of Three Shipping Bills No. **(i)** 6306968 dated 26.12.23, **(ii)** 7086577 dated 29.01.24 & **(iii)** 7304202 dated 06.02.24.	18
RUD-20 (colly)	Copies of Four Shipping Bills No. **(i)** 7086577 dated 29.01.24, **(ii)** 7304202 dated 06.02.24, **(iii)** 7427323 dated 10.02.24, & **(iv)** 8463751 dated 19.03.24.	24
RUD-21	Copy of Shipping Bill No. 3799237 dated 08.09.2023.	6
RUD-22	CRCL Kandla Sample Test report in respect of Shipping Bill No. 3799237 dated 08.09.2023	2
RUD-23 (colly)	ICEGATE Details pertaining to duty payment by M/s Samyak Tradex LLP in respect of four Shipping Bills (SB No. 4660618 dated 07.10.22, SB No. 4873937, dated 17.10.22, SB No. 3967199 dated 05.09.22 & SB No. 2951583, dated 20.07.22.	4
RUD-24 (colly)	Copies of Bank Statement for the Bank of Baroda Account no. 10080200002026 from 01.04.22 to 31.03.23 and 01.04.24 to 31.03.25.	7
RUD-25 (colly)	Documents furnished by Bank of Baroda in reference to Account no. 10080200002026 of M/s Samyak Tradex LLP: (i) Copies of Bank Realisation Certificates (ii) Copies of contract and subsequent addendums between M/s	55

	Samyak Tradex LLP and M/s Wasco Coating Middle East QFZ LLC. (iii) Copies of Disposal Instruction for foreign inward remittance along with swift message. (iv) Copy of reimbursement note dated 25.07.2022 issued by M/s Samyak Tradex LLP. A letter dated 06.08.2022 issued by M/s Samyak Tradex LLP to Bank of Baroda.	
RUD-26 (colly)	Invoice no. E 23-24/170 dated 12.02.24, issued by M/s Inani Export to M/s Samyak Tradex LLP & Invoice no. 330, dated 16.04.2023 issued by M/s RSPL Red Ochre Mines Gwalior along with E-way bill no. 611552124704, dated 16.04.23	3
RUD-27 (colly)	Invoice No. PIML/4617/23-24, dated 17.12.2023 issued by M/s Pacific Iron Manufacturing Ltd. along with e-way bill no. 681656096524, dated 17.12.2023 & Electronic Transit Pass (eTP) No. 2311082033, dated 17.12.2023.	3
RUD-28 (colly)	Invoice No. GST/3564/23-24, dated 16.12.2023 issued by M/s 4maan Industries Pvt Ltd along with e-way bill no. 631655873572, dated 16.12.2023 & Electronic Transit Pass (eTP) No. 2311077755, dated 16.12.2023	4
RUD-29 (colly)	Invoice No. MT/556, dated 23.09.2023, Invoice no. MT/RJ/522, dated 04.09.2023 & Invoice No. MT/751, dated 30.01.2024 issued by M/s Mahi Tradelink.	3
RUD-30 (colly)	Invoice No. GST/0200/2023-24, dated 11.11.2023 & Invoice No. GST/0217/2023-24, dated 28.12.2023 issued by M/s Samyak Tradex LLP.	2
RUD-31 (colly)	Copies of four Shipping Bills No. **(i)** 2951583 dated 20.07.2022, **(ii)** 3967199 dated 05.09.2022 **(iii)** 4660618 dated 07.10.2022 & **(iv)** 4873937 dated 17.10.2022	24

Annexure-A:
Re-determination of FOB value and calculation of differential export duty

Shipping Bill No. & Date	Declared Description of Goods	Declared CTH	Declared Qty (MT)	Declared FOB Value (INR)	Export Duty Paid (INR)	Re-determined FOB Value (INR) (5+6)	Total Export duty payable @ 50% of (7) (INR)	Differential export duty to be paid (8-6) (INR)
1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**
2951583 dated 20.07.2022	Iron Ore Fines(Fe Content 56.70 Pct)(0-6 Mm Particle Size	26011142	30000	225919800	112959900	338879700	169439850	56479950
3967199 dated 05.09.2022	Iron Ore Fines (Fe 56.90%, 0–6 mm particle size)	26011142	35000	200803050	100401525	301204575	150602287.5	50200762.5
4660618 dated 07.10.2022	Iron Ore Fines (Fe 56.52%, 0–6 mm particle size)	26011142	20000	117660600	58830300	176490900	88245450	29415150
4873937 dated 17.10.2022	Iron Ore Fines (Fe 56.52%, 0–6 mm particle size)	26011142	6000	35298180	17649090	52947270	26473635	8824545
TOTAL			**91000**	**579681630**	**289840815**	**869522445**	**434761222.5**	**144920407.5**

