

	OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-I सीमा-शुल्क आयुक्त का कार्यालय, एनएस-1 CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा-शुल्क भवन, NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707 न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707
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Date of Order: 24.05.2026

Date of Issue:

27.05.2026

आदेश की तिथि : **24.05.2026**

जारी किए जाने की तिथि:

27.05.2026

DIN: 20260578NW000000DBDD

F. No. S/10-061/2024-25/Commr./Gr. II (C-F)/NS-I/CAC/JNCH

SCN No. 570/2024-25/Commr./Gr. II (C-F)/NS-I/CAC/JNCH dated 20.06.2024

Passed by: Shri Yashodhan Wanage, Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva

पारितकर्ता: श्री यशोधन वनगे, प्रधान आयुक्त, सीमाशुल्क (एनएस-1), जेएनसीएच, न्हावाशेवा

Order No.: 45/2025-26 /Pr. Commr./NS-I /CAC /JNCH

आदेशसं. : **45/2025-26/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच**

Name of Party/Noticees: M/s Modern Insecticides Ltd., Shri Avtar Singh, & Shri Charanjit Singh
पक्षकार (पार्टी)/ नोटिसी का नाम: मैसर्स मॉडर्न इंसेक्टिसाइड्स लिमिटेड, श्री अवतार सिंह और श्री चरणजीत सिंह

ORDER-IN-ORIGINAL

मूलआदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमा-शुल्क अधिनियम 1962 की धारा 129(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्याय पीठ (वेस्टरीजनलबेंच), ३४, पी. डी. मेलो रोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal:-

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - फार्म नं. सी ए ३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए)।

Time Limit-Within 3 months from the date of communication of this order.

समय सीमा- इस आदेश की सूचना की तारीख से ३ महीने के भीतर

Fee- (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

फीस- (क) (एक हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये या उससे कम है।

(b) Rs. Five Thousand - Where amount of duty & Page 2 of 144

interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh.

(ख) पाँच हजार रुपये— जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है।

(c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.

(ग) दस हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५० लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति— क्रॉस बैंकड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित तमाम लों के लिए, सीमा-शुल्क अधिनियम, १९९२, सीमा-शुल्क (अपील) नियम, १९८२ सीमा-शुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129 of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्धृताशास्ति का ७.५% जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमा-शुल्क अधिनियम, १९६२ की धारा १२८ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

1. BRIEF FACTS OF THE CASE

- 1.1.** Specific intelligence was developed that M/s. Modern Insecticides Ltd. a 100% EOU, holding IEC No. 3002004855 (hereinafter referred to as 'MIL' or 'importer'), having registered address at 30A, Shastri Nagar, Adj. Archies Gallery, Ishmeet Singh Chowk, Ludhiana, Punjab- 141001, was importing insecticides/raw material thereof through Nhava Sheva port and clearing the same by mis-declaring the description and the value of the goods. The intelligence also indicated that the goods after import were being diverted into the domestic market instead of being used for manufacture of Export products as mandated in terms of the Import licence and also under the EOU notification /scheme under which the imports were made. Accordingly, an investigation was initiated by SIIB (I), JNCH against the importer.
- 1.2.** As per the details in the IEC, Shri Charanjit Singh, Shri Avtar Singh and Shri Daljit Singh were the Directors of MIL. The details available on the open source i.e., the website of M/s Agri Ventures FZE (<https://www.agvfze.com/>), the supplier, indicated that Shri Charanjit Singh is a common Director in MIL and AGVFZE.

ACTION TAKEN ON INTELLIGENCE

- 1.3.** Live import consignments of the said importer, covered under the below mentioned 3 Bills of Entry, were detained and examined by S.I.I.B. (I), JNCH, Mumbai at the Port of Nhava Sheva in September-2020.

TABLE - A

S. No.	Port Code	BE No./Date	Declared Item Description/ Qty.
1	INNSA1	8386146 dated 05.08.2020	Lambda Cyhalothrin Technical 84% 5,000 Kgs
			Imidacloprid Technical 95% 3,000 Kgs
2	INNSA1	8344379 dated 01.08.2020	Emamectin Benzoate Technical 95% W/W min 2,000 Kgs
3	INNSA1	8386145 dated 05.08.2020	CO 40 (Castor Oil) 40,000 Kgs

- 1.4.** On examination, all consignments were found to be mis-declared in respect of at least one of the material attributes of the goods such as the description, value and quantity. Also, from the perusal of the Certificate of Registration provided by the Secretary CIB & RC, it was found that the date of issue in the said Certificates issued to MIL were different from the dates appearing in the documents submitted/uploaded by the importer for the purpose of import of Imidacloprid, Lambda Cyhalothrin and Emamectin Benzoate.

- 1.5. Vide letter F. No. SG/Misc-221/2020-21/D Cell SIIB (I) JNCH dated 14.07.2021, SIIB (I), JNCH informed that MIL was being investigated by DRI units in Ahmedabad and Ludhiana & requested DRI Mumbai to investigate the case in a wholistic manner. Further, vide letter F. No. SG/Misc-221/2020-21/D Cell SIIB (I) JNCH dated 09.09.2021, SIIB (I), JNCH transferred the original case file to Directorate of Revenue Intelligence, Mumbai Zonal Unit.
- 1.6. Thereafter, DRI, MZU issued a Show Cause Notice (SCN) under Section 124 of the Customs Act, 1962 proposing, inter-alia, confiscation of the seized goods covered under the above mentioned 3 live Bills of Entry, and penalty on concerned persons on account of the said mis-declarations and the forging of Certificate of Registration, keeping in view of the time limit prescribed under Section 110 (2) of the Customs Act, 1962 (hereinafter also referred to as 'the Act'). The said SCN has been adjudicated by the Joint Commissioner of Customs (NS-I), Gr II (C-F), JNCH, Nhava Sheva, confirming, the proposals in the SCN. The details of the said SCN and Orders-in-Original (O-in-O) is tabulated below:

TABLE – B

Sr. No.	SCN F. No. and Date	Subject	O-in-O No. & Date
1	DRI/MZU/F/INT-63/2021/10098-10102 dated 28.10.2021	Show Cause Notice Issued under Section 124 of the Customs Act, 1962	199/2022-23/JC/NS-I/CAC/JNCH dated 01.06.2022

- 1.7. The present Investigation Report deals with the past import consignments of Modern Insecticides Limited. A separate Investigation Report in respect of misdeclarations in their past export consignments wherein investigations have revealed fraudulent exports to claim fulfilment of their Export obligations, has been sent to the jurisdictional Commissionerate at Ludhiana.

SEARCH

- 1.8. Based on the request made by SIIB, NS – I, JNCH, CGST Ludhiana Commissionerate conducted a search on the premises of MIL, Ludhiana. Vide letter F. No. IV (HQRS) Prev/Ldh/05/131/2019-20/Pt/355 dated 05.02.2021, CGST, Ludhiana had forwarded a working copy of data retrieved from electronic gadgets resumed during the search at the premises of MIL. In the forensic evidences, data from one apple phone of Shri Avtar Singh was analyzed and certain incriminating images were found in the phone which pointed to the fact that MIL is involved in mis-declaration during imports and exports along with forgery of CIB License's used for import.

RECORDING OF STATEMENTS

1.9. Statement dated 14.10.2020 of Shri **Haridasan Raman, Director M/s. Eleness Shipping Services Pvt. Ltd.**, Customs Broker, was recorded under Section 108 of the Customs Act, 1962 wherein he, inter alia, stated that:

(a) He is the Director of M/s. Eleness Shipping Services Pvt. Ltd. and his job included bringing new clients and new business, overseas operations, management of personnel, documentation, filing of papers in customs, completion of KYC formalities etc.

(b) Some of the items imported by the above said importer included Acetamiprid Technical, Emamectin Benzoate, Imidacloprid, Glyphosate Tech etc. He had not met any of the Directors, CEO etc. of the said companies, since he came in contact with the importer through one person Mr. A.S Jaganathan, who referred the importer to him.

1.10. Statement dated 27.01.2021 & 28.01.2021 of **Ms Poonam Yadav, Office Co-ordinator, MIL**, was recorded under Section 108 of the Customs Act, 1962 wherein she, inter alia, stated that:

(a) She is the office co-ordinator in MIL, and that she used to look after the correspondences between the supplier i.e., M/s Agri Ventures, FZE, Dubai, UAE & MIL. There were 3 directors in the company, namely, Shri. Avtar Singh, Shri. Charanjit Singh and Shri. Daljeet Singh.

(b) Shri. Daljeet Singh was operating from their office at Ludhiana, and Shri. Avtar Singh and Shri. Charanjit Singh were operating from Dubai. Shri. Avtar Singh used to look after the production units of the company situated in Punjab, and Shri. Charanjit Singh looked after the accounts of the firm and also monitored the correspondence between the company and other parties. The decisions related to import and export to M/s Agri Ventures, FZE, Dubai, UAE was taken by Shri. Charanjit Singh, who used to communicate the same to Shri. Daljeet Singh in India.

(c) MIL and supplier M/s Agri Ventures, FZE, Dubai, UAE are related entities since Shri. Charanjit Singh is also the Director of M/s Agri Ventures, FZE, Dubai, UAE.

(d) All import related documents such as invoice, packing list, Certificate of Analysis (COA), BL and Certificates of Registration etc were forwarded to the CHA for customs clearance on the directions from Shri. Charanjit Singh and Shri. Avtar Singh. Shri. Charanjit Singh and Shri. Avtar Singh used to take all the decisions for the company.

1.11. During investigation of the live Consignments of MIL, summons dated 05.10.2020, 16.10.2020 and 26.10.2020 were issued to Shri. Avtar Singh and Shri. Charanjit Singh by SIIB (Import), JNCH directing them to appear for producing some documents related to the case and for tendering evidence.

However, neither of them appeared in response to this summons. When the investigation was taken over by DRI, MZU, summons dated 21.09.2021 were again issued to Shri. Avtar Singh and Shri. Charanjit Singh directing them to appear before this office. In response, Shri Charanjit Singh vide letter dated 27.09.2021 mentioned that he had been living in Dubai since last two years and requested for a questionnaire to be sent to him. Accordingly, a questionnaire addressed to Shri Charanjit Singh, was sent on 03.09.2021. However, the questionnaire was not responded and no one attended this office in respect of the summons issued. Therefore, keeping in view of the time limit prescribed under Section 110 (2) of the Customs Act, 1962 a Show Cause Notice (SCN) under Section 124 of the Customs Act, 1962 proposing, inter-alia, confiscation of the seized goods covered under the above mentioned 3 live Bills of Entry, and penalty on account of the said mis-declarations and the forging of Certificate of Registration, was issued.

1.12. Statement dated 27.10.2023 of **Shri. Lal Chand Gupta**, Office Boy of M/s. Modern Insecticides Limited was recorded under Section 108 of the Customs Act, 1962, wherein he, interalia, stated that:

(a) He looks after the day-to-day bank related works of the company such as submission of import-export documents and liasoning with government departments.

(b) Shri. Avtar Singh holds 60% shares in the MIL, Shri. Charanjit Singh holds 20% shares, and the rest of the shares are held by other members of the family.

(c) Shri. Amandeep Singh is the present Director of the company. Shri. Avtar Singh and Shri. Charanjit Singh are no longer directors of the company, but still operations of the company are controlled by Shri. Avtar Singh and Shri. Charanjit Singh.

1.13. Further summons dated 04.09.2023, 30.10.2023, 11.12.2023 were issued to Shri. Avtar Singh and Shri. Charanjit Singh to record their statements and to confront them with the available evidence against them in respect of past imports. However, neither Charanjit Singh nor Avtar Singh appeared before the summoning officer. Further, vide email dated 18.12.2023, Shri Charanjit Singh replied that he and his family have permanently shifted to Dubai and requested that questions may be e-mailed to them. However, it appeared that the same tactic as on previous summons issued in 2021 was being used by Shri Charanjit Singh to delay the investigation. Therefore, multiple chances were given to Shri Avtar Singh and Shri Charanjit Singh to be personally heard and provide their oral statement, yet they deliberately chose to not honor the summons and did not co-operate with the investigation. In reference to summons dated 04.09.2023, to appear before this office on 08.09.2023, email dated 08.09.2023 was received from email id info@milworld.co stating that the investigation has been concluded by DRI and that Shri Charanjit Singh and Shri Avtar Singh were not the Directors anymore.

Further, in reference to summons dated 30.10.2023 issued to both Shri Charanjit Singh and Shri Avtar Singh to appear on 06.11.2023, email dated 06.11.2023 was received mentioning their inability to appear. Further, in reference to summons dated 11.12.2023 issued to both Shri Charanjit Singh and Shri Avtar Singh on 18.12.2023, an email dated 18.12.2023, was received mentioning their inability to appear on account of having shifted permanently to Dubai. It was observed that Shri Avtar Singh and Shri Charanjit Singh have always replied to the summons on a day close to their date of appearance indicated in the summons, expressing their inability to attend the investigation, implying that they have deliberately delayed the investigation. In this reference, further administrative and legal steps were taken to gather evidences against them.

1.14. Statements dated 06.04.2024 & 08.04.2024 of **Shri Avtar Singh, Former Director, MIL**, were recorded under Section 108 of the Customs Act, 1962 wherein he, inter alia, stated that

(a) He was aware that this office was investigating against MIL, he stated that he was aware of the investigation, since he received the summons being issued to him.

(b) He is 81 years old and unfit to travel and therefore, he could not honour the summons issued to him. He further stated that the main persons handling the office of MIL, i.e. Smt. Poonam Yadav and Shri Lal Chand Gupta had appeared before this office and thus, he assumed that the queries of this office would have been resolved.

(c) All his travels to India were health related and that he and his family along with Charanjit Singh have shifted to Dubai.

(d) He was aware that SCN dated 28.10.2021 for live consignment was issued and that it has been adjudicated. He further stated that the consignment was re-exported as per the order of the Adjudicating Authority.

(e) Upon being shown the statements of Smt. Poonam Yadav and Shri Lal Chand Gupta, he agreed with the said statements.

(f) He agreed that the 53 Bills of entry were filed after forging 10 certificates of Registration (as mentioned in table C of this IR) issued by Central Insecticides Library (CIB) during the import of insecticides. He stated that this was done because the licenses were getting expired and they needed to buy the insecticides for business.

(g) Upon being shown the forensic report generated from his iPhone, he confirmed that the data in forensic report was extracted from his apple iPhone.

1.15. He agreed that the forensic evidences in respect of past imports (Image-01 and Image – 02 in this IR) were correct. In respect of past imports, he stated that sometimes MIL did not possess the required Certificate of Registration issued by Central Insecticides Board (CIB) for the insecticides being imported by them and thus they used to change the labels on the said consignments. They mis declared the actual insecticides, and used the name of the insecticides for which they had the required certificates. He further stated that sometimes they used to forge the date of issuance of the certificates, so that they could buy insecticides even after the expiry of the said license.

1.16. Further, questionnaire dated 18.04.2024 was sent to Shri Charanjit Singh on the email id info@milworld.co. Vide email dated 07.05.2024 Shri Charanjit Singh submitted his answers, wherein he, stated that

(a) Upon being asked if he was aware that this office was investigating against MIL, he stated that he was aware of the investigation, since he received the summons being issued to him.

(b) Upon being asked that he had previously requested for a questionnaire, but ignored upon receiving it, he stated that, it was ignored unintentionally, on account of hectic schedule after shifting to Dubai and Covid. He stated that, he had restrictive access to emails during covid, which might be the reason that the questionnaire was ignored.

(c) Upon being told that the staff members in their statements have mentioned that he is directly involved in the affairs of the company, he stated that being the former director, he guided the company staff in terms of suppliers and buyers. Further, he stated that, even before he shifted to Dubai the affairs of the company were majorly looked after by Shri Daljeet Singh, erstwhile Director of M/s Modern Insecticides Limited and that he and Avtar Singh, were not very much involved in the affairs of the company.

(d) Upon being asked about the Show Cause Notice for Live consignment, he stated that he was aware that the SCN was issued and that it has been adjudicated. He stated that since the SCN was adjudicated, he assumed that the investigation against Modern Insecticides was over.

(e) Upon being asked about the 10 Certificates of Registration which were forged for the import of goods under 53 Bills of Entries, he stated that the 10 certificates (as mentioned in Table-C of this Investigation Report) were used for import of insecticides. However, he was not aware of any forgery. He stated that Shri Daljeet Singh looked after the imports and all documentation was done on his instructions. He stated that he was the Director of the

company and therefore, he was part of the whatsapp group, where discussion of imports and exports took place. He stated that he was kept updated about the imports and exports in the company, however, he did not meddle with the working in the company.

(f) In regards to the 53 Bills of Entry used for the import, he stated that he had shifted to Dubai in 2018, and hence the forgery of the certificates was not at his behest. He stated that he was not aware of any forgery, and stated that if it was done, then it was done by Shri Daljeet Singh.

(g) On being confronted with the statement of Shri Avtar Singh, wherein he had agreed that the Shri Charanjit Singh and Shri Avtar Singh were involved forgery of certificates and misdeclaration during imports, he stated that he was added as the member of whatsapp group when the group was created. He was kept updated about the imports and exports of the company. However, since he had shifted to Dubai in 2018, all the work related to imports and exports was looked after by Shri Daljeet Singh.

1.17. Vide letter dated 14.08.2021, Modern Insecticides Limited informed that Shri Daljeet Singh had expired in 2020.

Imports under forged Central Insecticide Bureau (CIB) licences

1.18. The import of any insecticide into India is governed by the Foreign Trade (Development and Regulation) Act, 1992, the Insecticide Act, 1968 and the Customs Act, 1962.

1.19. As per Paragraph 2.02 of the Foreign Trade Policy all imported goods shall also be subject to domestic laws, rules, orders, regulations etc. Also, Section 17 of the Insecticides Act, 1968 states that any insecticide, except in accordance with the conditions on which it was registered, is prohibited for import and manufacture. Hence, the import of insecticides is restricted.

1.20. As per Section 9 of the Insecticide Act, 1968, read with Public Notice vide F. No. 04-01 12022-CIR-I dated 17.02.2022, import of insecticides mentioned in schedule to this Act is allowed only with a valid Certificate of Registration or an Import Permit issued by CIB & RC (Central Insecticide Board & Registration Committee).

