

 सत्यमेव जयते	OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), सीमाशुल्क आयुक्त का कार्यालय (एनएस -I) NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE, नहावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस, TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA - 400 707. ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707	 आज़ादी का अमृत महोत्सव
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File No. CUS/APR/INV/597/2025-Gr (1And1A)

Date of Order: 21.10.2025

S/10-Adj-96/2025-26

Date of issue: 22.10.2025

Order passed by: Jay G. Waghmare, Joint Commissioner of Customs, Group-I, NS-I, JNCH,

NHAVA SHEVA

Order-in-Original No.: 1012(L)/2025-26/3C/G. 127A/NS-1/CAC/JNCH

DIN: 20251078NW0000323773

Name of Party/Noticee/Importer: M/s. N S Enterprises (IEC BESP7298K)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील) जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Sheva, Taluka: Uran, Dist: Raigad, Maharashtra - 400707 under Section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 annexed to the Customs (Appeals) Rules, 1982. The appeal should bear a Court Fee stamp of Rs.2.00 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 2.00 only as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1870.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. N S Enterprises (IEC BESP7298K) having registered address as Hutments, A U Menon Street, Ground Floor, Plot No. 16-17, Murgi Mohalla, Memom, Mumbai- 400003 (hereinafter referred to as ‘the Importer’ for sake of brevity) imported goods declared as “Flavoured Drink” in Bill of entry No. 8290208 dated 11.02.2025 **[RUD-1]** stuffed in Container No. FCIU4489250 (20Ft).The goods were supplied by M/s Imperial Food General Trading LLC, DUBAI, UAE. Based on specific intelligence and information goods covered under Bill of Entry No. 8290208 dated 11.02.2025 in Container No.FCIU4489250 (20ft) was put on Hold vide Hold no. 312/2024-25 dated 14.02.2025. The details of imported goods is as tabulated below:

Importer Name	M/s N S Enterprises (IEC – BESP7298K)
CHA Name	M/s G Masilamani (AFOPM4616HCH001)
Bill of Entry No & date	8290208 dated 11.02.2025
Description of Goods	Flavoured Drink (CTH- 22029990)
Container No.	FCIU4489250 (20ft)
Declared Assessable Value	INR 4,58,266/-
Duty	INR 2,60,937/-

The examination was conducted for the said goods covered under the said Bill of Entry under Panchanama dated 18.02.2025 **(RUD-II)**.

2. Findings of the Examination: -

2.1 The gross weight of cargo declared in the B/L is 18100 Kgs and the weight of cargo found was 18060 Kgs.

2.2 The seal of the container was found intact.

2.3 The goods were found during the examination as per tables given below: -

S.No.	Container Nos.	Goods found	No. of cartons	Avg weight of Carton	No. of bottles in each carton	Quantity and avg weight of each Bottle	Remarks
1	FCIU4489250	VIMTO Flavoured Drink	71	17 Kgs	12	710 ML & 1.38 Kgs	Markings- Made in Saudi Arabia, MFG: 23/11/2024
2		Hamdard ROOH AFZA	1199	14 Kgs	12	800 ML & 1.12 Kgs	Made in Pakistan, Manufactured by Hamdard Laboratories (Waqf) Pakistan, MFG: 11/24

2.4 Goods were declared as “Flavoured Drink” however during the examination the goods found as per the table mentioned above.

2.5 The goods listed at SR No. 1 of the table-II found to be of Saudi Arabia Origin and the goods listed in Sr. no. 02 found to be of Pakistan Origin, however the import documents indicated the country of origin as UAE.

2.6 The declared quantity of the goods was 1200 packages however total packages found during the examination was 1270 Pkgs.

2.7 The goods found were lacking in required FSSAI markings.

2.8 The goods found mis-declared in terms of description, quantity, marking and country of origin.

3. FSSAI testing:-

FSSAI testing and Visual inspection by FSSAI officers was done during the course of investigation and as per the report received to this office mail by the FSSAI, JNPT vide mail dated 16.05.2025 (**RUD-III**), the samples of both the product found as mentioned in Table-II had been **found non-conforming to the prescribed standard of FSSAI**. And as per **Food Safety and Standards (Import) Regulations, 2017** under FSSAI Act, 2006 goods non-conforming to FSSAI standards are food products that fail to meet the quality, safety, and packaging requirements set by the Food Safety and Standards Authority of India. Since the goods are non-conforming to FSSAI standards, thus become prohibited.