ANNEXURE B (EXPORT OF IRON ORE CONCENTRATE)								
Shipping Bill No. & Date	**Declared Description of Goods**	**Declared CTH**	**Declared Qty (MT)**	**FOB Unit Price (in INR/MT)**	**Declared FOB Value (INR)**	**Total Quantity of Iron Ore Concentrate exported by way of mis-declaration (in MT)**	**FOB Value Attributable to Quantity of Iron ore concentrate exported (in INR)**	**Total Export Duty payable @30% (INR)**
6306968 dated 26.12.2023	Iron Ore Fines(0-6 mm particle size)(Fe 55.09 pct)	26011142	30000	6028.83	180864900	978	5896195.74	1768858.722
7086577 dated 29.01.2024	Iron Ore Fines (Fe 55.80%)	26011142	55000	5355.22	294537127.5	1848.52	9899231.274	2969769.382
7304202 dated 06.02.2024	Iron Ore for Concrete Pipecoating Grade (0–7 mm particle size) (Fe 55.20%)	26011142	8400	5992.38	50335992	2697.06	16161808.4	4848542.521
TOTAL						**5523.58**	**31957235.42**	**9587170.63**

Annexure C							
Shipping Bill No. & Date	**Declared Description of Goods**	**Declared CTH**	**Declared Qty (MT)**	**FOB Unit Price (in INR/MT)**	**Declared FOB Value (INR)**	**Total Quantity of Red Ochre exported/attempted to be exported by way of mis-declaration (in MT)**	**FOB Value Attributable to Quantity of Red Ochre exported (in INR)**
7086577 dated 29.01.2024	Iron Ore Fines (Fe 55.80%)	26011142	55000	5355.22	294537127.5	1948	10431968.56
7304202 dated 06.02.2024	Iron Ore for Concrete Pipecoating Grade (0–7 mm particle size) (Fe 55.20%)	26011142	8400	5992.38	50335992	5708	34204505.04
7427323 dated 10.02.2024	Iron Ore Fines (0–40 mm particle size) (Fe 49.60%)	26011141	25000	3994.92	99873000	24992	99841040.64
8463751 dated 19.03.2024	Iron Ore Fines (Fe 55.90%)	26011142	50415	5311.14	267761123.1	19686	104555102
TOTAL						**52334**	**249032616.3**

ANNEXURE R

LIST OF RELIED UPON DOCUMENTS

SCN F.No. GEN/ADJ/COMM/490/2026-Adjn-O/o Commr-Cus-Kandla dated 03.09.2026

RUD No.	DETAILS OF RUD	Total No. of Pages
RUD-1	Panchnama dated 05.03.2024 in respect of search conducted at the premises of the exporter M/s Samyak Tradex LLP, Gandhidham.	5
RUD-2	Panchnama dated 05.03.2024 in respect of search conducted at the office premises of CHA, M/s K S. Chhaya Consolidators Pvt. Ltd. , Gandhidham.	3
RUD-3	Panchnama dated 06.03.2024 in respect of examination and sampling of the Shipping Bills (live consignment) No's 7344687 dated 07.02.2024 & 7427323 dated 10.02.2024 at Kandla Port.	3
RUD-4	Statement of Shri Nirav Mehta, Partner of M/s Samyak Tradex LLP recorded on 07.03.2024.	3
RUD-5	Letter dated 12.03.2024 of M/s Samyak Tradex LLP in respect of submission of details /files regarding purchases made by them & M/s Mahi Tradelink during the year 2023-24	4
RUD-6 (colly)	Letter dated 14.03.2024 of M/s Samyak Tradex LLP along with a copy of challan no. 494, dated 14.03.2024 pertaining to voluntary payment of Rs. 90 lakhs.	5
RUD-7	Statement of Shri Nirav Mehta recorded on 12.04.2024.	2
RUD-8	Statement of Shri Kanva Pradip Chhaya, Director of M/s K S. Chhaya Consolidators Pvt. Ltd., Gandhidham (CHA), recorded on 30.04.2024.	2
RUD-9 (colly)	Letter Doc. No. KCL/QR-32, dated 01.05.2024 of Custom House Laboratory, Kandla along with Test reports in respect of the 12 samples that were forwarded vide Test Memo No's 81/2024 to 92/2024 all dated 18.03.2024, pertaining to the Shipping Bills (live consignment) No's 7344687 dated 07.02.2024 & 7427323 dated 10.02.2024.	25
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RUD-11	A sheet provided by Shri Nirav Mehta during his statement dated 30.09.2024 containing details of the Shipping Bills in respect of export of iron ore fines for which Let Export Order was obtained before initiation of DRI Investigation along with details pertaining to quantity of local purchase/sales data of iron ore concentrate & iron ore fines.	1
RUD-12	Statement of Shri Nirav Mehta recorded on 20.12.2025.	4
RUD-13	Statement of Shri Nirav Mehta recorded on 02.06.2026.	4
RUD-14	A Copy of Lease Agreement dated 26.06.2023, between M/s Mahi Tradelink & M/s Samyak Tradex LLP.	15
RUD-15	Submission of the exporter explaining details of processing/blending activity carried out by them.	1
RUD-16 (colly)	Details of the procurement and local sales/export of Iron Ore Concentrate and Red Ochre done by M/s Samyak Tradex LLP from 2021-22 to 2025-26 in excel sheet.	125
RUD-17	A copy of the invoice no. GST/0037/2023-24, dated 29.05.2023 in relation to local sales of Red Ochre to M/s New Kandla Salt and Chemicals Co. Pvt. Ltd., Gandhidham.	1
RUD-18 (colly)	Copies of Invoice no. MT/002, dated 31.05.2022 & Invoice no. MT/RJ/517, dated 03.09.2023 issued by M/s Mahi Tradelink to M/s Samyak Tradex LLP	2
RUD-19 (colly)	Copies of Three Shipping Bills No. **(i)** 6306968 dated 26.12.23, **(ii)** 7086577 dated 29.01.24 & **(iii)** 7304202 dated 06.02.24.	18
RUD-20 (colly)	Copies of Four Shipping Bills No. **(i)** 7086577 dated 29.01.24, **(ii)** 7304202 dated 06.02.24, **(iii)** 7427323 dated 10.02.24, & **(iv)** 8463751 dated 19.03.24.	24
RUD-21	Copy of Shipping Bill No. 3799237 dated 08.09.2023.	6
RUD-22	CRCL Kandla Sample Test report in respect of Shipping Bill No. 3799237 dated 08.09.2023	2