1.21. In the present case, from the scrutiny of Certificates of Registration (CRs) uploaded on e-sanchit by MIL and the CRs obtained from CIB & RC vide letter dated 17.12.2020, it was observed that MIL imported 551.12 tons of insecticides vide of 53 bills of entry by forging the date of issue of RCs in order to extend their period of validity. Details of these imports are as follows:

TABLE - C

Sr. No.	Port Code	BE No.	Qty (in MTs)	CIB Registration details	Sr. No. in Schedule of Insecticide Act, 1968	Forged date of issue of RC submitted at the time of import	Actual date of issue of RC obtained from CIB	Date of Import (BE Date)	Actual Expiry Date of RC*
1	INBOM4	4028359	0.50	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	11-07-2019	10-07-2019
2	INBOM4	4221246	1.00	CIB NO: CIR-(FTE)-10735/2018(390)-BIFENTHRIN (TECHNICAL)-28	445	17-07-2019	11-07-2018	25-07-2019	10-07-2019
3	INBOM4	4236247	0.30	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	26-07-2019	10-07-2019
4	INBOM4	4405264	1.50	CIB NO: CIR-(FTE)-10732/2018(390)-IMIDACLOPRID (TECHNICAL)-68	510	11-09-2019	11-07-2018	07-08-2019	10-07-2019
5	INBOM4	4443450	1.00	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	10-08-2019	10-07-2019
6	INNSA1	4547057	3.00	CIB NO. CIR-(FTE)107381/2019(390)-FIPRONIL (TECHNICAL)-46	520	06-03-2019	16-07-2018	19-08-2019	15-07-2019
7	INBOM4	4552812	1.00	CIB NO. CIR-(FTE)107381/2019(390)-FIPRONIL (TECHNICAL)-46	520	06-03-2019	16-07-2018	19-08-2019	15-07-2019
8	INNSA1	4771076	11.34	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	05-09-2019	02-08-2019
9	INNSA1	4771166	15.00	CIB NO.CIR(FTE)-10828/2018(391)-THIAMETHOXAM (TEHCNICAL)-32	614	11-09-2019	03-08-2018	05-09-2019	02-08-2019
10	INNSA1	4855733	10.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	11-09-2019	02-08-2019
11	INNSA1	4924363	1.52	CIB NO.CIR(FTE)-10828/2018(391)-THIAMETHOXAM (TEHCNICAL)-32	614	11-09-2019	03-08-2018	16-09-2019	02-08-2019
12	INBOM4	4978308	0.85	CIB NO. CIR-(FTE)107381/2019(390)-FIPRONIL (TECHNICAL)-46	520	06-03-2019	16-07-2018	20-09-2019	15-07-2019
13	INBOM4	5322522	1.00	CIB NO: CIR-(FTE)-10735/2018(390)-BIFENTHRIN (TECHNICAL)-28	445	17-07-2019	11-07-2018	16-10-2019	10-07-2019
14	INBOM4	5336491	1.00	CIB NO. CIR-(FTE)107381/2019(390)-FIPRONIL	520	06-03-2019	16-07-2018	17-10-2019	15-07-2019

				(TECHNICAL)-46					
15	INNSA1	5346096	16.00	CIB NO: CIR-(FTE)-10612/2018(390)-CLETHODIM(EC)-1	698	13-03-2019	03-07-2018	18-10-2019	02-07-2019
16	INNSA1	5355818	20.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	18-10-2019	02-08-2019
17	INBOM4	5495548	1.00	CIB NO: CIR-(FTE)107381/2019(390)-FIPRONIL (TECHNICAL)-46	520	06-03-2019	16-07-2018	31-10-2019	15-07-2019
18	INNSA1	5562864	2.00	CIB NO: CIR(FTE)-10828/2018(391)-THIAMETHOXAM (TEHCNICAL)-32	614	11-09-2019	03-08-2018	05-11-2019	02-08-2019
19	INBOM4	5581028	4.00	CIB NO: CIR-(FTE)-10922/2018(393)-LAMBACYHALOTHIRN(TECHNICAL)-70	-	20-09-2019	07-09-2018	07-11-2019	06-09-2019
20	INNSA1	5793065	20.41	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	22-11-2019	02-08-2019
21	INNSA1	5906565	18.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	02-12-2019	02-08-2019
22	INBOM4	5954032	1.00	CIB NO: CIR-(FTE)-10735/2018(390)-BIFENTHRIN (TECHNICAL)-28	445	17-07-2019	11-07-2018	05-12-2019	10-07-2019
23	INBOM4	6011046	2.60	CIB NO: CIR-(FTE)-10732/2018(390)-IMIDACLOPRID (TECHNICAL)-68	510	11-09-2019	11-07-2018	09-12-2019	10-07-2019
24	INNSA1	6020713	1.10	CIB NO: CIR-(FTE)-10922/2018(393)-LAMBACYHALOTHIRN (TECHNICAL)-70	-	20-09-2019	07-09-2018	10-12-2019	06-09-2019
25	INBOM4	6179782	2.00	CIB NO. CIR-(FTE)107381/2019(390)-FIPRONIL(TECHNICAL)-46	520	06-03-2019	16-07-2018	21-12-2019	15-07-2019
26	INBOM4	6270998	0.40	CIB NO. CIR-(FTE)107381/2019(390)-FIPRONIL (TECHNICAL)-46	520	06-03-2019	16-07-2018	28-12-2019	15-07-2019
27	INBOM4	6346321	1.60	CIB NO: CIR-(FTE)107381/2019(390)-FIPRONIL(TECHNICAL)-46	520	06-03-2019	16-07-2018	04-01-2020	15-07-2019
28	INNSA1	6711210	20.41	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	31-01-2020	02-08-2019
29	INBOM4	7230229	5.00	CIB NO: CIR-(FTE)-10732/2018(390)-IMIDACLOPRID	510	11-09-2019	11-07-2018	13-03-2020	10-07-2019

				(TECHNICAL)-68					
30	INNSA1	7265080	2.00	CIB NO: CIR-(FTE)107381/2019(390)-FIPRONIL (TECHNICAL)-46	520	06-03-2019	16-07-2018	17-03-2020	15-07-2019
31	INNSA1	7311146	22.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	20-03-2020	02-08-2019
32	INNSA1	7554723	19.78	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	30-04-2020	02-08-2019
			22.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRI FOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	30-04-2020	02-08-2019
33	INNSA1	7631673	4.00	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	11-05-2020	10-07-2019
34	INNSA1	7637353	36.00	CIB NO: CIR-(FTE)-10621/2018(389)- GLYPHOSATE(TECHNICAL)-27	327	14-10-2019	06-07-2018	11-05-2020	05-07-2019
			35.20	CIB NO: CIR-(FTE)-10740/2018(390)-PARAQUAT DICHLORIDE(TECHNICAL)-8	275	20-07-2019	23-07-2018		22-07-2019
35	INNSA1	7895088	18.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	12-06-2020	02-08-2019
36	INNSA1	8034910	1.50	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	29-06-2020	10-07-2019
			17.60	CIB NO: CIR-(FTE)-10740/2018(390)-PARAQUAT DICHLORIDE (TECHNICAL)-8)	275	20-07-2019	23-07-2018		22-07-2019
			10.00	CIB NO: CIR-(FTE)-10621/2018(389)-GLYPHOSATE (TECHNICAL)-27	327	14-10-2019	06-07-2018		05-07-2019
37	INNSA1	8101058	48.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	07-07-2020	02-08-2019
38	INNSA1	8171258	8.00	CIB NO: CIR-(FTE)-10922/2018(393)- LAMBACYHALOTHIRN (TECHNICAL)-70	-	20-09-2019	07-09-2018	14-07-2020	06-09-2019
39	INNSA1	8302148	16.00	CIB NO: CIR-(FTE)-10621/2018(389)-GLYPHOSATE (TECHNICAL)-27	327	14-10-2019	06-07-2018	28-07-2020	05-07-2019
			6.00	CIB NO: CIR-(FTE)-10732/2018(390)-IMIDACLOPRID	510	11-09-2019	11-07-2018		10-07-2019

				(TECHNICAL)-68					
40	INNSA1	6293868	1.00	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE(TECHNICAL)-19	604	17-09-2019	11-07-2018	30-12-2019	10-07-2019
41	INNSA1	6434448	12.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	11-01-2020	02-08-2019
42	INNSA1	6511952	3.00	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	17-01-2020	10-07-2019
43	INNSA1	6605410	7.00	CIB NO: CIR-(FTE)-10922/2018(393)- LAMBACYHALOTHIRN(TECHNICAL)-70	-	20-09-2019	07-09-2018	23-01-2020	06-09-2019
44	INNSA1	6669526	5.50	CIB NO: CIR-(FTE)-10735/2018(390)-BIFENTHRIN (TECHNICAL)-28	352 & 445	17-07-2019	11-07-2018	28-01-2020	10-07-2019
45	INNSA1	6829275	5.00	CIB NO: CIR-(FTE)-10735/2018(390)- BIFENTHRIN(TECHNICAL)-28	445	17-07-2019	11-07-2018	10-02-2020	10-07-2019
46	INNSA1	6829595	16.00	CIB NO: CIR-(FTE)-10830/2018(391)-CHLORPYRIFOS (TECHNICAL)-74	215	13-03-2019	03-08-2018	10-02-2020	02-08-2019
47	INNSA1	7169941	2.00	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	09-03-2020	10-07-2019
48	INNSA1	7174768	5.00	CIB NO: CIR-(FTE)-10735/2018(390)-BIFENTHRIN (TECHNICAL)-28	445	17-07-2019	11-07-2018	09-03-2020	10-07-2019
49	INNSA1	7778216	1.50	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	29-05-2020	10-07-2019
50	INNSA1	7781112	1.00	CIR-(FTE)-10732/2018(390)-IMIDACLOPRID (TECHNICAL)-68	510	11-09-2019	11-07-2018	30-05-2020	10-07-2019
51	INNSA1	7953700	10.00	CIB NO: CIR-(FTE)-10732/2018(390)- IMIDACLOPRID(TECHNICAL)-68	510	11-09-2019	11-07-2018	19-06-2020	10-07-2019
52	INNSA1	7977360	2.50	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	22-06-2020	10-07-2019
53	INNSA1	8171260	2.00	CIR-(FTE)-10736/2018(390)-EMAMECTIN BENZOATE (TECHNICAL)-19	604	17-09-2019	11-07-2018	14-07-2020	10-07-2019
Total					551.12 MTs				

Date of expiry of RC is one year from the date of its issuance.

- 1.22.** From the above table, it can be seen that date of issue of RCs submitted at the time of import is later than the actual date of issue of RCs as obtained from CIB. Such forging of RCs helped MIL to fraudulently claim the validity of RCs in order to import insecticides after expiry of these RCs.
- 1.23.** By submitting such forged Certificates of Registration (CRs) in 53 bills of entry at the time of import, MIL has violated Section 46(4) of Customs Act, 1962. As MIL did not possess the mandatory registration required from the Central Insecticides Board to import these insecticides, such imports become prohibited goods as defined in Section 2(33) of the Customs Act, 1962 and, therefore, appear to be liable for confiscation under Section 111 (d) of the Customs Act, 1962.
- 1.24.** In the case of **Sheikh Mohd. Omer versus Collector of Customs, Calcutta and Others {1971 AIR 293}**, it has been observed by the **Supreme Court of India** that *"Any prohibition means every prohibition. In other words all types of prohibitions. Restriction is one type of prohibition. From item (1) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But none the less the prohibition continues."*

MIS-DECLARATION & UNDERVALUATION OF IMPORTS

- 1.25.** From the scrutiny of bills of entry submitted by MIL and the images obtained from the mobile phone of Shri Avtar Singh that was seized by CGST Ludhiana during a search, and forwarded to SIIB (I), JNCH vide letter F. No. IV (HQRS) Prev/Ldh/05/131/2019-20/Pt/355 dated 05.02.2021, it was observed that MIL has mis-declared description of insecticides in the 16 Bills of Entry as detailed below:

TABLE – D

S. No	BE Number & date	Qty (in MTs)	Insecticide as declared in Bill of Entry	Insecticide as mentioned in image	Sr. No in the Image
1	6516408 dtd. 17-1-2020	12	GLYPHOSATE TECHNICAL 95.00% W/W MIN	Thiophanate Methyl 97% TC	1 in image-01
2	8760875 dtd. 10-9-2020	36	GLYPHOSATE TECHNICAL 95.00% W/W MIN	Fenoxaprop Ethyl 7% EC	9 in image-02
3*	6293868 dtd.	1	EMAMECTIN BENZOATE	Giberralic Acid 90%	3 in image

	30-12-2019		TECHNICAL 95.00% W/W MIN	TC	01
4*	6434448 dtd. 11-1-2020	12	CHLORPYRIFOS TECHNICAL 97.00%W/W MIN	Profenofos 95% TC	8 in image 01
5*	6511952 dtd. 17-1-2020	3	EMAMECTIN BENZOATE TECHNICAL 95.00% W/W MIN	Emmamectine Banzoate 70% TC & Abamectine 95%	4 & 6 Combined in image 01
6*	6605410 dtd. 23-1-2020	7	LAMBDA CYHALOTHRIN TECHNICAL 84% W/W MIN	Lambda Cyhalothrin 97% & Cartap 50% SP	13 in image 01
7*	6669526 dtd. 28-1-2020	5.5	BIFENTHRIN TECHNICAL 92.00% W/W MIN	Metribuzin 94% & Bifenthrin 97%	7 in image 01
		2	Lambda Cyhalothrin Technical 84% W/W Min	Lambda 97%	
8*	6829275 dtd. 10-2-2020	4	Lambda Cyhalothrin Technical 84% W/W Min	Tebuconazole 97%	11 in image 01
		5	Bifenthrin Technical 92.00% W/W Min	Azoxystrobin	
9*	6829595 dtd. 10-2-2020	2	Thiamethoxam Technical 98.00% W/W Min	Alpha-cypermethrin	9 in image 01
		16	Chlorpyrifos Technical 97.00%W/W Min	Cypermethrin	
10 *	7169941 dtd. 9-3-2020	6	Imidacloprid Technical 95.00% W/W Min	Imidacloprid 97%	12 in image 01
		2	Emamectin Benzoate Technical 95.00% W/W Min	Emamectine Benzoate 70%	
11	7174768 dtd.	5	Lambda Cyhalothrin Technical 84%	Lambda 97%	10 in image

*	9-3-2020		W/W Min		01
		5	Bifenthrin Technical 92.00% W/W Min	Metribuzin 93%	
12	7778216 dtd.	10	Imidacloprid Technical 95% W/W Min	Buprofezin	07 in image
*	29-5-2020	1.5	Emamectin Benzoate Technical 95.00% W/W Min	Emamectin Benzoate	02
		1.5	Imidacloprid Technical 95% W/W Min	Beta Cypermethrin 95%	
13	7781112 dtd.	1	CAB-70	Azoxystorbin	3 & 4
*	30-5-2020	3	Imidacloprid Technical 95% W/W Min	Carbosulfan 90%	Combined in image 02
		0.5	CO 40 (Castor Oil)	Quizolofop P Tefuryl	
14	7953700 dtd.	10	IMIDACLOPRID TECHNICAL 95% W/W MIN	Imidacloprid	10 in image 02
15	7977360 dtd.	4.5	EMAMECTIN BENZOATE TECHNICAL 95.00% W/W MIN	Emamectin Benzoate	08 and 01 in image 02
*	22-6-2020				
16	8171260 dtd.	5	EMAMECTIN BENZOATE TECHNICAL 95.00% W/W MIN	Carbendazim	05 in image 02
*	14-7-2020				
TOTAL		160.5 MTs			

***14 Bills of entry from Sr. No. 03 to 16 in the above table were also filed after forging of the Certificate of registration and thus are included in the list of 53 Bills of Entry in Table-C above. Bills of Entry at Sr. No. 1 and Sr. No. 2 are thus only misdeclared for description but with a valid CR. Therefore, the total Bills of Entry under investigation is 55.**

1.26. The images obtained from the mobile phone of Shri Avtar Singh show actual description of goods in respect of these 16 Bills of Entry. The same is tabulated below:

IMAGE - 01

4/2/2020											
Sr No	Product Name	Quantity	Company name	Shipment sailed(BL DATE).	Estimated Arrival in Jebel Ali	No of Days	Port of Discharge CHINA	Mode of Shipment	Remarks	Selling to Modern by the Name of	Selling Price to Modern
1	Thiophanat Methyl 97%TC	12000KG	Reliachem Industries	11-Feb-19	27-Nov-19	27 Days	Shanghai China	Transit	By Sea DONE	Glyphosate	4.99/kg
2	Fenoxypop Ethyl 96%TC	1000KG	Reliachem Industries	21-Nov-12	26-Nov-19	5 days	Shanghai China	Transit Via Hongkong	By Air DONE		
3	Gibberellic Acid 90% TC	1000kg	Zhuochen Industries(Shanghai) Co.,Ltd	13-Dec-19	17-Dec-19	5 days	NANJING,CHINA	By Air	Done	Emamectine Benzoate 95%	152.00/kg
4	Emamectine Benzoate 70%TC	2000kg	Zhuochen Industries(Shanghai) Co.,Ltd	6-Dec-19	28-Dec-19		Shanghai China	By sea	Done	Emamectine Benzoate 95%	179.00/kg
5	Glyphosate 95%TC	20000kg	Zhuochen Industries(Shanghai) Co.,Ltd	6-Dec-19	28-Dec-19		Shanghai China	By sea	Done	Glyphosate	4.99/kg
6	Abamectine 95%	1000Kg	Qilu Pharmaceutical Inner MongoliaCo.,Ltd.	30-Nov-19	30-Dec-19		China	By sea	Done	Emamectine Benzoate 95%	179.00/kg
7	Lambda Cyhalothrin 97%	2000	Indogulf	7-Jan-20	11-Jan-20	5 days	Mundra	By sea	Done	Lambda	
	Metribuzin 94%	3500		7-Jan-20	11-Jan-20			By sea		Bifenthrin	
	Bifenthrin 97%	2000		7-Jan-20	11-Jan-20			By sea		Bifenthrin	
8	Profenofos 95% TC	12000Kg	Spectrum Ethers Ltd	12th Dec	17th Dec	5 Days	Mumbai	By sea	Done	Chlopyrifos 95%TC	8.95/kg
9	Alphacypermethrin	2000kg	Hemani Industries	16-Jan-20	22-Jan-20		Nhava Sheva	By sea	Done		
	Cypermethrin	16000kg									
10	Lambda Cyhalothrin 97%	5000kg	Insecticide India	12-Jan-20			Nhava Sheva	By sea			
	Metribuzin 93%	5000kg									
11	Tebuconazole 97%	5000kg	Zhuochen Industries(Shanghai) Co.,Ltd	17-Jan-20	31-Jan-20		Shanghai China	By sea	Done		
	Azoxystrobin 98%	4000kg									
12	Imidacloprid 97%	6000kg	Zhuochen Industries(Shanghai) Co.,Ltd	16-Jan-20			Shanghai China	By sea	Done		
	Emamectine Benzoate 70%	2000kf									
13	Lambda Cyhalothrin Cartap 50%SP	3000kg 4000kg	Insecticide India	3-Jan-20	9-Jan-20		Nhava Sheva	By sea	Done		
14	Packing Material	Mix	Modern Insecticides	25-Dec-19	4-Jan-20		Mundra	By sea	Done/At warehouse		
15	Lactos	20000	Fair kem		26-Jan-20		Mundra	By sea	Done	Binding Agent	1.95
16	Emamectine Benzoate 70% TC	4000	Hebei Xingbai Agrochemicals	8-Feb	15-Feb-20			By Air			
17	Tribenuron Methyl	5000kg	Hailir				Dubai Airport	BY AIR			