4. Seizure Memo: -

In respect of the mis-declaration found during the examination of goods covered under bill of entry No. 8290208 dated 11.02.2025 under Panchanama dated 18.02.2025 goods were found as Hamdard Roohafza flavoured drink originating from Pakistan and VIMTO flavoured drink Originating from Saudi Arabia. Therefore, it appears that the importer has mis-declared the said goods in terms of description, quantity and country of origin, hence the goods covered under above said Bills of Entry appear liable for confiscation under Section 111(d), 111(f), 111(i), 111(l) and 111(m) of the Customs Act, 1962. The subject goods have been seized under under section 110(1) of the Customs Act, 1962 vide Seizure Memo-34/2025-26 (RUD IV) issued dated 05.06.2025 under DIN No. 20250678NY000000F5FC.

5. Investigation & Statement:-

5.1 During the course of investigation, **statement of Shri Balasaheb Dashrath Kamble, G-Card Holder of CB firm M/s. G Masilamani (AFOPM4616HCH001)** residing at Sahil Apartment, G-Wing, 2nd Floor, Block No. 203, Vijay Nagar, Kamtha Uran, Raigad-400702, recorded on 02.07.2025 under section 108 of customs Act, 1962 (**RUD-V**) wherein he interalia stated that:

i. That he has been working as a Customs House Agent since last 20 years and working in G. Masilamani from 2021.

ii. That he was aware that he had been summoned to appear before customs and give submissions and documents in connection with the investigation in respect of goods imported vide Bill of Entry 8290208 dated 14.02.2025.

iii. That generally, their agency deal in food products, edible items and Chemicals like Sodium, glyconet etc also.

iv. That it was the 5th consignment of N S Enterprises that their agency had cleared and previously 4 consignments were cleared by their agency for N S Enterprises.

v. That earlier flavoured drinks and Marshmallow candy were in the consignments originating from China that were cleared by their agency for M/s N S Enterprises.

vi. That previous consignments were examined by the docks officers and only then they got cleared.

vii. That he had followed all the procedure of KYC verification of the Importer of M/s N S Enterprises.

viii. That he was present during the examination and at that time only he got to know that there was mis-declaration regarding country of origin of the consignment and were totally unaware of this before the examination.

ix. That he had filed the bill of entry as per the documents provided by the importer and that documents provided by the importer were BL, Packing list, Invoice etc.

x. That the label was provided to him but the label he got were not of origin of Pakistan but of origin of UAE.

xi. That he was totally unaware of the fact that the goods were mis- declared in respect of the origin and had filed the bill of entry only as per the documents provided to them.

xii. That he had asked the importer about this mis-declaration through telephonic conversation wherein the importer informed that they would communicate with the exporter/supplier about this mis- declaration and will ask why such thing happened as they had ordered for “flavoured drink from UAE”.

xiii. That he was totally unaware of this fact and their CB firm would never do such things if found earlier anything about this mis- declaration.

xiv. That his firm was not a part of this mis-declaration and had filed the BE based on the documents provided to by the importer.

5.2 During the course of investigation, **statement of Shri Nazir Hussain Zakir Hussain Kazi, Proprietor of M/s N S Enterprises (IEC- BESP7298K)**, was recorded on 04.07.2025 (**RUD-VI**) under section 108 of Customs Act, 1962 wherein he interalia stated that:

i. That his name is Mr. Nasir Husain Zakir, residing at hut No. 10, 16 Memonwada Road, Near fire Brigade, Bhendibazar, Mumbai-400003 with his family and that he is the proprietor of M/s N S Enterprises from 2022 since the company had started.

ii. That he was aware that he had been summoned to appear before customs and give submissions and documents in connection with the investigation in respect of goods imported by vide Bill of Entry 8290208 dated 14.02.2025.

iii. That his company generally imported confectionary food items and so far 20-22 approx consignments had been imported by his firm

iv. That he agreed that the goods found during the examination of this consignment were mis-declared and the goods were not of UAE origin as declared but of Pakistan origin and that he had ordered for and declared in BE, “flavored drink” but the goods found were “Pakistan originated ROOHAFZA”.

v. That, he had no idea about this kind of mis-declaration in terms of the COO and nature of the goods found during the examination, as he had ordered for the consignment of “Flavoured drink” from UAE and that he got to know about this wrong consignment when the CHA informed him about the goods found during the examination.

vi. That the CHA firm M/s G Masilmani had filed the bill of entry ontheir behalf for the consignment and the CHA informed them about the mis-declaration through telephonic call during the examination.