RUD-23 (colly)	ICEGATE Details pertaining to duty payment by M/s Samyak Tradex LLP in respect of four Shipping Bills (SB No. 4660618 dated 07.10.22, SB No. 4873937, dated 17.10.22, SB No. 3967199 dated 05.09.22 & SB No. 2951583, dated 20.07.22.	4
RUD-24 (colly)	Copies of Bank Statement for the Bank of Baroda Account no. 10080200002026 from 01.04.22 to 31.03.23 and 01.04.24 to 31.03.25.	7
RUD-25 (colly)	Documents furnished by Bank of Baroda in reference to Account no. 10080200002026 of M/s Samyak Tradex LLP: (i) Copies of Bank Realisation Certificates (ii) Copies of contract and subsequent addendums between M/s Samyak Tradex LLP and M/s Wasco Coating Middle East QFZ LLC. (iii) Copies of Disposal Instruction for foreign inward remittance along with swift message. (iv) Copy of reimbursement note dated 25.07.2022 issued by M/s Samyak Tradex LLP. (v) A letter dated 06.08.2022 issued by M/s Samyak Tradex LLP to Bank of Baroda.	55
RUD-26 (colly)	Invoice no. E 23-24/170 dated 12.02.24, issued by M/s Inani Export to M/s Samyak Tradex LLP & Invoice no. 330, dated 16.04.2023 issued by M/s RSPL Red Ochre Mines Gwalior along with E-way bill no. 611552124704, dated 16.04.23	3
RUD-27 (colly)	Invoice No. PIML/4617/23-24, dated 17.12.2023 issued by M/s Pacific Iron Manufacturing Ltd. along with e-way bill no. 681656096524, dated 17.12.2023 & Electronic Transit Pass (eTP) No. 2311082033, dated 17.12.2023.	3
RUD-28 (colly)	Invoice No. GST/3564/23-24, dated 16.12.2023 issued by M/s 4maan Industries Pvt Ltd along with e-way bill no. 631655873572, dated 16.12.2023 & Electronic Transit Pass (eTP) No. 2311077755, dated 16.12.2023	4
RUD-29 (colly)	Invoice No. MT/556, dated 23.09.2023, Invoice no. MT/RJ/522, dated 04.09.2023 & Invoice No. MT/751, dated 30.01.2024 issued by M/s Mahi Tradelink.	3
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RUD-31 (colly)	Copies of four Shipping Bills No. **(i)** 2951583 dated 20.07.2022, **(ii)** 3967199 dated 05.09.2022 **(iii)** 4660618 dated 07.10.2022 & **(iv)** 4873937 dated 17.10.2022	24

Link for RUDs to SCN F.No. GEN/ADJ/COMM/490/2026-Adjn-O/o Commr-Cus-Kandla dated 03.09.2026:

https://drive.google.com/drive/folders/1mfBgz1qZYGOhGxQTzR_NXipjG_vzUDm_?usp=sharing