1.27. As per the Image – 01 above, it can be seen that column 2 namely, “Product Name” corresponds to the actual item that has been imported. Whereas, column 11 namely” Selling to Modern by the name of” corresponds to the declared description in the Bill of Entry at the time of import and column 12 namely “Selling Price to Modern” refers to the unit price of the item mentioned in the column 11 of the Image – 1, in the Bill of Entry. **IMAGE - 02**

23.April.2020										
Sr No	Product Name	Quantity	Company name	Shipment sailed(BL DATE).	Estimated Arrival in Jebel Ali	Unit Price	Comments	Mode of Shipment	Selling to Modern by the Name of	Selling Price to Modern
1	Imidacloprid 96%	16000kg	Hailir Company	20-Apr-20	7-May-20	16.1	20%TT	By sea		
	Emamectine Benzoate 70% TC	2000kg				98.5				
2	Indoxacarb 95%	1000kg	Zhuochen Industries	Mid April		127	Full DA	By Sea		
	Tribenuron Methyl 92%	5000kg		Mid April		24		By Sea		
	Biprofuzin 98%	10000kg		Mid April		10.12		By Sea		
3	Beta Cypermethrin 95%	1500kg	Ryan by sea	5-Apr-20	28-Apr-20	25		By Sea		
	Azoxystorbin 98%	3000				37.1		By Sea		
	Carbosulfan 90%	1000kg				15.5		By Sea		
4	Quizalofop P Tefuryl 95%	500kg	Ryan by sea	5-Apr-20	20-Apr-20	58.5		By Sea		
5	Tebuconazole 97%	5000kg	Jessy	1-May	20-May	29	20%TT	By Sea		
	Glyphosate 95%	7000kg				3.79				
	Carbendazim	5000kg		5.44						
	Fenoxypop Ethyl 96%	5000kg		40.49						
	Glyphosate 95%	2000kg		3.79						
6	Malathion 95%	10000kg	kenneth	4-May	25-May	4.4		by sea		
7	Buprofuzin	10000kg	charlie	1-May	19-May	10.2	Full DA	by sea		
	Emamectine Benzoate	1500kg		1-May	19-May	99.7				
8	Emamectine benzoate	2500kg	Ada			99.7	25% TT	by sea		
9	fenoxypop Ethyl 7% EC	36000	David	10 May Estimated		5.37	20% TT	by sea		
10	Imidacloprid	10000	Celeste	30-Apr	20-May	16.4	20% TT	by sea		

1.28. As per the Image – 2 above, the column 2 namely “Product Name” corresponds to the actual item that has been imported. But column 10 namely “Selling to Modern by the name of” & column 11 namely “Selling Price to Modern” in the image are blank. Upon verifying the quantity of the items mentioned in column 3 and BL date and estimated arrival mentioned in the column 5 & column 6 of the said Image, with the import data of M/s. Modern Insecticides Limited, it can be deduced that actual goods were imported as per column 2 of Image – 2, whereas the corresponding descriptions in Bills of Entry filed for these imports were different.

- 1.29.** Summons dated 04.09.2023, 30.10.2023, 11.12.2023 were issued to Shri. Avtar Singh and Shri. Charanjit Singh to record their statements and to confront them with the above images in respect of past imports. However, neither Charanjit Singh nor Avtar Singh appeared before the summoning officer. Further, three summons were issued to Charanjit Singh and Avtar Singh in October 2020 and one summons issued in September 2021 to record their statement, but none were honoured. Thus, it appears that multiple chances were given to Shri Avtar Singh and Shri Charanjit Singh to be personally heard and to record their statement, yet they deliberately chose to not co-operate with the investigation. Therefore, legal and administrative steps were taken against the then directors, Shri Avtar Singh and Shri Charanjit Singh so as to confront them with the above incriminating images in respect of past imports of MIL. In his statement dated 08.04.2024, Shri Avtar Singh accepted his and Shri Charanjit Singh's role in the forgery of Certificates of Registration used during imports and misdeclaration of goods during import.
- 1.30.** In view of the above, it can be seen that the insecticides actually imported by MIL are different from that mentioned in the Bills of Entry filed for these imports. Thus, MIL has mis-declared the description of goods in the said Bills of Entry as mentioned in Table – D above.
- 1.31.** Since the goods were mis-declared in above mentioned 16 bills of entry, their values also need to be re-determined in terms of the provisions of Section 14(1) of the Customs Act, 1962 read with provisions of the CVR, 2007. Accordingly, based on the available evidence of misdeclaration of the insecticides being imported, the transaction value declared in these consignments (Table-D) is liable to be rejected as per Rule 12 (1) of the CVR, 2007.
- 1.32.** The same is required to be re-determined by proceeding sequentially through Rule 4 to Rule 9 in terms of Rule 3 (4) of the CVR, 2007. The import of insecticides is strictly controlled under the Insecticides Act, 1968 where selected importers can import a particular insecticide from a particular supplier and having defined chemical composition; for example, only Chlorantraniliprole Tech 93.00% can be imported in India. As the exact concentration of insecticides smuggled by the firm M/s. Modern Insecticides Limited in the past are not known, so Rule 4 is not applicable in this case. For example, as per the Insecticides Act, 1968 Emamectin Benzoate Technical (95% min.) can be imported into India, but as per the forensic evidences it has been found out that Emamectin Benzoate having concentration of 70% has been imported by MIL in their live consignment which was intercepted at Nhava Shiva. Hence, the goods smuggled are not identical to those imported by the importers having certificate of registration of the insecticide with the competent authority.

- 1.33.** Further, as per Rule 5 of CVR, 2007, the value of the goods can be re-determined using the transaction value of similar goods. As discussed above, the goods which can be legally imported are similar to the goods being smuggled through the firm M/s. Modern Insecticides Limited. Hence, the value of the goods can be re-determined using the Rule 5 of CVR, 2007. Also, as per Rule 5 of the CVR, 2007 the value of the similar goods should be at or around the same time, as the goods being valued.
- 1.34.** In view of the same, the data from the contemporaneous imports made into India for the said insecticides has been taken into consideration. Since the import of insecticides is allowed as per registrations granted for different insecticides, the value of the imports has been taken at the minimum concentration allowed to be imported for that particular insecticide. Further, since this import was made from China, the imports of insecticides from China have been considered whose legal import data for the contemporaneous period is available. The details of the contemporaneous imports are attached as Annexure – D. Further, it has been observed that contemporaneous value in respect of some of these insecticides is slightly on the lower side than that declared by the importer. However, since the importer was availing duty exemption benefits under notification no. 52/2003 on account of their status as an EOU, it appears that there was no rationale for the importer to overstate the value of imported goods. Hence, in respect of the goods where the value declared by the importer is slightly higher than the contemporaneous value, the same is taken as the redetermined value.
- 1.35.** Accordingly, the value of the goods imported vide the said consignments has been re-determined as detailed below:

TABLE-E

S. No.	BE Number & date*	Insecticide as declared in Bill of Entry	Insecticides actually imported	Declared Unit Price (USD/Kg)	Contemporaneous Value	Redetermined Unit Price (USD/Kg)	Declared assessable Value (in Rs. Lacs)	Redetermined Assessable Value (in Rs. Lacs)	Duty Liabe (in Rs. Lacs)	License Forged	Misdecl aration
1	6516408 dtd. 17-1-2020	Glyphosate Technical 95.00% W/W Min	Thiophanate Methyl 97% TC	4.99	3.95	4.99*	42.90	42.90	13.29	No	Yes
2	8760875 dtd. 10-9-2020	Glyphosate Technical 95.00% W/W Min	Fenoxaprop Ethyl 7% EC	3.85	56	56	1,02.70	1,493.86	462.80	No	Yes
3	6293868 dtd. 30-12-2019	Emamectin Benzoate Technical 95.00% W/W Min	Giberralic Acid 90% TC	152.5	150	152.5*	1,09.65	1,09.65	33.97	Yes	Yes
4	6434448 dtd. 11-1-2020	Chlorpyrifos Technical 97.00%W/W Min	Profenofos 95% TC	8.95	8.95	8.95	77.49	77.49	24.01	Yes	Yes
5	6511952 dtd. 17-1-2020	Emamectin Benzoate Technical 95.00% W/W Min	Emmamectine Banzoate 70% TC	179	92	179*	3,84.76	256.507	79.466	Yes	Yes
			Abamectine 95%		100	179*		128.254	39.733	Yes	Yes

6	6829275 dtd. 10-2- 2020	Lambda Cyhalothrin Technical 84% W/W Min	Tebuconazole 97%	37	95	95	144.30	171.36	53.09	Yes	Yes
		Bifenthrin Technical 92.00% W/W Min	Azoxystrobin	40	47.5	47.5	106.78	274.17	84.94	Yes	Yes
7	7781112 dtd. 30-5- 2020	Imidacloprid Technical 95% W/W Min	Beta Cypermethrin 95%	30.50	30.50	30.50	35.04	35.04	10.86	Yes	Yes
		CAB-70	Azoxystrobin	30.5	47.5	47.5	70.08	109.15	33.81	Yes	Yes
		Imidacloprid Technical 95% W/W Min	Carbosulfan 90%	1.98	13.29	13.29	1.52	10.18	3.15	Yes	Yes
		CO 40 (Castor Oil)	Quizolofop P Tefuryl	2.05	2.05	2.05	0.79	0.79	0.24	Yes	Yes
8	7977360 dtd. 22-6- 2020	Emamectin Benzoate Technical 95.00% W/W Min	Emamectin Benzoate	124	92	124*	429.94	429.94	133.20	Yes	Yes
9	8171260 dtd. 14-7- 2020	Emamectin Benzoate Technical 95.00% W/W Min	Carbendazim	28	4.6	28*	106.96	106.96	33.14	Yes	Yes
10	7778216	Imidacloprid	Emamectin	130	92	130	1,49.37	149.37	46.27	Yes	Yes

	dtd. 29-5-2020	Technical 95% W/W Min	Benzoate									
		Emamectin Benzoate Technical 95.00% W/W Min	Buprofezin	30.5	8.75	30.5*	2,33.63	233.63	72.38	Yes	Yes	
11	7169941 dtd. 9-3-2020	Imidacloprid Technical 95.00% W/W Min	Imidacloprid 97%	20	17	20*	89.1	89.1	27.60	Yes	Yes	
		Emamectin Benzoate Technical 95.00% W/W Min	Emamectine Benzoate 70%	130	92	130*	342.42	342.42	106.08	Yes	Yes	
12	6605410 dtd. 23-1-2020	Lambda Cyhalothrin Technical 84% W/W Min	Lambda Cyhalothrin 97%	44	48	48	94.57	103.18	31.96	Yes	Yes	
			Cartap 50% SP	44	10.6	44*	126.10	126.10	39.07	Yes	Yes	
13	6669526 dtd. 28-1-2020	Lambda Cyhalothrin Technical 84% W/W Min	Lambda 97%	44	48	48	63.05	68.78	21.31	Yes	Yes	
			Bifenthrin Technical 92.00%	Metribuzin 94%	48	14.28	48*	189.15	120.37	37.29	Yes	Yes
			Bifenthrin		48	38	48*		68.78	21.31	Yes	Yes

		W/W Min	97%								
14	6829595 dtd. 10-2- 2020	Thiamethoxam Technical 98.00%	Alpha- cypermethrin	22	22	22	31.75	31.75	9.83	Yes	Yes
		W/W Min									
		Chlorpyrifos Technical 97.00%W/W Min	Cypermethrin	10.3	10.3	10.3	118.90	118.90	36.84	Yes	Yes
15	7174768 dtd. 9-3- 2020	Lambda Cyhalothrin Technical 84%	Lambda 97%	37	48	48	137.36	178.20	55.21	Yes	Yes
		W/W Min									
		Bifenthrin Technical 92.00%	Metribuzin 93%	48	14.28	48*	178.20	178.20	55.21	Yes	Yes
		W/W Min									
16	7953700 dtd. 19-6- 2020	Imidacloprid Technical 95%	Imidacloprid	24.90	17	24.90*	1,91.85	191.85	59.44	Yes	Yes
		W/W Min									
Total				3558.39	5246.89						

***As mentioned in para 2.29 there was no rationale for the importer to overstate the value of imported goods. Therefore, in respect of the goods where the value declared by the importer is higher than the contemporaneous value, the same is taken as the redetermined value**

1.36. By mis-declaring the description and value of goods imported in the 16 Bills of entry as mentioned in Table-D above, MIL has violated Section 46(4) of Customs Act, 1962. As they did not submit the mandatory registration required from the Central Insecticides Board to import these insecticides. Such

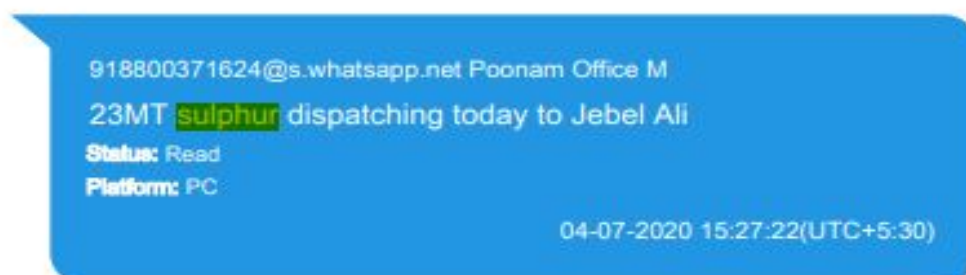
imports, thus, become prohibited goods as defined in Section 2(33) of the Customs Act, 1962 and therefore appear to be liable for confiscation under Section 111 (d), 111 (l) & 111 (m) of the Customs Act, 1962.

Mis-declaration of exports in order to fulfil export obligation under EoU Scheme and diversion of the insecticides into the local market:

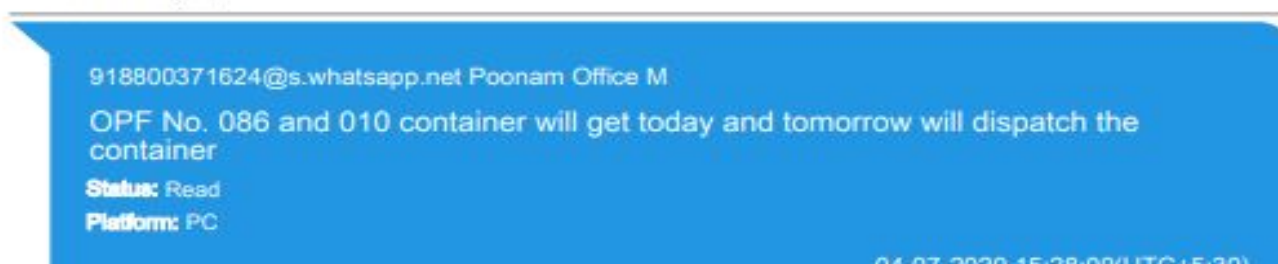
- 1.37.** From the scrutiny of Shipping Bills submitted by MIL and the images obtained from the mobile phone of Shri Avtar Singh that was seized by CGST Ludhiana during a search, and forwarded vide letter F. No. IV (HQRS) Prev/Ldh/05/131/2019-20/Pt/355 dated 05.02.2021, it was observed that MIL has mis-declared description of goods exported through 27 Shipping Bills. The images obtained from the mobile phone of Shri Avtar Singh that shows actual description of goods exported through these Shipping Bills

Image – 03

Invoice No	Container No.	Quantity	Factory dispatch	Railout	SOB	ETA	Document	Bill Name	in MT	Original Product	
108 - 109		23000	17.07.20	22.07.20	03.08.20		25.07.20	Lambda	23	Sulphur	Sharjah
110 - 112		13800	17.07.20	24.07.20	31.07.20		25.07.20	Bifen+Glypho	10 + 13	Sulphur	Sharjah
113 - 114		9200	17.07.20	24.07.20	31.07.20		25.07.20	Bifen+Glypho	-	Sulphur	Sharjah
115 - 116		23000	17.07.20	22.07.20	03.08.20		25.07.20	Lambda	23	Sulphur	Sharjah
119 - 121		23000	20.07.20	24.07.20	31.07.20		01.08.20	Bifen+Glypho	5 + 18	Sulphur	Sharjah
122 - 124		23000	20.07.20	24.07.20	31.07.20		01.08.20	Ema	23	Sulphur	Sharjah
125		23000	21.07.20	24.07.20	31.07.20		01.08.20	glypho	23	Sulphur	Sharjah
126 - 127		23000	21.07.20	24.07.20			01.08.20	Lambda	23	Sulphur	Sharjah
129 - 131		23000	22.07.20				01.08.20	Ema	23	Sulphur	Sharjah
133		23000	27.07.20					Sulphur		Sulphur	Sharjah
134		23000	27.07.20					Bifen + Sulphur	5 + 18	Sulphur	Sharjah
138 - 139		28500	29.07.20					CPP		Sulphur	Sharjah
140 - 141		28500	30.07.20					CPP		Sulphur	Sharjah
146		23000	03.08.20					Sulphur		Sulphur	Sharjah
	Total										
108 - 146		310000									

Image-04

Source Info:
 Avtar singh's
 iPhone/mobile/Containers/Shared/AppGroup/group.net.whatsapp.WhatsApp.shared/ChatStorage.
 sqlite : 0x2BFB6B6 (Table: ZWAMESSAGE, ZWAGROUPMEMBER, ZWACHATSESSION, Size:
 66121728 bytes)



1.38. From the above image - 03, it can be seen that the column 9 namely “Bill Name” mentions the names of insecticides declared during the export in the Shipping Bill, whereas the column 11 namely “Original Product” mentions the good actually exported by MIL. The column 1 namely “Invoice No”, column 10 namely “in MT” along with column 9 namely “Bill Name” were correlated to find the exact Shipping Bill through which the item mentioned at column 11 was actually exported. Further, from the image-04, the date of dispatch of container containing 23 MT of export goods can be deduced as 04-07-2020. The same was correlated with the export data of MIL to find the exact Shipping Bill through which sulphur was exported by MIL.

1.39. From the Image – 03, Image-04 & Table – F below, it can be seen that the goods actually exported by MIL are different from those declared in the Shipping Bills. Thus, MIL have mis-declared the description of goods in the said Shipping Bills.

1.40. Summons dated 04.09.2023, 30.10.2023, 11.12.2023 were issued to Shri. Avtar Singh and Shri. Charanjit Singh to record their statements and to confront them with the above images in respect of past imports. However, neither Charanjit Singh nor Avtar Singh appeared before the summoning officer. Further, three summons were issued to Charanjit Singh and Avtar Singh in October 2020 and one summons issued in September 2021 to record their statement, but none were honoured. Thus, it appears that multiple chances were given to Shri Avtar Singh and Shri Charanjit Singh to be personally heard and to record their statement, yet they deliberately chose to not co-operate with the investigation. Therefore, legal and administrative steps were taken against the then directors Shri Avtar Singh and Shri Charanjit Singh so as to confront them with the above incriminating images in respect of past imports of MIL. In his statement dated 08.04.2024, Shri Avtar Singh accepted his and Shri Charanjit Singh's role in the misdeclaration of goods during export.