vii. That the CHA was unaware of this kind of mis-declaration in the consignment as they had filed the bill of entry based on the documents provided by to CHA by his firm.

viii. That he had ordered for the consignment through telephonic conversation and there was no formal email conversation regarding this as he personally knew the exporter.

ix. That he had met the supplier in a food fair organized in Mumbai and since then he was in direct contact with the supplier through phone call and that there was no formal agreement with the supplier.

x. That he had informed the supplier about the mis-declared consignment on phone call and the supplier told him that there was some mistake in the consignment delivered and it was not the ordered consignment.

xi. That earlier one more consignment had been imported from the same supplier and those were also of “flavoured Drink”.

xii. That the last consignment was also cleared by the same CHA but he had no idea whether it was RMS or through examination.

xiii. That so far total 4 consignments of “flavoured drinks” had been imported by him, two from UAE and two from China.

xiv. That nothing was being imported by M/s N S Enterprises after the case.

xv. That he didn’t ask for any photo/video while loading of the consignment as this kind of mishap had not happened before in any of his consignments and he trusted the supplier.

xvi. That for the consignment he hadn’t made any payment to the supplier as the payment can be done within 90 days of the arrival of the shipment and that was written on the invoice provided by the supplier.

xvii. That they had not made any payment to the CB firm yet for this consignment clearance as the case is still going on and for the earlier consignments they used to pay Rs. 4500 per document.

xviii. That he was completely unaware of these mis-declared goods.

xix. That so far he didn’t have any documentary evidence of the fact that the consignment was wrongly sent to him as he was in contact with the supplier through phone call only.

6. Valuation:- Since, the value of identical goods i.e. Rooh AFZA flavoured drink cannot be found anywhere in India as the goods are Pakistan Originated and prohibited for sale in India, hence on the basis of market Survey dated 01.08.2025 (RUD-VII) , value of similar goods i.e. value of similar flavoured drink was taken into account and on the basis of that valuation of the goods was done which is as given below (the rate given below is wholesale rate):

Sr. No	Goods Found	Avg Price per carton in INR (havng 12 bottles in each carton)	Total No. of cartons found	Total Value (in INR)
1	VIMTO flavoured drink & Roohafza flavoured drink	1463/-	1270 (71 for VIMTO flavoured drink of Saudi Arabia origin & 1199 for Roohafza flavoured drink of Pakistan origin)	18,58,010/-

In view of the above, value of the goods re determined as Rs. 18,58,010/-

7. Vide the letter dated 30.09.2025, CHA G. Masilamani (11/2609) and the importer M/s N S Enterprises (IEC–BESPK7298K) has requested for waiver of SCN/PH and permission for Re-export of the goods covered under B/E No. 8290208 dated 11.02.2025.

8. Relevant Provisions of the Customs Act, 1962:

(A) Section 46: Entry of goods on importation. -

1. *The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting ¹ [electronically] ² [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.*

4. *The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

(4A) The importer who presents a bill of entry 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.*

(B) Section 28 of the Customs Act, 1962:

“(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 wilful 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”

(C) 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.*

- b. **Section 110 of the Customs Act, 1962,** *provides for Seizure of goods, documents and things. - (1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:*

- c. **Section 111: Confiscation of improperly imported goods, etc.-**

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

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

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

111(m)*[any goods which do not correspond in respect of value or in any other particular] [Substituted by Act 36 of 1973, Section 2, for certain words (w.e.f. 1.9.1973).] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54] [Substituted by Act 27 of 1999, Section 108, for " in respect thereof;" (w.e.f. 11.5.1999)];*

- F. **SECTION 112. “Penalty for improper importation of goods, etc.-** *Any person, -*

- a. *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 111, or abets the doing or omission of such an act, or*
- b. *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable,*
 - i. *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty*

not exceeding the value of the goods or five thousand rupees, whichever is the greater;

- 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:*

Provided that where such duty 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 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 penalty so determined;

(G) 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.