1.41. After correlating the data mentioned in the image-03, image-04 above, with the Shipping Bills filed by MIL for the exports during this period, the picture that emerges of these fraudulent exports is tabulated below:

TABLE-F

S. No.	SB Number and Date	Invoice number & Date	DECLARED GOODS DESCRIPTION	ACTUAL GOODS DESCRIPTION	QUANTITY
1	3866165 & 17-07-2020	MIL/ 108/20 & 16-07-2020	AGRICULTURAL INSECTICIDES/PESTICIDES LAMBDA CYHALOTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	11500 KGS
2	3866907 & 17-07-2020	MIL/ 109/20 & 16-07-2020	AGRICULTURAL INSECTICIDES/PESTICIDES LAMBDA CYHALOTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	11500 KGS
3	3877957 & 17-07-2020	MIL/ 110/20 & 17-07-2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2000 KGS
		MIL/	AGRICULTURAL	Sulphur	2600 KGS

		110/20 & 17-07- 2020	INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Formulation	
4	3878537 & 17-07-2020	MIL/ 111/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2000 KGS
		MIL/ 111/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2600 KGS
5	3879298 & 17-07-2020	MIL/ 112/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2000 KGS
		MIL/ 112/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2600 KGS
6	3880016 & 17-07-2020	MIL/ 113/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2000 KGS
		MIL/ 113/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2600 KGS
7	3881076 & 17-07-2020	MIL/ 114/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2600 KGS
		MIL/ 114/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	2000 KGS
8	3876339 &	MIL/	AGRICULTURAL	Sulphur	11500 KGS

	17-07-2020	115/20 & 17-07- 2020	INSECTICIDES/PESTICIDES LAMBDAHALOTHIN FORMULATION (PKD IN 25X01/PKG)	Formulation	
9	3877043 & 17-07-2020	MIL/ 116/20 & 17-07- 2020	AGRICULTURAL INSECTICIDES/PESTICIDES LAMBDAHALOTHIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	11500 KGS
10	3946701 & 20-07-2020	MIL/ 119/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	6000 KGS
		MIL/ 119/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	1650 KGS
11	3947033 & 20-07-2020	MIL/ 120/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	1650 KGS
		MIL/ 120/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	6000 KGS
12	3948270 & 20-07-2020	MIL/ 121/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES BIFENTHRIN FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	1700 KGS
		MIL/ 121/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	6000 KGS
13	3948887 & 20-07-2020	MIL/ 122/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES EMAMECTIN BENZOATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	7650 KGS
14	3949551 &	MIL/	AGRICULTURAL	Sulphur	7650 KGS

	20-07-2020	123/20 & 20-07- 2020	INSECTICIDES/HERBICIDES EMAMECTIN BENZOATE FORMULATION (PKD IN 25X01/PKG)	Formulation	
15	3949543 & 20-07-2020	MIL/ 124/20 & 20-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES EMAMECTIN BENZOATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	7700 KGS
16	3970919 & 21-07-2020	MIL/ 125/20 & 21-07- 2020	AGRICULTURAL HERBICIDES/ PESTICIDES GLYPHOSATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	23000 KGS
17	3973850 & 21-07-2020	MIL/ 126/20 & 21-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES LAMBACYHALOTHHTIN FORMULATION (PKD IN 025X01/PKG)	Sulphur Formulation	11500 KGS
18	3974482 & 21-07-2020	MIL/ 127/20 & 21-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES LAMBACYHALOTHHTIN FORMULATION (PKD IN 025X01/PKG)	Sulphur Formulation	11500 KGS
19	4000880 & 22-07-2020	MIL/ 129/20 & 22-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES EMAMECTIN BENZOATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	7650 KGS
20	4000876 & 22-07-2020	MIL/ 130/20 & 22-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES EMAMECTIN BENZOATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	7650 KGS
21	4001421 & 22-07-2020	MIL/ 131/20 & 22-07- 2020	AGRICULTURAL INSECTICIDES/HERBICIDES EMAMECTIN BENZOATE FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	7700 KGS
22	4117217 & 28-07-2020	MIL/ 134/20 & 27-07-	AGRICULTURAL INSECTICIDES/FUNGICIDES BIFENTHRIN FORMULATION (PKD	Sulphur Formulation	1650 KGS

		2020	IN 25X01)		
23	4163465 & 30-07-2020	MIL/ 138/20 & 29-07- 2020	AGRICULTURAL PESTICIDES/INSECTICIDES CHLORPYRIFOS FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	14250 KGS
24	4163575 & 30-07-2020	MIL/ 139/20 & 29-07- 2020	AGRICULTURAL PESTICIDES/INSECTICIDES CHLORPYRIFOS FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	14250 KGS
25	4175881 & 30-07-2020	MIL/ 140/20 & 30-07- 2020	AGRICULTURAL PESTICIDES/INSECTICIDES CHLORPYRIFOS FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	14250 KGS
26	4177307 & 30-07-2020	MIL/ 141/20 & 30-07- 2020	AGRICULTURAL PESTICIDES/INSECTICIDES CHLORPYRIFOS FORMULATION (PKD IN 25X01/PKG)	Sulphur Formulation	14250 KGS
27	3615347 & 04-07-2020	MIL/ 089/20 & 04-07- 2020	Agricultural Insecticides/ Herbicides Glyphosate Formulation (PKD IN 25X01/PKG)	Sulphur Formulation	23000 Kgs
Total Exports			265650 Kgs		

1.42. By mis-declaring description and value of goods exported vide 27 Shipping Bills as mentioned in Table-F above, MIL has tried to fulfil its export obligations cast upon them while importing the goods without duty payment by availing the benefit of Notification No. 52/2003-cus dated 31.03.2003 on the basis of its status as an EoU.

1.43. It is evident that MIL, who had an export obligation to fulfil, has resorted to fraudulent exports, in order to fulfil the said obligations. MIL has actually exported Sulphur in the export consignments, which is of much lower value than insecticides required to be exported by them. This points to the fact that 2,65,650 kgs of insecticides have been diverted into the local market, and thus benefit of duty exemption under Notification No. 52/2003-cus dated 31.03.2003 on the basis of its status as an EoU, claimed at the time of import by them appears to be ineligible in view of these fraudulent exports also.

REVERSAL OF DUTY-FREE BENEFIT CLAIMED ON IMPORTS

- 1.44.** At the time of import, MIL claimed exemption from Customs duty under Customs Notification No. 52/2003-cus dated 31.03.2003 on the basis of its status as an EoU (Export Oriented Unit) as per Letter of Permission (LoP) issued to it under para 6.05 of Foreign Trade Policy (2015-20).
- 1.45.** According to the para 6.01(d) of Foreign Trade Policy (2015-20), an EoU may import, without payment of duty, all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC (HS). In this regard, Customs Notification No. 52/2003-cus dated 31.03.2003 mandates EoU to execute B-17 bond, specified vide notification No. 1/2018-C.E. (N.T.), dated 5-12-2018, that can be invoked, in case of failure of the obligation imposed on the EoU in this regard (Rules 7, 9, 21 and 22 of the Central Excise Rules, 2017, Circular No.29/2017-Customs dated 17th July 2017, Circular no. 27/2018-Customs dated 14.08.2018, and Circular 50/2018-Customs dated 06.12.2018 refers).
- 1.46.** However, as mentioned earlier, goods imported by MIL become prohibited goods when it is established that MIL imported them by either forging mandatory Certification of Registration issued by CIB and/or by mis-declaring their description, invalidating the Certification of Registration submitted by them.
- 1.47.** Therefore, MIL has violated the import conditions of para 6.01(d) of Foreign Trade Policy (2015-20) read with Customs Notification No. 52/2003-cus dated 31.03.2003 and commitment undertaken under B-17 bond in terms of below mentioned 55 Bills of Entry and, accordingly, they are required to reverse the benefit of exemption of Customs duty claimed at the time of import alongwith applicable interest.
- 1.48.** Although the goods imported have become prohibited in view of violation of Section 9, Section 13 and Section 17 of the Insecticides Act, 1968, read with the Foreign trade policy, the imports have already taken place, with the goods so illegally imported having been further consumed in their business. Thus, the importer has evaded the duty on these past imports by reason of wilful mis-statement and suppression of facts as they have forged the certificates used for the importation and/or mis-declared the description of the goods. Accordingly, the unpaid duty is recoverable from the importer by invoking the extendable period under Section 28 (4) of the Customs Act, 1962. Thus, the importer is liable to pay duty on such past imports under Section 28 (4) of the Customs Act, 1962 for wrongful claim of duty exemption under Notification No. 52/2003-cus dated 31.03.2003 on the basis of its status as an EoU. The duty liability details are tabulated below:

TABLE – G

S. No.	BE Number & date	Port Code	Insecticide as declared in Bill of Entry	Insecticides actually imported	Declared Unit Price (USD/Kg)	Redetermined Unit Price (USD/Kg)	Declared assessable Value (in Rs. Lacs)	Redetermined Assessable Value (in Rs. Lacs)	Duty Liabile (in Rs. Lacs)	License Forged	Misdeclaration in description of Insecticides
1	6516408 dtd. 17-1-2020	INNSA1	Glyphosate Technical 95.00% W/W Min	Thiophanate Methyl 97% TC	4.99	4.99	42.90	42.90	13.29	No	Yes
2	8760875 dtd. 10-9-2020	INLDH6	Glyphosate Technical 95.00% W/W Min	Fenoxaprop Ethyl 7% EC	3.85	56	1,02.70	1,493.86	462.80	No	Yes
3	6293868 dtd. 30-12-2019	INNSA1	Emamectin Benzoate Technical 95.00% W/W	Giberralic Acid 90% TC	152.5	152.5	1,09.65	1,09.65	33.97	Yes	Yes

			Min								
4	6434448 dtd. 11-1- 2020	INNSA1	Chlorpyrifos Technical 97.00%W/W Min	Profenofos 95% TC	8.95	8.95	77.49	77.49	24.01	Yes	Yes
5	6511952 dtd. 17-1- 2020	INNSA1	Emamectin Benzoate Technical	Emmamectin e Banzoate 70% TC	179	179	3,84.76	256.507	79.466	Yes	Yes
		INNSA1	95.00% W/W Min	Abamectine 95%		179		128.254	39.733	Yes	Yes
6	6829275 dtd. 10-2- 2020	INNSA1	Lambda Cyhalothrin Technical 84% W/W Min	Tebuconazol e 97%	37	95	144.30	171.36	53.09	Yes	Yes
		INNSA1	Bifenthrin Technical 92.00% W/W Min	Azoxystrobin	40	47.5	106.78	274.17	84.94	Yes	Yes

7	7781112 dtd. 30-5- 2020	INNSA1	Imidacloprid Technical 95% W/W Min	Beta Cypermethri n 95%	30.50	30.50	35.04	35.04	10.86	Yes	Yes
		INNSA1	CAB-70	Azoxystorbin	30.5	47.5	70.08	109.15	33.81	Yes	Yes
		INNSA1	Imidacloprid Technical 95% W/W Min	Carbosulfan 90%	1.98	13.29	1.52	10.18	3.15	Yes	Yes
			CO 40 (Castor Oil)	Quizolofop P Tefuryl	2.05	2.05	0.79	0.79	0.24	Yes	Yes
8	7977360 dtd. 22-6- 2020	INNSA1	Emamectin Benzoate Technical 95.00% W/W Min	Emamectin Benzoate	124	124	429.94	429.94	133.20	Yes	Yes
9	8171260 dtd. 14-7- 2020	INNSA1	Emamectin Benzoate Technical 95.00% W/W Min	Carbendazim	28	28	106.96	106.96	33.14	Yes	Yes
10	7778216	INNSA1	Imidacloprid	Buprofezin	30.5	130	1,49.37	149.37	46.27	Yes	Yes

			Technical 95% W/W Min								
	dtd. 29-5- 2020	INNSA1	Emamectin Benzoate Technical 95.00% W/W Min	Emamectin Benzoate	130	30.5	2,33.63	233.63	72.38	Yes	Yes
		INNSA1	Imidacloprid Technical 95.00% W/W Min	Imidacloprid 97%	20	20	89.1	89.1	27.60	Yes	Yes
11	7169941 dtd. 9-3- 2020	INNSA1	Emamectin Benzoate Technical 95.00% W/W Min	Emamectine Benzoate 70%	130	130	342.42	342.42	106.08	Yes	Yes
12	6605410 dtd. 23-1- 2020	INNSA1	Lambda Cyhalothrin Technical 84% W/W Min	Lambda Cyhalothrin 97%	44	48	94.57	103.18	31.96	Yes	Yes
		INNSA1		Cartap 50%	44	44	126.10	126.10	39.07	Yes	Yes

				SP							
13	6669526 dtd. 28-1- 2020	INNSA1	Lambda Cyhalothrin Technical 84% W/W Min	Lambda 97%	44	48	63.05	68.78	21.31	Yes	Yes
		INNSA1	Bifenthrin Technical 92.00% W/W Min	Metribuzin 94%	48	48	189.15	120.37	37.29	Yes	Yes
		INNSA1		Bifenthrin 97%	48	48		68.78	21.31	Yes	Yes
14	6829595 dtd. 10-2- 2020	INNSA1	Thiamethoxam Technical 98.00% W/W Min	Alpha- cypermethrin	22	22	31.75	31.75	9.83	Yes	Yes
		INNSA1	Chlorpyrifos Technical 97.00%W/W Min	Cypermethri n	10.3	10.3	118.90	118.90	36.84	Yes	Yes
15	7174768 dtd. 9-3-	INNSA1	Lambda Cyhalothrin Technical 84%	Lambda 97%	37	48	137.36	178.20	55.21	Yes	Yes

			W/W Min								
	2020	INNSA1	Bifenthrin Technical 92.00% W/W Min	Metribuzin 93%	48	48	178.20	178.20	55.21	Yes	Yes
16	7953700 dtd. 19-6- 2020	INNSA1	Imidacloprid Technical 95% W/W Min	Imidacloprid	24.90	24.9	1,91.85	191.85	59.44	Yes	Yes
17 *	4028359 dtd. 11-7- 2019	INBOM 4	Emamectin Benzoate Technical 95% W/W Min	-	92	92	69.75	69.75	32.08	Yes	No
18 *	4221246 dtd. 25-7- 2019	INBOM 4	Bifenthrin Technical 92.00% W/W Min	-	51	51	69.65	69.65	35.52	Yes	No
19 *	4236247 dtd. 26-7- 2019	INBOM 4	Emamectin Benzoate Technical 95% W/W Min	-	92	92	69.65	69.65	19.22	Yes	No

20 *	4405264 dtd. 7-8- 2019	INBOM 4	Imidacloprid Technical 95.00% W/W Min	-	26	25.7	70.00	70.00	26.99	Yes	No
21 *	4443450 dtd. 10-8- 2019	INBOM 4	Emamectin Benzoate Technical 95% W/W Min	-	96	95.5	70.00	70.00	66.85	Yes	No
22 *	4547057 dtd. 19-8- 2019	INNSA1	Fipronil Technical 95%	-	102	102	71.85	71.85	2,19.8 6	Yes	No
23 *	4552812 dtd. 19-8- 2019	INBOM 4	Fipronil Technical 95% Percent Min	-	102	102	71.85	71.85	72.93	Yes	No
24 *	4771076 dtd. 5-9- 2019	INNSA1	Chlorpyrifos Technical 97% W/W Min	-	7.5	7.45	71.85	71.85	60.7 0	Yes	No
25 *	4771166 dtd. 5-9- 2019	INNSA1	Thiamethoxam Technical 98% W/W Min	-	16	16.1	71.85	71.85	1,73.5 1	Yes	No

26 *	4855733 dtd. 11-9- 2019	INNSA1	Chlorpyrifos Technical 97% W/W Min	-	8	7.95	72.80	72.80	57.87	Yes	No
27 *	4924363 dtd. 16-9- 2019	INNSA1	Thiamethoxam Technical 98% W/W Min	-	55	55.3	72.80	72.80	61.29	Yes	No
28 *	4978308 dtd. 20-9- 2019	INBOM 4	Fipronil Technical 95% Percent Min	-	98	98	72.20	72.20	60.14	Yes	No
29 *	5322522 dtd. 16- 10-2019	INBOM 4	Bifenthrin Technical 92.00% W/W Min	-	50	50.3	72.15	72.15	36.29	Yes	No
30 *	5336491 dtd. 17- 10-2019	INBOM 4	Fipronil Technical 95% Min	-	98	98	72.15	72.15	70.71	Yes	No
31 *	5346096 dtd. 18- 10-2019	INNSA1	Clethodim 24% Ec	-	8.5	8.5	72.30	72.30	98.33	Yes	No
32	5355818	INNSA1	Chlorpyrifos	-	6.9	6.9	72.30	72.30	99.77	Yes	No

*	dtd. 18-10-2019		Technical 97.00% W/W Min								
33*	5495548 dtd. 31-10-2019	INBOM 4	Fipronil Technical 95% Min	-	97	97	72.30	72.30	70.13	Yes	No
34*	5562864 dtd. 5-11-2019	INNSA1	Thiamethoxam Technical 98.00% W/W Min	-	64	63.5	72.30	72.30	91.82	Yes	No
35*	5581028 dtd. 7-11-2019	INBOM 4	Lambda- Cyhalothrin Technical 84% W/W Min	-	45	44.5	72.30	72.30	128.69	Yes	No
36*	5793065 dtd. 22-11-2019	INNSA1	Chlorpyrifos Technical 97.00%W/W Min	-	9	8.95	72.75	72.75	132.91	Yes	No
37*	5906565 dtd. 2-12-2019	INNSA1	Chlorpyrifos Technical 97.00%W/W Min	-	9	8.95	72.75	72.75	117.20	Yes	No

38 *	5954032 dtd. 5-12- 2019	INBOM 4	Bifenthrin Technical 92.00% W/W Min	-	38	38	72.75	72.75	27.65	Yes	No
39 *	6011046 dtd. 9-12- 2019	INBOM 4	Imidacloprid Technical 95.00% W/W Min	-	23	23.1	72.40	72.40	43.48	Yes	No
40 *	6020713 dtd. 10- 12-2019	INNSA1	Lambda- Cyhalothrin Technical 84% W/W Min	-	50	49.5	72.40	72.40	39.42	Yes	No
41 *	6179782 dtd. 21- 12-2019	INBOM 4	Fipronil Technical 95% Min	-	85	84.5	71.90	71.90	121.51	Yes	No
42 *	6270998 dtd. 28- 12-2019	INBOM 4	Fipronil Technical 95% Min	-	83	83.3	71.90	71.90	23.96	Yes	No
43 *	6346321 dtd. 4-1-	INBOM 4	Fipronil Technical 95%	-	84	84.3	72.15	72.15	97.32	Yes	No

	2020		Min								
44 *	6711210 dtd. 31-1- 2020	INNSA1	Chlorpyrifos Technical 97.00%W/W Min	-	9	8.95	71.65	71.65	130.90	Yes	No
45 *	7230229 dtd. 13-3- 2020	INBOM 4	Imidacloprid Technical 95% W/W Min	-	31	30.5	74.25	74.25	113.23	Yes	No
46 *	7265080 dtd. 17-3- 2020	INNSA1	Fipronil Technical 95% Min	-	133	133	74.25	74.25	197.51	Yes	No
47 *	7311146 dtd. 20-3- 2020	INNSA1	Chlorpyrifos Technical 97.00%W/W Min	-	8.1	8.1	75.75	75.75	134.99	Yes	No
48 *	7554723 dtd. 30-4- 2020	INNSA1	Chlorpyrifos Technical 97.00% W/W Min	-	8.1	8.1	77.65	77.65	121.25	Yes	No
			Chlorpyrifos Technical 97.00% W/W	-	8.1	8.1	77.65	77.65	138.37	Yes	No

			Min								
49 *	7631673 dtd. 11-5- 2020	INNSA1	Emamectine Benzoate Technical 95.00% W/W Min	-	130	130	76.70	76.70	398.84	Yes	No
50 *	7637353 dtd. 11-5- 2020	INNSA1	Glyphosate Technical 95.00% W/W Min	-	3.9	3.85	76.70	76.70	106.31	Yes	No
			Paraquat Dichloride Technical 42% W/W Min	-	3.5	3.5	76.70	76.70	94.49	Yes	No
51 *	7895088 dtd. 12-6- 2020	INNSA1	Chlorpyrifos Technical 97.00%W/W Min	-	7.8	7.75	76.45	76.45	106.65	Yes	No
52 *	8034910 dtd. 29-6- 2020	INNSA1	Emamectin Benzoate Technical	-	124	124	77.05	77.05	143.31	Yes	No

			95.00% W/W Min								
			Glyphosate Technical 95.00% W/W Min	-	3.9	3.85	77.05	77.05	29.66	Yes	No
			Paraquat Dichloride Technical 42% W/W Min	-	3.5	3.5	77.05	77.05	47.46	Yes	No
53 *	8101058 dtd. 7-7- 2020	INNSA1	Chlorpyrifos Technical 97.00% W/W Min	-	7.8	7.8	76.40	76.40	286.04	Yes	No
54 *	8171258 dtd. 14-7- 2020	INNSA1	Lambda Cyhalothrin Technical 84.00% W/W Min	-	34	34	76.40	76.40	207.81	Yes	No
55	8302148	INNSA1	Glyphosate	-	4.1	4.1	76.10	76.10	49.92	Yes	No

*	dtd. 28-7-2020		Technical 95.00% W/W Min								
		INNSA1	Imidacloprid Technical 95% W/W Min	-	28	28	76.10	76.10	127.85	Yes	No
Total							8079.16	9767.66	3026.02		

***MIL had uploaded forged Certificates of Registration in respect of Bills of Entry from serial no. 17 to 55. There is no evidence of mis-declaration in the said Bills of Entry and therefore no redetermination of value is done in these Bills of Entry.**

1.49. In view of the above, it appears that M/s Modern Insecticides Limited has contravened the following provisions:

- i. Section 11(1) of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11 and 14 of the Foreign Trade (Regulation) Rules 1993**, since M/s Modern Insecticides Limited forged the mandatory certificate of registration for import of various insecticides and also mis-declared the contents during the imports. Further, they deliberately mis-declared goods while exporting to fulfil their export obligations under the EOU Scheme.
- ii. Para 6.01 (d) of The Foreign Trade Policy, 2015-2020 read with Customs Notification No. 52/2003-cus dated 31.03.2003**, as M/s Modern Insecticides Limited forged the mandatory certificate of registration for import of various insecticides and also mis-declared the contents during imports.
- iii. Section 9 (1), Section 13 (4), Section 17 (1), Section 17 (2) of the Insecticides Act, 1968**, since M/s Modern Insecticides Limited forged the mandatory certificate of registration for import of various insecticides by changing the issuance date of the same and also mis-declared the contents during the imports. Further, they imported insecticides for which they did not have the license to import.
- iv. Section 14 of the Customs Act, 1962**, since, Modern Insecticides Limited deliberately mis-declared the value of imported goods in the bill of entry by mis-declaring their description.
- v. Section 46 (4) of the Customs Act, 1962**, M/s Modern Insecticides Limited forged the mandatory certificate of registration for import of various insecticides. These forged documents were used for filing Bills of Entry before the Customs for clearance of these goods. Also, contents of 16 Bills of Entry were mis-declared by way of mis-declaring the description.
- vi. Condition No. 3 of commitments undertaken under B-17 bond specified vide notification No. 1/2018-C.E. (N.T.), dated 5-12-2018**, since M/s Modern Insecticides Limited forged the mandatory certificate of registration for import of various insecticides and also mis-declared the contents during the import violating Section 46 (4) of Customs Act, 1962.

1.50. The 430.12 MTs of goods imported by M/s Modern Insecticides Limited vide 39 bills of entry, as mentioned in Annexure-A, are liable to confiscation under Section 111(d) of the Customs Act, 1962, for forging of certificate of registration, as discussed above.

- 1.51.** The 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B, are liable to confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, for misdeclaration of the description and the value of goods, as discussed above.
- 1.52.** The 599.62 MTs of goods imported by M/s Modern Insecticides Limited vide the 55 Bills of Entry as mentioned in Annexure-C by means of forging of the CIB registration certificates and/or misdeclaration of the description, have already been cleared in the past. Thus, the importer has evaded the duty on these past imports by reason of wilful mis-statement and suppression of facts as they have forged the certificates used for the importation and/or mis-declared the description of the goods. Accordingly, the unpaid duty is recoverable from the importer by invoking the extendable period under Section 28 (4) of the Customs Act, 1962 and the B-17 bond furnished by them at the time of importation.

ROLE PLAYED BY VARIOUS PERSONS

1.53. ROLE OF SHRI CHARANJIT SINGH AND SHRI AVTAR SINGH: -

- i.** Shri Charanjit Singh and Shri Avtar Singh were the Directors of M/s Modern Insecticides Limited during the relevant period and, thus, played a key role in putting the modus operandi of import through forged RC's along with misdeclaration of insecticides to subsequent diversion into the local market and forging Shipping Bills to show export of their obligation under EOU scheme, in place.
- ii.** They were managing the day-to-day affairs of whole business activities run through firms viz. M/s Agri Ventures, FZE, Dubai, UAE and Modern Insecticides Limited, India.
- iii.** They were responsible for placing orders with the overseas suppliers and the import/export in Dubai and India. They deliberately forged the Certificates of Registration required for the import of insecticides, so as to import insecticides even after the actual certificates had expired.
- iv.** Smt. Poonam Yadav during her statement mentioned that she used to answer to Shri Daljeet Singh, the then Director of Modern Insecticides Limited. Further, she informed that all import related documents such as invoice, packing list, Certificate of Analysis (COA), BL and Certificates of Registration etc were forwarded to the CHA for customs clearance on the directions from Shri. Charanjit Singh and Shri. Avtar Singh. Shri. Charanjit Singh and Shri. Avtar Singh used to take all the decisions of the company.
- v.** Shri Lal Chand Gupta in his statement, inter-alia, stated that Shri Amandeep Singh is the current director of Modern Insecticides, but Shri. Charanjit Singh and Shri Avtar Singh are the biggest

shareholders in the company and still control the operations and make the important decisions for Modern Insecticides Limited.

- vi.** They were instrumental in the evasion of duty by suppressing/deliberately mis-stating the actual description and value of the goods. The actual description of the goods has been ascertained from various forensic evidences retrieved during investigation.
- vii.** The description and value of the goods had been mis-declared, and the goods imported do not correspond in respect of value with the declaration made in the Bills of Entry filed by the said importer. Further, in terms of Section 46 (4) of the Customs Act, 1962, it is mandatory for the importer to make and subscribe to a declaration as to the truth of the contents of the bill of entry being presented. Further, in terms of Section 17 of the Customs Act, 1962, it is mandatory for the importer to correctly self-assess the duty. Accordingly, it was obligatory on the part of M/s Modern Insecticides Limited to have correctly declared the description and value of the goods at the time of import. However, it appears that they had failed to ensure that the correct description and value of the goods had been declared and this omission on the part of the importer also appears to have rendered the goods liable to confiscation.
- viii.** The act of deliberate mis-declaration on the part of Modern Insecticides Limited by manipulating the description and values in the invoices issued by the suppliers appears to have rendered the said goods imported by M/s Modern Insecticides Limited liable to confiscation under Section 111(d), 111(l) and 111(m) of the Customs Act, 1962.
- ix.** Shri Charanjit Singh along with Shri Avtar Singh, were instrumental in deliberately mis-stating the description and value of the goods imported by M/s Modern Insecticides Limited. Consequently, in relation to the said goods imported and exported by M/s Modern Insecticides Limited, Shri Charanjit Singh along with Shri Avtar Singh appear to have rendered themselves liable to penalty under Section 112 (a) of the Customs Act, 1962.
- x.** Further, through forensic evidence gathered from the phone of Shri Avtar Singh and his own admission in his statement dated 08.04.2024, it is deduced that Shri Avtar Singh was very well aware of the fact that the goods being exported by M/s Modern Insecticides Limited were being mis-declared as insecticides, while the actual export goods were Sulphur. Modern Insecticides Limited being a 100% EOU has to fulfil its export obligation. As per the Manufacture License of M/s Modern Insecticides Limited, Modern Insecticides Limited is obligated to export 100% of its production/imported material. Further, the license obtained from CIB mentions that the imports are to be made for exports only. Therefore, in order to fulfil its export obligation, Modern Insecticides Limited, mis-declared the Sulphur as various insecticides in the Shipping

Bills. Shri Avtar Singh and Shri Charanjit Singh, being the Directors in the relevant period were aware of this modus operandi and deliberately participated in it to fulfil the conditions of the EOU Scheme. They have been accepted in their respective replies, that they were part of the whatsapp group, where discussions in relation to import and export took place.

- xi.** Further, Shri Charanjit Singh along with Shri Avtar Singh in relation to the goods imported in the name of M/s Modern Insecticides Limited always knew that the documents and the declarations submitted under the respective Bills of Entry were false or incorrect in their material particulars. Shri Charanjit Singh along with Shri Avtar Singh had knowingly made false or incorrect declarations in relation to the consignments imported vide the said Bills of Entry. Consequently, Shri Charanjit Singh along with Shri Avtar Singh appear to have also rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.
- xii.** During investigation of the live Consignments of MIL, summons dated 05.10.2020, 16.10.2020 and 26.10.2020 were issued to Shri. Avtar Singh and Shri. Charanjit Singh by SIIB (Import), JNCH directing them to appear for producing some documents related to the case and for tendering evidence. However, neither of them appeared in response to these summonses. When the investigation was taken over by DRI, MZU summons dated 21.09.2021 were again issued to Shri. Avtar Singh and Shri. Charanjit Singh directing them to appear before this office. In response, Shri Charanjit Singh vide letter dated 27.09.2021 mentioned that he had been living in Dubai since last two years and requested for a questionnaire to be sent to him. Accordingly, a questionnaire addressed to Shri Charanjit Singh, was sent on 03.09.2021. However, the questionnaire was not responded and no one attended office in respect of the summons issued. Therefore, keeping in view of the time limit prescribed under Section 110 (2) of the Customs Act, 1962 a Show Cause Notice (SCN) under Section 124 of the Customs Act, 1962 proposing, inter-alia, confiscation of the seized goods covered under the above mentioned 3 live Bills of Entry, and penalty on account of the said mis-declarations and the forging of Certificate of Registration, was issued
- xiii.** Further summons dated 04.09.2023, 30.10.2023, 11.12.2023 were issued to Shri. Avtar Singh and Shri. Charanjit Singh to record their statements and to confront them with the available evidence against them in respect of past imports and exports. However, neither Charanjit Singh nor Avtar Singh appeared before the summoning officer. Further, vide email dated 18.12.2023, Shri Charanjit Singh replied that he and his family have permanently shifted to Dubai and requested that questions may be e-mailed to them. However, it appeared that, the same tactic as used in the case of previous summons issued in 2021 was being used by Shri Charanjit Singh to delay the investigation. Therefore, it appeared that multiple chances were given to Shri Avtar

Singh and Shri Charanjit Singh to be personally heard and to record their statement, yet they deliberately chose to not co-operate with the investigation. It was observed that Shri Avtar Singh and Shri Charanjit Singh always replied to the summons on a day close to their date of appearance as mentioned in the summons, expressing their inability to attend the investigation, implying that they have deliberately delayed the investigation.

- xiv. Shri Avtar Singh accepted in his statement dated 06.08.2024 and 08.04.2024 about his and Shri Charanjit Singh's involvement in forgery of Certificates of Registration used during import of insecticides and in misdeclaration of documents for imports.

1.54. SHRI DALJEET SINGH: -

During the investigation it came to light that although Daljeet Singh was the Director of MIL and looked after the operations in India, the main persons who controlled all the operations in MIL were Shri Avtar Singh and Shri Charanjit Singh. Further, it is to mention that vide letter dated 14.08.2021, Modern Insecticides Limited informed that Shri Daljeet Singh had expired in 2020.

1.55. SUMMARY OF THE INVESTIGATION

- i. Modern Insecticides Limited is involved in importing insecticides from M/s Agri Ventures, FZE, Dubai, UAE.
- ii. Shri Charanjit Singh and Shri Avtar Singh who were the Directors of Modern Insecticides Limited and currently still are the beneficial owner of M/s Modern Insecticides Limited (IEC No. 3002004855) imported 5,99,616 Kilograms of insecticides through 55 Bills of Entry.
- iii. On the basis of the evidences gathered during the course of investigation, it is evident that the certificates of Registration issued by Central Insecticides Board, had been forged in order to circumvent the procedure for extension of the validity period of the certificates. Thus, the insecticides imported using the forged Certificates of Registrations were actually smuggled by the Modern Insecticides Limited.
- iv. Further, during forensic data analysis of an apple phone belonging to Shri Avtar Singh, it came to light that Modern Insecticides was also involved in mis-declaring the description and value of the goods during import. Modern Insecticides Limited smuggled various insecticides for which it did not have a valid registration certificate in order to circumvent the requirement for obtaining the certificate of registration for import and manufacture thereof.
- v. Also, from the forensic data analysis of mobile phone belonging to Shri Avtar Singh, it appeared that Modern Insecticides Limited had exported Sulphur under the guise of various insecticides.

Modern Insecticides being an EOU had to fulfil its export obligation and, thus, it appeared that Modern Insecticides Limited tried to fulfil their export obligation by exporting Sulphur instead of the required insecticides.

- vi.** Smt. Poonam Yadav during her statement mentioned that she used to answer to Shri Daljeet Singh, the then chairman of Modern Insecticides Limited. Further, she informed that all import related documents such as invoice, packing list, Certificate of Analysis (COA), BL and Certificates of Registration etc forwarded to the CHA for customs clearance on the directions from Shri. Charanjit Singh and Shri. Avtar Singh. Shri. Charanjit Singh and Shri. Avtar Singh used to take all the decisions of the company.
- vii.** Shri Lal Chand Gupta, in his statement, inter-alia, stated that Shri Amandeep Singh is the current director of Modern Insecticides, but Charanjit Singh and Shri Avtar Singh are the biggest shareholders in the company and still control the operations and make the important decisions for Modern Insecticides Limited.

1.56. Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962, M/s. Modern Insecticides Ltd. (IEC No. 3002004855) was called upon to Show Cause to the Pr. Commissioner /Commissioner of Customs, NS-I, JNCH, as to why: -

- i.** The 430.12 MTs of goods imported by M/s Modern Insecticides Limited vide 39 bills of entry, as mentioned in Annexure-A, should not be held liable for confiscation under Section 111(d) of the Customs Act, 1962, for forging of certificate of registration, as discussed above.
- ii.** The 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B, should not be held liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, for misdeclaration of the description and the value of goods, as discussed above.
- iii.** The classification of the goods mentioned in Bill of Entry No. 6293868 dated 30-12-2019 imported by M/s Modern Insecticides Limited mentioned as 38089990 under CTH as 38089330 for misdeclaration of the description and, thereby, classification, as discussed at para 2.30.
- iv.** The declared assessable value of Rs. 35,58,39,625/- of the goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B, should not be rejected and the same should not be re-determined as Rs. 52,46,89,086/- as mentioned in Annexure-B under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, for misdeclaration of the description and thereby value, as tabulated in table E.

- v. Customs duty amounting to Rs. 30,26,01,992/- in respect of imports by M/s Modern Insecticides Limited against EoU status, vide 55 bills of entry, as detailed in Annexures – C, should not be demanded under Section 28 (4) of the Customs Act, 1962 read with the B-17 bond submitted by them along with appropriate interest under the provisions of Section 28AA of the Customs Act, 1962.
- vi. Penalty under Section 112(a) of the Customs Act, 1962 should not be imposed on M/s Modern Insecticides Limited, for importing prohibited goods by forging of certificate of registration, as mentioned in Annexure-A and for mis-declaring description & value of imported goods, as mentioned in Annexure-B.
- vii. Penalty under Section 114A of the Customs Act, 1962 should not be imposed on M/s Modern Insecticides Limited, for non-levy of duty on imported goods, as mentioned in Annexure-C.
- viii. Penalty under Section 114AA and 112 (a) of the Customs Act, 1962 should not be imposed on Shri. Avtar Singh, the then Director of M/s Modern Insecticides Limited, mis-declaring description & value of imported goods, as mentioned in Annexure-B.
- ix. Penalty under Section 114AA and 112 (a) of the Customs Act, 1962 should not be imposed on Shri. Charanjit Singh, the then Director of M/s Modern Insecticides Limited, mis-declaring description & value of imported goods, as mentioned in Annexure-B.
- x. The above liabilities should not be liable to recovered under Section 143(3) of the Customs Act, 1962 by enforcing the bond executed by M/s Modern Insecticides Limited, for violating the EoU obligations, without prejudice to the other options for recovery. The same may be appropriated towards the liabilities mentioned.

2. WRITTEN SUBMISSIONS

- 2.1. M/s Modern Insecticides Limited has made written submissions dated May, 2025 which are as follows:-
- 2.2. At the outset, the noticee M/s MIL deny each and every allegation leveled in the impugned show cause notice against them as the impugned show cause notice has been issued without sufficient and cogent enquiry establishing the alleged mis-declaration of description of goods under past imports and also their value.