(H) Section 124: Issue of show cause notice before confiscation of goods, etc. -

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person

- a. *is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*
- b. *is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*
- c. *is given a reasonable opportunity of being heard in the matter:*

(I) Food Safety and Standards (Import) Regulations, 2017 under FSSAI Act, 2006: *Goods non-conforming to FSSAI standards are food products that fail to meet the quality, safety, and packaging requirements set by the Food Safety and Standards Authority of India. This can include contamination, prohibited ingredients, incorrect labeling, or packaging that is unfit for food use. If such products are identified through random sampling or inspections, FSSAI takes penal action against Food Business Operators, and non-conforming imported food consignments may be destroyed or re-exported.*

9. Discussion and findings:

I have carefully gone through the above facts of the case and submission made by the importer, it appears that:

- a. M/s N S Enterprises (IEC-BESPK7298K) attempted to import goods by way of mis-declaration in terms of description, quantity and country of origin.
- b. The importer had declared the origin of the goods as UAE whereas the goods found were of Saudi Arabia Origin and Pakistan Origin. Also, the goods found i.e. VIMTO flavoured drink and Roohafza were non-conforming to the standards of FSSAI, India. The importer has suppressed the vital facts of origin of goods and also **found non-conforming to the prescribed standard of FSSAI**. Thus, the goods become prohibited **as per Food Safety and Standards (Import) Regulations, 2017 under FSSAI Act, 2006** and are liable for confiscation under Sections 111(d), 111(i), 111(l) and 111(m) of the Customs Act 1962
- c. Importer is responsible to provide accurate and complete information in Bill of Entry, which he failed to do, therefore importer violated Section 46 (4) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rule 11 of Foreign Trade (Regulation) Rules, 1993. By the above acts of omission & commission on the part of the importer, they rendered the goods liable for confiscation under Sections 111(d), 111(i), 111(l)

- and 111(m) of the Customs Act, 1962 and consequently rendered himself liable for penal action under Sections 112(a), (b) & 114AA of the Customs Act, 1962.
- d. CHA, M/s. G Masilamani (AFOPM4616HCH001) appears to have filed the documents in negligence as they could have verified the documents more carefully while filing the documents and they could have asked the importer for clear description of the goods as to what kind of flavoured drinks the importer had imported. Hence, the CB M/s. G Masilamani (AFOPM4616HCH001) is liable for penal action under Sections 112(a), (b) the Customs Act, 1962.

ORDER

10. In view of the above, I pass the following order:
- I reject the value of the goods declared as Rs. 4,58,266/- and order to re-determined Rs. 18,58,010/- as per investigation report issued by the SIIB (I);
 - I order to confiscate the goods imported vide Bill of Entry No. 8290208 dated 11.02.2025 under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. However, I give an option to redeem the same for **re-export purpose only** on payment of Redemption Fine of **Rs. 75,000/- (Rs. Seventy five thousand only)** under Section 125(1) of the Customs Act, 1962;
 - I impose penalty of **Rs. 10,000/- (Rs. Ten thousand only)** on the importer M/s N S Enterprises (IEC-BESPK7298K) under Section 112(a), of the Customs Act 1962.
 - I impose penalty of **Rs. 50,000/- (Rs. fifty thousand only)** on the importer M/s N S Enterprises (IEC-BESPK7298K) under Section 114AA of the Customs Act 1962;
 - I also impose penalty of **Rs. 10,000/- (Rs. ten thousand only)** on the CB M/s. G Masilamani (AFOPM4616HCH001) under Section 112(a), 112(b) of the Customs Act 1962;
 - I order that if the goods are not re-exported by the importer within 120 days of the issuance of this order, the goods should be disposed of and the cost of safe disposal/ removal of the cargo should be recovered from the importer.
11. This order is issued without prejudice to any other action which may be taken against the importer under the provisions of Customs Act, 1962 or under any other law for the time being in force in India.

Digitally signed by
Jay Girijappa Waghmare
Date: 21-10-2025
17:45:51

(Jay G. Waghmare)

Joint Commissioner of Customs
Gr-1/1A-B, NS-I, JNCH

To

1. M/s. N S Enterprises (IEC BESPK7298K),
A U Menon Street, Ground Floor, Plot No. 16-17,
Murgi Mohalla, Memom, Mumbai- 400003,
2. M/s. G Masilamani (AFOPM4616HCH00),
C-3, Green Park Building, Kaantha Road,
Sri dutt Mandir, Uran, Navi-Mumbai-400702.

Copy to:

- 1) The Deputy Commissioner of Customs, CAC, JNCH, Nhava-Sheva,
- 2) The Deputy Commissioner of Customs, Review Cell, JNCH, Nhava-Sheva,
- 3) The Deputy Commissioner of Customs, EDI, JNCH, Nhava-Sheva,
- 4) The Deputy Commissioner of Customs, CHS Section, JNCH, Nhava-Sheva,
- 5) Office Copy.