"Challenge to the Admissibility, Authenticity, and Evidentiary Value of the Alleged Electronic Evidence and Confessional Statements"

- 2.3.** Without prejudice to any other submissions, it is most respectfully submitted that the reliance placed by the department on the so-called electronic evidence, purportedly retrieved from the mobile handset allegedly belonging to the noticee, is wholly untenable, both in law and on facts. The very foundation of reliance upon the mobile data, including images and other contents, stands vitiated in view of serious legal infirmities which go to the root of admissibility of such electronic evidence.
- 2.4.** At the very outset, it is submitted that the department has failed to comply with the mandatory requirements of Section 65B of the Indian Evidence Act, 1872, which governs the admissibility of electronic records in judicial and quasi-judicial proceedings. No valid certificate under Section 65B (4), containing the requisite particulars, such as particulars of device, manner of copying, date and time of generation of electronic record, and declaration of authenticity, has been placed on record by the department. In the absence of such certification, the entire electronic evidence becomes inadmissible in light of the binding ratio laid down by the Hon'ble Supreme Court in *Anvar P.V. vs. P.K. Basheer* [(2014) 10 SCC 473] and reiterated in *Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal* [(2020) 7 SCC 1]. It is trite law that non-compliance of Section 65B conditions renders any electronic record wholly inadmissible and incapable of being relied upon.
- 2.5.** Furthermore, it is an admitted position that the department has not produced any certified forensic report from any authorized examiner of electronic evidence duly notified under Section 79A of the Information Technology Act, 2000. The data was neither extracted, preserved, nor analyzed through a certified process or under the supervision of any competent forensic authority. The so-called "working copy" of the data, allegedly shared inter-departmentally between different customs formations, does not meet the legal requirement of integrity and evidentiary sanctity. The possibility of manipulation, tampering, or interpolation of data cannot be ruled out, particularly in the absence of preservation of hash values, imaging logs, and certified forensic records.
- 2.6.** Additionally, the chain of custody of the seized phone and its data stands completely unsubstantiated on record. The seizure, transfer, extraction, and sharing of data have not been documented through any independent witnesses, panchnamas, or contemporaneous records, raising serious doubts over the authenticity and credibility of the evidence sought to be relied upon. The settled legal position is that the prosecution must establish an unbroken and credible chain of custody to eliminate all scope of doubt or interpolation, failing which the evidence cannot be sustained in law.
- 2.7.** It is further submitted that mere alleged admission by the noticee during the course of recording of statement, allegedly admitting to the presence of certain images on the phone, cannot by itself cure the gross legal deficiencies surrounding the collection, preservation, and certification of electronic evidence. The evidentiary value of such alleged admission is extremely limited in light of the Hon'ble

Supreme Court's judgment in Tofan Singh vs. State of Tamil Nadu [(2020) 9 SCC 497] and Selvi vs. State of Karnataka [(2010) 7 SCC 263] which recognize that confessions recorded by officers not are not substantive evidence, particularly when not corroborated by independently admissible primary evidence. Moreover, the statement itself appears to have been obtained in circumstances lacking voluntariness and free will, rendering it further unreliable.

- 2.8.** In these facts and circumstances, it is most respectfully submitted that the reliance placed by the department on such inadmissible, uncertified, and procedurally flawed electronic evidence deserves to be wholly discarded. The entire proceedings, having been initiated on the basis of such legally infirm material, are liable to be set aside in the interest of justice, fairness, and adherence to the mandatory legal standards governing evidentiary procedure.
- 2.9.** In addition to the foregoing submissions, it is respectfully submitted that even otherwise, the department's reliance on the so-called digital evidence suffers from serious infirmities, inconsistencies, and procedural lapses which directly affect its credibility, veracity, and admissibility. As per the record, the office of the Principal Commissioner, vide its letter dated 05.02.2021, has itself admitted that the data retrieved from the server and electronic gadgets seized during the search were copied into a separate hard disc, which was thereafter sent via courier for further action. The very act of transferring sensitive electronic data through an ordinary courier service, without any authenticated forensic sealing, secure chain of custody, or independent supervision, gravely compromises the integrity of the electronic record. There is no record on file establishing that the data remained free from tampering, manipulation, or unauthorized access during this transfer, making the entire electronic evidence highly susceptible to challenge for lack of evidentiary sanctity.
- 2.10.** Further, it is pertinent to submit that the department has not supplied a copy of the panchnama drawn during the search proceedings as part of the Relied Upon Documents (RUDs), depriving the noticee of his right to verify the circumstances, procedure, and manner in which the devices were seized, accessed, and handled. The non-supply of panchnama, which forms the very basis of the seizure, constitutes a grave violation of principles of natural justice, as the noticee is completely incapacitated to verify whether the data attributed to him was actually recovered in the manner alleged.
- 2.11.** It is also relevant that while copies of the Show Cause Notice (SCN) issued by the DRI Noida Zonal Unit in respect of certain live consignments have been included in the RUDs, the annexures to the said SCN which admittedly contain numerous attached documents have not been furnished. The absence of these annexures renders the SCN incomplete for adjudication purposes and denies the noticee a complete opportunity to contest the allegations based on full material facts.

- 2.12.** Most crucially, it is submitted that the SCN in the present proceedings, while making generalized reference to certain digital evidence, does not furnish any specific independent detail of the recovered data from the devices seized. The only reference to any purported digital evidence is contained in the statements recorded under Section 108 of the Customs Act, which are marked as RUD 18-19. A bare perusal of the said statements reveals that the witness, Avtar Singh who is aged above 80 years, completely illiterate, unable to read or write in either Hindi or English, and incapable of even affixing his signature was made to affix his thumb impression on the typed statements prepared by the officers. The so-called admission attributed to him that he was shown the forensic report extracted from his iPhone and confirmed that the data belonged to his phone was neither voluntarily made nor made with any understanding of its contents or legal implications. The statement further records that an individual named Lal Chand Gupta, who was merely a clerk or accountant, is alleged to have explained the contents of the forensic report to Avtar Singh in Hindi and Punjabi. However, no record exists to establish that Lal Chand Gupta himself had any knowledge of the technical forensic contents or was competent to explain the complex digital extraction to the noticee. It is manifest that both Avtar Singh and Lal Chand Gupta lacked the legal or technical competence to comprehend the purported forensic findings, and their role was reduced to merely facilitating signatures or thumb impressions at the instance of the investigating officers.
- 2.13.** Moreover, there is no evidence to suggest that the said statements were read over, explained properly, or voluntarily affirmed by the noticee after full comprehension, as mandated under law. The entire process of statement recording stands vitiated by coercion, procedural impropriety, and violation of the rights of the noticee. In view of these glaring infirmities, procedural violations, and material concealments, it is respectfully submitted that the alleged electronic evidence and the related statements are wholly unworthy of credence and cannot form the basis of any adverse finding or penal consequence against the noticee.

Prejudicial investigation with dubious motive:

- 2.14.** Continuing further, it is respectfully submitted that in order to overcome the lack of evidence and in absence of any material record establishing the alleged irregularities, the department has wrongly and deliberately shifted the entire onus of responsibility upon Shri Avtar Singh and Shri Charanjit Singh. This approach is wholly erroneous, unjustified and contrary to the factual position emerging from the record itself. As is clearly evident from the various statements and documents, the entire Indian operations including business transactions, documentation, statutory compliances, and negotiations were being handled exclusively by late Shri Daljit Singh Gujral. Shri Avtar Singh and Shri Charanjit Singh were both stationed in Dubai and had no direct involvement in the operational or regulatory affairs of the Indian entity. The unfortunate demise of Shri Daljit Singh, who was the person best

positioned to explain and clarify the true nature of the transactions, has been conveniently exploited by the department to shift the responsibility upon individuals who had no effective control or operational role in the affairs within India.

- 2.15.** This prejudicial shifting of liability is further demonstrated from the very statements relied upon by the department itself. In particular, Ms. Poonam Yadav, whose statements form the primary basis of the department's case, has made contradictory and irreconcilable assertions. In her initial statement dated 27.01.2021, she unequivocally stated in response to Question No. 14 that the work relating to CIB and RC was being handled by Shri Daljit Singh. In reply to Question No. 15, she specifically admitted that all negotiations and dealings with foreign suppliers were conducted by Shri Daljit Singh Gujral. Similarly, in Question No. 16, she stated that export orders were also being directly received and processed by Shri Daljit Singh Gujral, and in Question No. 17, she confirmed that all decisions were conveyed to her only through Shri Daljit Singh. She also clearly stated that all relevant documents were maintained in the personal custody of Shri Daljit Singh. Thus, her initial statement unambiguously attributes the control and management of all key operations to Shri Daljit Singh.
- 2.16.** However, in her subsequent statement dated 28.01.2021, without any plausible explanation or emergence of new facts, she completely shifts the entire onus upon Shri Avtar Singh and Shri Charanjit Singh, both of whom were located abroad. This sharp contradiction within a span of merely one day, and without any intervening developments, clearly reflects tutoring, inducement, and external influence exercised upon her during the course of investigation. The department's conscious omission to confront the role of Shri Daljit Singh, and deliberate effort to shift blame upon individuals stationed outside India, who had no direct participation in the Indian business operations, demonstrates the biased and mala fide nature of the investigation.
- 2.17.** Further, Ms. Poonam Yadav herself disclosed in her statement that Ms. Mandeep Kaur was functioning as the marketing manager for international markets. Despite this specific disclosure, the department has not examined or interrogated Ms. Mandeep Kaur, even though the present allegations concern both domestic and international transactions. This selective investigation, where relevant witnesses are deliberately excluded, further exposes the motivated nature of the departmental proceedings.
- 2.18.** Moreover, Ms. Poonam Yadav, while submitting certain inward outward registers received by her through email from one Mr. Pandey, has herself expressed uncertainty and lack of knowledge regarding any diversion or irregularity. She has categorically stated that she had only doubts but no concrete knowledge about any diversions. Her repeated assertions reflect that she neither had independent knowledge of the alleged diversions nor could she confirm any of the allegations attributed by the department. Her ultimate statement that she worked on the instructions of Shri Avtar

Singh and Shri Charanjit Singh appears to be a mere afterthought and interpolation introduced at the instance of the investigating officers to suit the departmental narrative, without any supporting documentary or transactional evidence.

- 2.19.** Furthermore, while alleging misdeclaration and diversion of goods, the department has failed to produce any documentary proof from movement registers, transportation records or logistics documents to substantiate its claims. Despite having full access to complete movement records, no evidence has been brought on record establishing any nexus between the alleged misdeclarations and actual movement of goods into the domestic market. The entire case is thus built solely on unverified, contradictory statements and speculative assumptions, devoid of any substantive material or corroborative evidence.
- 2.20.** In light of these glaring inconsistencies, contradictions, and the prejudicial approach adopted by the department, it is most respectfully submitted that the entire proceedings initiated on the basis of such unreliable, tutored and uncorroborated statements are vitiated in law, devoid of evidentiary value, and liable to be set aside in the interest of justice.

The real statement has been misinterpreted to accommodate the case:

- 2.21.** It is further respectfully submitted that the department's reliance on the statements of Shri Charanjit Singh and Shri Avtar Singh is misplaced and legally unsustainable. In his statement dated 07.05.2024, Shri Charanjit Singh has categorically denied having any knowledge or involvement in respect of the ten certificates of registration or any changes thereto. He has specifically stated that all such regulatory matters and documentation were being exclusively handled by late Shri Daljit Singh, and as such, neither he nor Shri Avtar Singh were privy to or aware of any such aspects. The statement of Shri Charanjit Singh, being clear and unambiguous, completely absolves him and Shri Avtar Singh from any knowledge or participation in the regulatory compliance or documentation process in India.
- 2.22.** Insofar as the statement of Shri Avtar Singh is concerned, it is respectfully submitted that the same cannot be treated as admissible or reliable evidence for the purpose of the present proceedings. Shri Avtar Singh, as repeatedly submitted, is an illiterate person who cannot read or write, is incapable of understanding the content of complex legal or technical documents, and even affixes his thumb impression in place of signature. Any attribution of knowledge or admission made on his behalf, based merely on explanations given by third parties or investigating officers, is not legally admissible. The Hon'ble Supreme Court in multiple decisions has consistently held that statements made by illiterate persons without proper legal representation, and based upon third-party explanations, cannot form the basis for drawing adverse inferences. The alleged admissions attributed to Shri Avtar Singh are thus

inherently unreliable and cannot be accepted as evidence of his knowledge, complicity, or involvement in any of the transactions under investigation.

2.23. Accordingly, in absence of any independent material or credible evidence directly implicating Shri Charanjit Singh or Shri Avtar Singh, the department's attempt to fasten liability upon them is entirely without legal basis and deserves to be rejected.

Selective Omissions and suppression of facts in investigation:

2.24. It is further respectfully submitted that the investigation conducted by the department suffers from serious lapses, suppressions, and selective omissions, which clearly demonstrate its prejudiced approach. In his statement dated 27.10.2023, Shri Lal Chand Gupta has categorically clarified the internal functioning of the company and the persons responsible for various activities. He has specifically stated that Ms. Jyoti Rani was looking after the purchases and procurement-related functions, with Ms. Poonam Yadav working merely as her junior subordinate. Further, as per his statement, the work relating to CIB (Central Insecticides Board) and regulatory compliances was being exclusively handled by Shri Nazim Chaudhari since 2015. Shri Surendra Kumar was overseeing the production activities, while Shri Prashant Kumar was assigned the responsibility of paperwork and documentation.

2.25. Despite these clear disclosures made during the investigation, the department has deliberately failed to record the statements of these key individuals, who were directly responsible for handling the relevant functions and who could have provided complete and accurate facts regarding the conduct of business activities. The omission to examine these material witnesses namely Ms. Jyoti Rani, Shri Nazim Chaudhari, Shri Surendra Kumar, and Shri Prashant Kumar establishes that the department was not interested in conducting a fair and impartial investigation, but was solely focused on building a case against Shri Avtar Singh by selectively targeting him, while deliberately ignoring persons who were directly involved in day-to-day operations.

2.26. The suppression of such critical evidence and failure to confront or examine relevant witnesses, whose roles were clearly identified by Shri Lal Chand Gupta himself, vitiates the entire investigation and makes the findings drawn by the department wholly unreliable. This selective, prejudiced, and one-sided investigation clearly reflects the department's mala fide intention to shift blame onto Shri Avtar Singh, who had no involvement in the functional, regulatory, or operational aspects of the business in India.

Submissions on non-supply of Rud 15 and Rud 16 violation of principles of natural justice

- 2.27. It is respectfully submitted that upon perusal of para 2.18 of the Show Cause Notice, it is evident that the department has made certain assertions and calculations by relying upon documents referred to as RUD 15 and RUD 16. However, these relied upon documents have not been supplied to the noticee along with the Show Cause Notice or at any subsequent stage. The absence of these material documents prevents the noticee from properly understanding the nature of allegations, examining the basis of calculations, and effectively rebutting the claims made in the notice. This constitutes a gross violation of the fundamental principles of natural justice and fair adjudication.
- 2.28. Even otherwise, a bare reading of para 2.18 shows that the department has referred to imports made from two distinct customs jurisdictions, namely INNSA1 and INBOM4, and appears to have carried out certain calculations based on these imports. The mention of different jurisdictions and computations arising therefrom has no direct bearing upon the core allegations levelled against the noticee and is entirely unnecessary and irrelevant for the present adjudication. However, since the department has chosen to refer to these transactions and calculations as part of its reasoning, it becomes all the more critical for the noticee to be provided with complete copies of RUD 15 and RUD 16 to enable a full and proper response on the factual assertions being made.
- 2.29. Accordingly, it is most respectfully requested that copies of RUD 15 and RUD 16 may be furnished to the noticee at the earliest, so that specific and detailed comments, if any, may be submitted upon examination of the said documents.

Lack of jurisdiction demand is unsustainable

- 2.30. Without prejudice to the foregoing submissions, it is further respectfully submitted that the department, while issuing the present Show Cause Notice, has purportedly included imports falling under two separate customs jurisdictions, namely INNSA1 and INBOM4. The imports relating to these distinct customs locations fall under the jurisdictional control of different Commissionerates as notified under the Customs Act, 1962. The issuance of a consolidated Show Cause Notice, by a single formation without jurisdiction over such distinct ports and customs houses, is ex facie illegal and without lawful authority.
- 2.31. It is a settled legal principle that each customs formation exercises independent jurisdiction over imports and exports cleared under its respective territorial control. Any proposed demand or allegation of misdeclaration or duty short-levy concerning imports cleared through a different customs jurisdiction must necessarily be initiated and adjudicated by the competent Commissionerate having territorial jurisdiction over such clearances. In absence thereof, the entire demand raised by the present notice, insofar as it pertains to imports falling outside the territorial jurisdiction of the issuing authority, is without jurisdiction, void ab initio, and legally unsustainable.

2.32. Accordingly, the entire proceedings initiated on the basis of such jurisdictionally defective demand are liable to be set aside on this ground alone.

Inadmissibility of images referred to in para 2.23 and evident manipulation in the investigation

2.33. It is further respectfully submitted that para 2.23 of the Show Cause Notice refers to certain images stated to have been recovered from the mobile phone allegedly belonging to Shri Avtar Singh. However, a bare reading of para 2.23 makes it clear that the department has neither identified the nature of these images nor provided any details as to how, when, and under what circumstances these images were sourced. There is no indication in the notice as to which transaction these images pertain to, who generated them, from which email or device they originated, on what date they were created or retrieved, or under whose custody the data remained prior to being examined by the department.

2.34. The complete absence of any forensic certification, metadata details, or source verification renders these images highly questionable and inadmissible in law. The chain of custody of this so-called digital evidence has not been established. The department has failed to demonstrate whether these images are original or fabricated, or whether they were planted or manipulated prior to being introduced into the present proceedings. This serious gap strongly suggests that the said images may have been intentionally created and shared with the noticee at some prior stage as part of a pre-meditated design to implicate him through a planned complaint lodged thereafter for reasons best known to the concerned parties involved.

2.35. Further, the department's consistent failure to examine certain key officials and personnel who were actually handling the important operational, regulatory, and commercial functions of the company despite their roles having been clearly disclosed in various statements, including that of Shri Lal Chand Gupta reflects deliberate suppression of material witnesses and selective investigation. The non-examination of such critical persons and reliance only upon partial, contradictory, and tutored statements indicates a manipulated approach intended solely to castigate Shri Avtar Singh and others while protecting certain individuals who may be truly responsible.

2.36. In view of these serious procedural irregularities, absence of credible source verification, and deliberate investigative omissions, the alleged digital evidence relied upon in para 2.23 is wholly inadmissible, unreliable, and incapable of forming any valid basis for penal proceedings.

Incorrect rejection of contemporary import values referred in para 2.31

2.37. It is further respectfully submitted that the department, while dealing with the valuation aspect in para 2.31 of the Show Cause Notice, has admitted that the values of contemporary imports available on record were lower than the values declared by the noticee. However, instead of accepting these

contemporary import values as relevant for comparison, the department has chosen to disregard the same on the arbitrary ground that these values were on the lower side. The rejection of valid comparable imports on this ground is completely unsustainable, unreasoned, and legally flawed.

- 2.38.** The department has failed to appreciate that if the contemporary imports show a lower assessable value than that declared by the noticee, it does not automatically render the noticee's declaration undervalued or questionable. In fact, the higher declared values by the noticee clearly establish its bonafides and transparency in declaring true transactional values. The possibility that other importers may be indulging in under-invoicing or artificial suppression of invoice values cannot be ruled out, which may explain why their declared values are comparatively lower. The noticee cannot be penalized or doubted merely because its declared prices are higher than others. It is entirely incorrect to presume that the lower values of other importers represent the true market price, while the noticee's declared price represents overvaluation or manipulation.
- 2.39.** The department's rejection of valid contemporaneous import data, simply because it does not support its pre-conceived allegations, demonstrates a wholly biased and one-sided approach, and renders the valuation findings arbitrary and devoid of any legal or factual foundation.
- 2.40.** Accordingly, the attempt to discard the contemporaneous imports without any cogent reasoning or supporting evidence cannot form a valid basis for disturbing the declared transaction value under Section 14 of the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

Unsubstantiated reliance on unverified chat records referred in para 2.33 to 2.37

- 2.41.** It is further respectfully submitted that in paras 2.33 to 2.37 of the Show Cause Notice, the department has sought to rely upon certain chat messages which are alleged to have been extracted from the mobile phone purportedly belonging to Shri Avtar Singh, in an attempt to establish that the exports undertaken by the noticee were misdeclared. However, the entire reliance placed on these chat conversations is completely misconceived, speculative, and devoid of any evidentiary sanctity.
- 2.42.** The department has neither identified nor examined the persons with whom these chats were allegedly exchanged. No effort has been made to summon, interrogate, or record the statements of the concerned individuals to verify the contents, context, or authenticity of these conversations. In absence of examination of these parties, it cannot be ascertained whether these chats were genuine, manipulated, incomplete, or even whether they pertain to any actual transaction. The failure of the department to confront and examine the alleged senders or recipients of these chats raises serious doubt about the credibility and admissibility of such evidence.

- 2.43. Furthermore, the alleged chat records are not corroborated by any independent or contemporaneous evidence, either in the form of port side records, cargo examination reports, or mail communications which could establish any act of misdeclaration or diversion of goods. The absence of any such corroborative evidence directly from customs port clearance documents or shipment records further weakens the department's case. The entire premise of misdeclaration is thus built on unverified digital material which has neither been authenticated as per legal standards nor supported by primary or secondary documentary evidence.
- 2.44. The manner in which the department has selectively relied upon these unverified chats, without completing basic investigative procedures, strongly suggests that these records may have been deliberately manipulated or selectively extracted with the intention to falsely implicate the noticee, for reasons best known to certain interested parties.
- 2.45. Accordingly, the charges of misdeclaration are emphatically denied. There exists no legally admissible evidence to support the allegations made, and consequently, any proposal for reversal or denial of export related benefits, duty drawback, or incentives is wholly unwarranted, illegal, and unsustainable in law.

Incorrect invocation of 'prohibited goods' under section 2(33)

- 2.46. It is further respectfully submitted that the allegation of the department that the goods under import qualify as "prohibited goods" merely because certain certificates or registrations were allegedly expired or not extended is completely untenable and without any legal foundation. The statutory definition of "Prohibited Goods" under Section 2(33) of the Customs Act, 1962 requires that such prohibition must exist in law at the time of importation under Customs Act or any other law for the time being in force. An administrative lapse or expiry of a license or registration either contemporaneously or after the import does not convert the goods into prohibited goods in the absence of any specific notification under the Foreign Trade Policy, Customs Act or any other statutory provision which declares such import as prohibited.
- 2.47. The certificates of registration were initially granted, and the imports were undertaken relying upon the permissions available at the relevant time. In any event, even assuming some irregularity, it would at best amount to an alleged contravention of the procedural regulations governing pesticides or chemicals, but not a prohibition attracting the rigorous consequences of prohibited goods under Customs law.
- 2.48. The Hon'ble Supreme Court in Collector of Customs v. Sanjay Chandiram (1996 (83) ELT 530 SC) and Northern Plastics v. Hindustan Photo Films (1997 (91) ELT 502 SC) has categorically held that

procedural lapses or irregularities do not ipso facto render goods prohibited unless the law expressly provides for such consequence. The use of the term "prohibited goods" must be strictly construed and cannot be extended by implication or inference to cover mere irregularities of documentation, registration, or compliance.

2.49. Accordingly, the allegation that the goods are prohibited solely due to alleged expiry of registration is wholly misconceived and unsustainable.

Expiry of registration certificates does not create “prohibited goods”

2.50. Without prejudice to the earlier submissions, it is respectfully reiterated that the insecticides imported by the noticee cannot be branded “prohibited goods” merely because the original Certificate of Registration (CR) reached the end of its initial validity. Under the Insecticides Act, 1968 and Rule 6-B of the Insecticides Rules, 1971, every CR issued for import explicitly remains extendable on a simple request and payment of a nominal fee (₹5,000). The specimen CR relied upon by the Department itself demonstrates this:

- F. No. 12754-FTE/9(3)/2020 (CIR-(FTE)-13398/2020(420)-Emamectin Benzoate, 95 % w/w min.) expressly records that “Validity of the certificate will be one year from the date of issue” – i.e., 10-07-2020 to 09-07-2021 – yet nowhere declares that import thereafter is banned; on the contrary, it prescribes the straightforward renewal mechanism and stipulates only that the registrant must submit an affidavit and monthly import/export details.
- Public-notice practice and CBIC trade circulars likewise recognize that the registrant may seek endorsement of validity extension at any time, with retrospective effect where justified, without penalty or criminal consequence.

2.51. Thus, at worst, an un-renewed CR constitutes a curable procedural lapse. It does not attract any statutory prohibition under Section 17 of the Insecticides Act or any FTP notification, nor does Section 2(33) of the Customs Act enlarge “prohibited goods” to cover such situations: the goods remain import-permitted, subject only to post import compliance.

2.52. Moreover, in at least one instance on record, the noticee actually applied for and obtained the extension without hindrance, underscoring that the licensing authority itself treats expiry as rectifiable rather than as a bar to import. If junior clerical staff inadvertently failed to monitor the renewal docket—and, fearing internal reprimand, made erroneous date entries—such an oversight can never supply the mens rea requisite for confiscation (s. 111 (d)/(m)) or penalty (ss. 112, 114AA).

2.53. Accordingly, expiry or date-mismatch of an otherwise valid, renewable CR cannot convert the insecticides into “prohibited goods”; the Department’s case therefore collapses for want of a foundational statutory prohibition.

It has been wrongly alleged in the impugned show cause notice that the noticee has forged CIB certificates of registration in respect of 39 Bills of Entry, which rendered the imports of 430.12 MTs of goods vide 39 bills of entry liable for confiscation under section 111(d) of the Customs Act, 1962.

2.54. There is no allegation of misdeclaration of the description of imported goods against the said Bills of Entry and therefore in the impugned SCN no re-determination of value has been done against these bills of entry.

2.55. The details of these 39 bills of entry are in Table-C & Table-G. The Table-C has total 53 Bills of entry. There are 39 bills of entry from Sr.1 to 39 in the Table C. The Table-C is at page 07 to 12 of the impugned SCN.

2.56. The same bills of entry are mentioned in Table-G in which these bills of entry are from Sr.17 to 55 as appended below. All the imports are between July 2019 to July 2020. There is a column in the table-G ‘Misdeclaration in the description of insecticides’, from serial no. 17 onwards where it is mentioned as ‘No’. Therefore, it is amply clear that there is no allegation of mis-declaration of the goods under the bills of entry from Sr. no. 17 to 55. For these 39 BE’s the allegation is that the date of registration certificate was forged, on this account the imported goods become prohibited in view of violation of Section 9,13 &17 of the Insecticides Act,1968 read with Foreign Trade Policy. The import has already been taken place and the MIL having consumed the imported goods in their business. It is further alleged that MIL has forged the date of the CIB certificates and have used for importation of the goods, thus the said goods are liable for confiscation under section 111(d) of the Customs Act,1962.

2.57. It is submitted that the notice does not allege that the noticee was not having import certificates issued by the concerned CIB office. What the notice alleges is that the imports were based upon certificates of registration which were forged in order to circumvent the procedure for extension of the validity period of the certificates. This may suggest that the noticee was authorized to import the specified insecticides/raw materials in these certificates. Defect in these certificates was to the extent of their tinkering with dates of issue by the concerned authority. This is an admittedly technical and procedural infraction as evident from the notice itself which says the certificates were allegedly forged to circumvent procedure to extend validity of these certificates. It is also not alleged that validity of these impugned certificates was not extendable. Wrong doing as alleged in the notice at best can be

described as procedural and curable and not one that could render the imports made vide 39 bills of entry unlawful and therefore liable for confiscation under Section 111 (d) of the Customs Act,1962.

2.58. It is hereby submitted that the imported goods were neither prohibited goods nor were they contrary to any imposition for the time being in force. The noticee had the authorization to import the said goods in view of certificates of registration issued by the concerned authority and any infirmity which is curable did not render such imports “prohibited” so as to render them liable to confiscation under the said provisions or under section 111 (m) and 111(l) of the Act as the said goods are not available for determination of identity or description of goods or their value. Any exercise in this regard would be in the realm of presumption and assumption only as is the case in the present notice in the absence of tangible independent corroboration/findings to allege mis-declaration in description of goods and their value. At the outset itself, it is submitted that there is no mis-declaration of the description of the goods. The importer’s duty is to describe the goods and give only the primary facts. The case of the department is the certificates of registration submitted in support of the imports made were forged in the light of difference in dates of issue and dates as found in the said certificates uploaded. Kind attention is drawn to the Rule 6B of the Insecticides Rules, 1971 which has provision for addition, deletion, or alteration etc on the Certificate of Registration including labels, and leaflets and other related activities and as per serial no 1 of the table attached thereunder, endorsement of Extension of Validity of CRs of Bio-pesticides/Insecticides-Fee payable for registration is Rs. 5,000/- only. Above provision makes it clear that the alleged forgery or producing certificates which had different dates of issue is a curable and procedural omission committed out of ignorance on part of dealing officials of the noticee. This makes it evident that the alleged changing of date/forgery in certificates is curable and it is with some confusion or hurrying up the export obligation which led to this curable infirmity in the certificates of registration submitted in support of the imports.

2.59. The notice while alleging forgery in the certificates of registration issued by CIB & RC for importing insecticides by the noticee, has arrived at the said conclusion about the forgery after scrutiny of certificates of registration uploaded on e-sanchit (RUD-15) (para 2.18) and the CRs obtained from CIB & RC vide letter dated 17.12.2020 (RUD-16) (para 2.18). On the alleged forgery of CRs, attention is drawn to the statement dated 27/28.01.2021 of Ms Poonam Yadav where she stated about her duties as office coordinator and further that she forwarded all import related documents such as invoice, certificates of registration etc to the CHA for customs clearance. The notice is silent about any enquiry from the CHA who handled the customs clearance work which included uploading of documents–Certificate of Registrations also. This leaves act of alleged forgery in CRs unresolved and clouded in mystery. Vital is to determine at what stage the alleged forgery or alteration of dates took place and

who is responsible for this. Therefore, in the absence of discreet inquiry, it may not be fair and reasonable to allege that the forgery of CRs was done by MIL.

2.60. It is further submitted that for these 39 BEs there is no allegation of the valuation and the description of the imported goods. The value of the imported goods covered against the 39 Bills of Entry is Rs.3232.95 lacs. The said imported goods have been made liable for confiscation under Section 111 (d) of the Customs Act, 1962 despite the fact that the goods are not physically available. There are judgments in the absence of the goods these should not be confiscated.

2.61. The prohibited goods have been defined under sub section (33) of section 2 of Customs Act, 1962. For an imported goods to be prohibited, these either ought to be prohibited under Customs Act, 1962 or these ought to be prohibition under any other law for the time being in force. The impugned show cause notice does not allege the imported were goods prohibited goods under section 11 of the Customs Act. Section 11 of the Customs Act empowers the Govt. to prohibit any goods for the purpose of importation in India. Since, section 11 of the Customs Act has not been invoked in the impugned SCN, therefore, the imported goods under said 39 BEs are not prohibited under Customs Act, 1962.

2.62. As regarding prohibition under any other law for the time being in force, the SCN has invoked the provisions in its para 2.15 to 2.17 as under-

2.15 The import of any insecticide into India is governed by the Foreign Trade (Development and Regulation) Act, 1992, the Insecticide Act, 1968 and the Customs Act, 1962.

2.16 As per Paragraph 2.02 of the Foreign Trade Policy (RUD - 10) all imported goods shall also be subject to domestic laws, rules, orders, regulations etc. Also, Section 17 of the Insecticides Act, 1968 (RUD - 11) States that any insecticide, except in accordance with the conditions on which it was registered, is prohibited for import and manufacture. Hence, the import of insecticides is restricted.

2.17 As per Section 9 of the Insecticide Act, 1968 (RUD - 12), read with Public Notice vide F. No. 04-01 12022-CIR-I dated 17.02.2022 (RUD 13), import of insecticides mentioned in schedule (RUD - 14) to this Act is allowed only with a valid Certificate of Registration or an Import Permit issued by CIB & RC (Central Insecticide Board & Registration Committee).

2.63. It is incorrect to allege that the noticee had imported insecticides not in accordance with the conditions for which they were registered and therefore prohibited for import as per section 17 of the Insecticides Act, 1968. The notice thus has not violated any of the conditions of registration for import of insecticide issued by CIB & RC nor any such specific allegation is made in the SCN. The validity period is open for extension under Rule 6B of the Insecticides Rules, 1971 which has provision for addition, deletion, or alteration etc on the Certificate of Registration including labels, and leaflets and

other related activities and as per serial no 1 of the table attached thereunder, endorsement of Extension of Validity of CRs of Bio-pesticides/Insecticides –Fee payable for registration (in Rupees Five Thousand Only) Rs.5000/- only. Moreover, Public Notice no. 26-07/2023-CIR-I (Com. No. 129956) dated 25.07.2023 stipulates check list/guideline for validity of extension of certificate of registration u/s 9(3) of Insecticides Act, 1968. Above provision makes it clear that the alleged forgery or producing certificates which had different dates of issue is a curable and procedural omission committed out of ignorance on part of dealing officials of the noticee. This makes it evident that the alleged forgery in certificates is curable and it is with some confusion or hurrying up the export obligation which led to this curable infirmity in the certificates of registration submitted in support of the imports.

2.64. Further, Para 2.16 of the SCN itself mentions that the import of insecticides in this case is restricted. Therefore, the SCN by alleging that the insecticides under import were restricted, can not propose the prohibition and confiscation of the instant imported insecticides. Section 111(d) provides for confiscation of goods in case these are prohibited. Once, the imported goods are not prohibited under the Insecticides Act, these cannot be confiscated under section 111(d) of the Customs Act, 1962. Further, the judgment of Hon'ble Supreme Court in the case of Sheikh Mohd. Omer Vs. CCE-1971 AIR 293 relied upon in para 2.21 in the impugned SCN is not squarely applicable in the facts and circumstance of the instant case as the Hon'ble Apex Court had delivered the verdict in Sheikh Mohd. Omer case(supra) in context to section 3 of the Imports and Exports (Control) Act, 1947 read with 'Import Control Orders 1955' which used three different expressions "prohibiting" "restricting" or "otherwise controlling". Whereas in the instant case, the Section 11(1) of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11 and 14 of the Foreign Trade (Regulation) Rules 1993 as well as Section 9 (1), Section 13 (4), Section 17 (1), Section 17 (2) of the Insecticides Act, 1968 invoked by the SCN refers to only 'Prohibition'.

2.65. The notice also alleges that 430.12 MTs of imports made vide 39 bills of entry as mentioned in Annexure-A, were liable for confiscation under Section 111(d) of the Customs Act, 1962, for forging of certificate of registration, issued by the Insecticide board under the Insecticide Act. It is submitted here that it is not disputed that the registration certificates submitted at the time of imports were duly considered, examined and only thereafter, goods covered vide these 39 bills of entry were given out of charge /clearance. The notice does not allege that the submitted registration certificates were of the other insecticides. The allegation is these were forged with respect to the dates indicated therein. However, the investigation is silent about how and who forged these documents. Merely because, dates in these certificates were found to be different does not ipso facto make these invalid as validity of a license/registration certificate which were in the nature of permits to import specified items. The noticee submits that it is not the case of the department that the RCs submitted at the time of imports

were such that they were invalid for imports of the goods covered in these RCs considering the dates on which these goods were dispatched from the suppliers' end/exporting place. In view of this valid and settled position/ contention, the interpolation in dates has mitigating effect and curable defect, it is humbly submitted that imports so made do not become impermissible or without valid import permits in the form of these alleged forged RCs so as to render them liable for confiscation under section 111(d) of the Act. Question about validity of these alleged RCs came to notice only after the case related to 3 live consignments surfaced, the department proceeded with the past imports and alleged forgery in these certificates with regard to dates as found in the submitted RCs and ones found from e-sanchit /communication from the issuing office. It is submitted that when seen in the light of dates of dispatch from the exporting place or from the date when purchase order were placed, it gets evident that many of imports (sr.no 1,2,3,6,9,13,14,22,23 31 & 32) in these 39 bills of entry were within a period of one month approximately from the dates indicated in CRs. Mostly the import is through sea. When the notice is silent about the dates of dispatches from the exporting country the defect is curable with regard to the date of issue of the certificate, the confiscation of the goods is liable to set aside.

Because 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 Bills of entry, as mentioned in Annexures-B, not liable for confiscation under section 111(d),111(l) and 111(m) of the Customs Act,1962 for mis-declaration of the description and value of goods. as discussed above.

- 2.66. At the outset itself, it is submitted that there is no mis-declaration of the description & value of the of the goods as alleged in the impugned show cause notice. The allegation of mis-declaration and value of the goods against the 16 BE has been detailed in the Table D, E and Image 01&02 in the impugned show cause notice. A data was retrieved from the iPhone of Sh. Avtar Singh which has been taken as Image 01 & 02 in the impugned show cause notice. The mis-declaration of the description of the goods and their value has been alleged on the basis of the Image 01 & 02. The forged certificate of CIB. MIL deny the allegation as explained below.
- 2.67. The importer's duty is to describe the goods with the classification of the goods as per the Customs Tariff Act and give only the primary facts. Accordingly, the importer has done it. There is no allegation mis classification of the imported goods.
- 2.68. It is important to verify the allegations made in the Table C & Table E with the image 01 & 02. The analysis of description of the goods of the 16 BE in the Table C & Table E with the Image 01&02 are detailed below in the table. With regard to mis-declaration of value of goods. A note has been given at foot of the Table-E of the impugned show cause notice, it read as "As mentioned in para 2.29 there was no rationale for the importer to overstate the value of imported goods, Therefore, in respect of the

goods where the value declared by the importer is higher than the contemporaneous value, the same is taken as the redetermined value.” Further the value of the imported goods has been enhanced on the basis of the contemporaneous imports. Thus, the mis-declaration of description of the goods is relying on the Image 01 & 02 and value of the imported goods have been re-determined on the basis of contemporaneous import.

2.69. There are total 17 and 10 entries in the Image 01 & 02 respectively. In these entries there is no mention of the BE to which the imported goods relate. In the absence any specific information it cannot be relied. In the absence any details of BE in the Image 01 & 02, these details of image 01 & 02 cannot be verified BE wise. When the allegation of mis -declaration of the description of the import goods has been made on the basis of data retrieved from the iPhone, it must contain the complete details. The basic must is the number of the bill of entry against which the mis-declaration of the goods have been done. However, the description mentioned in the Image 01 & 02 and the description mentioned in the Bills of Entry a consolidated chart is prepared below with regard to allegation of mis-declaration of the description of the goods and valuation of the goods appended below in the table.

2.70. At the foot of the Table-D “* 14 Bills of entry from Sr. No. 03 to 16 in the above table were also filed after forging of the Certificate of Registration and thus are included in the list of 53 Bills of Entry in Table C above. Bills of Entry at Sr. No 1 and Sr. No. 2 are thus only mis-declared for description but with a valid CR. Therefore, the total Bills of Entry under investigation is 55”.

2.71. These 16 entries have been explained below and in the table also it has been explained entry wise.

(i) The finding in the impugned SCN that the Bills of Entry at Sr. No 1 & 2 are thus only mis-declared the description but with a valid CR. But the value has been re-determined for the BE at Sr.2. In this case the rate has been increased from 3.85\$/Kg to 56 \$/Kg on the basis of contemporaneous import. The rate mentioned in the Image 02 is 5.37\$/Kg Comments 20% TT. The details of the contemporaneous import is absent in the show cause notice. That amount cannot be accepted in the absence of these details and absence of the impugned goods.

(ii) Mis-declaration of the description of the imported goods as per the Image 01, value taken as per the declared value. (Sr.3,4&5)

(iii) For Sr.No.9,10,11 (one insecticide Chlopyrifos Technical 97% W/W Min covered under the BE,12,13 [4 insecticides covered in the BE, For the two Imidacloprid Technical 95% W/W Min, CO 40 (Castor Oil) (Image-02)], 14,15,16 (Image-02). The column in Image-01 ‘Selling to MIL in the name of’ is blank and ‘selling price to Modern’ is blank. There is no mis-declaration of the description of the goods. The department accepted the value as declared in the respective BE.

(iv) There is no evidence of mis-declaration of the description of the imported goods as alleged in the impugned SCN but the value has been increased on the basis of contemporaneous import. The column in Image-01 'Selling to MIL in the name of' is blank and 'selling price to Modern' is blank. There is no RUD for these contemporaneous import in the impugned SCN. For the goods at Sr.6,7,11(One insecticide Lambda Cyhalothrin Technical 84% W/W, from 37\$/KG to 48\$/Kg) covered under the BE Lambda Cyhalothrin Technical 84% W/W, the declared price in the BE is 44\$/Kg but it has been increased to 48\$/Kg on the basis of contemporaneous import. No RUD for this contemporaneous import. Sr. 8 there is an allegation of mis-declaration of the description of the goods and rate increased on the basis of contemporaneous import. The image-01 relied in the impugned SCN, the column in Image-01 'Selling to MIL in the name of' is blank and 'selling price to Modern' is blank. There are two products Lambda Cyhalothrin Technical 84% W/W Min & Bifenthrin Technical 92% W/W min covered against the BE mentioned at Sr.8. Declared rate as per the BE is 37 & 40 \$/kg. Rate increased to 95 & 47.5\$/Kg on the basis of the Mis-declaration of the products and on contemporaneous import for both the insecticides. The Image-01 relied does not mention any name and rate. So, there is no mis-declaration of the imported goods and the rate cannot be increased on the basis of the contemporaneous import. Sr.No.13, there are four insecticides covered, 2 discussed at (ii) for the remaining two, CAB-70 declared rate as per the BE is 30.50 \$/kg. Rate increased to 47.50\$/Kg on the basis of the contemporaneous import for the insecticides. The Image-02 relied does not mention any name. Mis-declaration of the products cannot be alleged. & Imidacloprid Technical 95% W/W Min, declared rate as per the BE is 1.98 \$/kg. Rate increased to 13.29\$/Kg on the basis of the contemporaneous import for the insecticides. The Image-02 relied does not mention any name. Mis-declaration of the products cannot be alleged.

2.72. The column 'port of discharge' in the Image-01 from Sr. No 1 to 6,11&12 is China. For Sr. No. 7 to 10,13 to 15 it is Mundra, Mumbai, Nhava Shiva, Sr. No 16 By Air, Sr. No. 17 Dubai Airport. It is submitted here that in respect of imports, normally the port of discharge is the port where bills of entry have been filed under section 46 of the Act or as indicated in the import documents-airway bill etc. Different ports of discharge in the said Image-01 raise serious question about its reliability and credibility as to its contents for the allegation of mis-declaration of the description of the insecticides and their value. This RUD cannot be relied for its truthfulness. In view of that Image -01 cannot be relied and the allegation of mis-declaration of the description of the insecticides does not survive and liable to set aside.

Because the notice solely relies upon the extract of details obtained from the I-phone, which is not admissible evidence as held by the Hon'ble Court.

2.73. The notice has been issued demanding customs duty in respect of past imports made by the noticee on the basis of extract of details contained in the i-phone of the one of the directors. It has been held in the case of Harvinder Kaur Vs the Assistant of Income Tax (Income Tax Appellate Tribunal, Chandigarh, Bench A, Chandigarh. Date of pronouncement is 01.04.2025, ITA No. 691&692/Chd/223, A.Y 2017-18 & 2018-19). The evidence extracted from an appellant's i-phone is inadmissible for determining liability under the Income Tax Act, unless corroborated by other evidence. However. in the present case, the declared description of the goods in the BE & value of the imports made has been rejected under Customs Act, and their description of the goods & value has been re-determined (both) based upon the inadmissible evidence in the form of extract of details obtained from the i-phone of Shri Avtar Singh, then one of the directors. The department has not chosen to overseas enquiry and the declaration forms submitted at the port of export. There has not been any independent enquiry or concrete and tangible evidence to corroborate the mis-declaration of value and also description of the imports made in the past. It is therefore submitted that rejection and re-determination of declared value of the past imports is not sustainable under the law related to the valuation of the imports under the Customs Act, 1962.

SCN wrongly proposes confiscation of Imported Goods under section 111(d), 111(l) and 111(m) of the Customs Act,1962 for mis- declaration of the description and value of goods (Insecticides).

2.74. The related sub-section 111 are appended below “CONFISCATION OF GOODS AND CONVEYANCES AND IMPOSITION OF PENALTIES SECTION

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

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

(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;

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

2.75. At the outset itself, it is submitted that there is no mis-declaration of the description of the goods. The importer's duty is to describe the goods and give only the primary facts.

2.76. Confiscation provisions under Sections 111 of the Customs Act, 1962 can be pressed into service only in cases where the importer has acted with a mala fide intention, and it is proved beyond doubt that there was mens rea on part of the importer. Bonafide conduct on part of the importer does not entail the goods liable to confiscation. Support for the above proposition is found in the following:

- a. Allseas Marine Contractors S.A. Vs. CC – 2011 (272) ELT 619 (Tri.- Del.);
- b. Sutures India Vs. CC – 2009 (245) ELT 596 (Tri.-Bang); Affirmed by Hon'ble Supreme Court in 2010 (255) ELT A85 (SC)

2.77. Further reliance is placed on the judgment of the Hon'ble CESTAT in Kirti Sales Corpn. Vs. CC – 2008 (232) ELT 151 (Tri.-Del.). The relevant portion of the judgment is extracted below:

“6. We are inclined to accept the case of the Revenue that the goods imported were texturized fabric. However, whether the declaration in the Bill of Entry amounts to ‘misdeclaration’ so as to attract the provisions of Section 111(m) of the Customs Act in a given case depend upon the facts of the case. To constitute ‘misdeclaration’, the declaration must be intentional. Misdeclaration cannot be understood as same as wrong declaration, of course, made bona fide, the possibility of which cannot be ruled out altogether. The question, therefore, is whether the appellant had intentionally and deliberately mis- declared the goods as non-texturized fabric rather than texturized fabric. On this point, we are inclined to accept the case of the appellant that the declaration had been made on the basis of documents supplied by the foreign supplier and there was no intentional or deliberate wrong declaration or misdeclaration on its part so as to attract the mischief of Section 111(m) of the Customs Act.”

2.78. Furthermore, in the case of CC Vs. Maruti Udyog – 2002 (141) ELT 392, the tribunal had observed that where the assessee-importer had given all the details of the goods, he cannot be held guilty of mis-declaration and consequently, the tribunal set aside the confiscation and penalty imposed on the assessee. The important portion of the above said decision is as follows: -

“4. As regards the appeal by the Revenue, we find no merit. The facts in the present case clearly show that there is no mis-declaration on the part of the appellant. Once all the required details of the goods imported are given the party cannot be held

guilty of mis-declaration only for the reason they put forward an untenable claim for exemption from duty. The Commissioner (Appeals) has come to the correct conclusion on this point and it was totally unnecessary on the part of the Revenue to have filed this appeal.”

- 2.79.** The Hon'ble Bombay High Court in CC Vs. Gaurav Enterprises – 2006 (193) ELT 532 (Bom.) went a step ahead and clearly held that declaration with regard to untenable claim for exemption of duty is not a mis-declaration and that as long as there is no willful suppression/mis-declaration by the assessee, it can't be said that it is a case of mis-declaration.
- 2.80.** From the discussion of various case-laws cited above, it is obvious that mere claim to classification does not amount to mis-declaration so long as the description given in the Bill of entry is correct. In the instant case, they had given the description of the imported goods correctly. Also, various supporting documents have been furnished like commercial invoice, packing list, bill of lading, etc., confirming the description of the goods as per the bill of entry and the nature of the goods. No attempt has been made to mis-declare the goods and evade customs duty. Hence, the imported goods are not liable for confiscation under Section 111(m).
- 2.81.** It is hereby submitted that the imported goods were neither prohibited goods nor were contrary to the any imposition for the time being in force. The noticee had the authorisation to import the said goods in view of certificates of registration issued by the concerned authority and any infirmity which is curable did not render such imports “prohibited” so as to render them liable to confiscation under the said provisions or under section 111 (d) and 111(l) of the Act as the said goods are not available for determination of identity or description of goods or their value. Any exercise in this regard would be in the realm of presumption and assumption only as is the case in the present notice in the absence of tangible independent corroboration/findings to allege mis-declaration in description of goods and their value. Further the department relied on the Image-01 does not have the BE to this the data relates, the description of the insecticides have not been mentioned in the Image-01 and the port of discharge is China so these are not the case of import. In view of that Image-01 cannot be relied. It is submitted that there was no mis-declaration of the description of the goods. The importer's duty is to describe the goods and give only the primary facts. The case of the department is the certificates of registration submitted in support of the imports made were forged in the light of difference in dates of issue and dates as found in the said certificates uploaded. Kind attention is drawn to the Rule 6B of the Insecticides Rules, 1971 which has provision for addition, deletion, or alteration etc. on the Certificate of Registration including labels, and leaflets and other related activities and as per serial no 1 of the

table attached thereunder, endorsement of Extension of Validity of CRs of Bio-pesticides/Insecticides-Fee payable for registration is Rs.5,000/- (Rupees Five Thousand Only) only. Above provision makes it clear that the alleged forgery or producing certificates which had different dates of issue is a curable and procedural omission committed out of ignorance on part of dealing officials of the noticee. This makes it evident that the alleged changing of date/forgery in certificates is curable and it is with some confusion or hurrying up the export obligation which led to this curable infirmity in the certificates of registration submitted in support of the imports.

2.82. Without prejudice to the above, it is respectfully submitted that Section 111 of the Customs Act, 1962 provides for liability for confiscation of the improperly imported goods. It is therefore respectfully submitted that only imported goods can be confiscated under Section 111 of the Customs Act, 1962. Section 2(25) of the Customs Act, 1962, defines the imported goods as “imported goods” means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption”.

2.83. In the case of *Bussa Overseas & Properties Vs. C.L. Mahar*, ACC —2004 (163) ELT 304 (Bom.), the Hon'ble Bombay High Court held that once the goods are cleared for home consumption, they cease to be imported goods as defined in Section 2(25) of the Customs Act, 1962 and consequently are not liable to confiscation under Section 111 of the Customs Act, 1962. The Hon'ble High Court held as under:

“7.The learned counsel urged that once the goods are cleared for home consumption, then the goods covered by the consignments cease to be imported goods in accordance with the definition of expression ‘imported goods’ under Section 2 of the Act and consequently such goods are not liable for confiscation. There is considerable merit in the submission of the learned counsel. The goods lose its character of imported goods on being granted clearance for home consumption and thereafter the power to confiscate can be exercised only in cases where the order of clearance is revised and cancelled...”

2.84. Therefore, the imported goods, which have already been cleared for home consumption, are not liable to confiscation under the provisions of Section 111 of the Customs Act, 1962. Thus, the SCN proposing to confiscate goods under Section 111(d),111(l) & 111(m) is incorrect and liable to be dropped. In view of the above submissions, the SCN needs to be dropped forthwith. Redemption fine

under section 125 of the Customs Act,1962 cannot be imposed when the imported goods are not available for confiscation.

- 2.85.** Redemption fine cannot be imposed under Section 125 of the Customs Act, 1962, in spite of the fact that the goods are not physically available for confiscation. The Hon'ble Supreme Court in *Weston Components Ltd. Vs. CC – 2000 (115) ELT 278 (SC)* has held that in the absence of goods, redemption fine can be imposed only if the goods were released on bond. The Hon'ble Supreme Court in *Weston Components (Supra)* has held that ordinarily redemption fine cannot be imposed when goods are not available for confiscation and that such fine can be imposed only when the goods have been released upon execution of a bond.
- 2.86.** If redemption fine could be imposed even when goods are not available, the Apex Court would not have carved out an exception for goods released on execution of bond. The Court would have simply held that availability of goods was not necessary for the imposition of redemption fine. However, the Court specifically noted that the goods were released on bond and held redemption fine to be impossible for that reason.
- 2.87.** The Apex Court's decision in *Weston Components (Supra)* has been followed by the Hon'ble Punjab & Haryana High Court in *CC Vs. Raja Impex - 2008 (229) ELT 185* wherein the Court has held that redemption fine cannot be imposed when goods are not available for confiscation except when they have been released on bond. The relevant portion of the decision is extracted below for ease of reference:

“12. It may also be noticed here that in the case of M/s. Weston Components Ltd. v. Commissioner of Customs, New Delhi (supra), the goods were released to the assessee on an application made by it and on the execution of a bond by the assessee and in those circumstances, the Hon'ble Apex Court held that the mere fact that the goods were released on the bond being executed would not take away the power of custom authority to levy redemption fine. A reading of the judgment/order of the Hon'ble Apex Court in M/s. Weston Components Ltd. v. Commissioner of Customs, New Delhi (supra), would show that the Apex Court has taken the view that redemption fine can be imposed even in the absence of the goods as the goods were released to the appellant on an application made by it and on the appellant executing a bond. Since the goods were released on a bond the position is as if the goods were available. The ratio of the above decision cannot be understood that in all cases the goods were permitted to be cleared initially and later proceedings were taken for under-valuation or other irregularity, even then redemption fine could be imposed.

We are, therefore, not inclined to accept the contention raised by the appellant on this issue and set aside the redemption fine.

13. The reliance of learned counsel for the revenue upon the provisions of Section 125 of the Act is also misconceived. Section 125 of the Act is applicable only in those cases which have been cleared by the concerned authorities subject to furnishing undertaking/bond etc. However, in the present case, admittedly, the goods were cleared by the respondent authorities without execution of any bond/undertaking by the assessee.”

2.88. Further, it has been held by Hon’ble CESTAT, New Delhi in the case of M/S Javeria Impex India Pvt. Ltd., Commissioner of Customs (ICD), Tughlakabad, New Delhi [2023 TAXSCAN (CESTAT) 1529] that-

‘51.....Even otherwise, the goods which are not available cannot be either seized or confiscated. This is because, on confiscation, the property vests in the Government and if the importer opts to redeem them, he can pay the redemption fine and get the goods released. If the goods are not available neither can the government take over the goods nor can it return them to the owner or payment of fine. The case of the goods imported under the above two Bills of Entry was different as they were seized and were provisionally released on execution of a bond and bank guarantee. The bond and bank guarantee are meant to cover the redemption fine, if any, imposed if the goods are confiscated and released. We, therefore, answer question (d) of paragraph 16 in favour of the Appellant.’

2.89. In view of the above submissions, the present SCN proposing confiscation of 169.50 MT of goods imported by noticee vide 16 BE’s as mentioned in Annexure-B under section 111(d), 111(l) and 111(m) of the Customs Act,1962 for mis-declaration of the description and value of goods (Insecticides) is incorrect and liable to be dropped on this ground itself.

The classification of goods mentioned in bill of entry No. 6293868 dated 30.12.2019 mentioned as 38089900 under CTH as 38089330 for mis-declaration of the description and thereby classification, as discussed at para 2.30.

2.90. For the sake of convenience, the para 2.30 of the impugned show cause notice is reproduced here. “*2.30. Further, as per Rule 5 of CVR, 2007, the value of the goods can be re-determined using the*

transaction value of similar goods. As discussed above, the goods which can be legally imported are similar to the goods being smuggled through the firm M/s. Modern Insecticides Limited. Hence, the value of the goods can be re-determined using the Rule 5 of CVR, 2007. Also, as per rule 5 of the CVR, 2007 the value of the similar goods should be at or around the same time, as the goods being valued.”

Para 2.30 is regarding the Rule 5 of Customs Valuation Rules, 2007. The allegation in the impugned show cause notice is with regard to classification of import goods under bill of entry no. 6293868 dated 30.12.2019 as discussed in para 2.30 of the impugned show cause notice. The para 2.30 is on different issue. In view of that the classification of the goods covered under the bill of entry No.6293868 dated 30.12.2019 has been correctly classified and the allegation is liable to be dropped/set aside.

- 2.91.** It is submitted that the reliance placed by the Department on the test reports obtained from DYCC, JNCH and/or the Central Investigation Laboratory, to allege that the imported goods did not match the declared items or exhibited difference in concentration, is wholly misplaced, legally untenable, and factually unsustainable.
- 2.92.** At the outset, it is submitted that the testing of agrochemical and pesticide consignments is a highly sensitive and standard-specific process, which requires controlled handling of samples, proper storage, adherence to sampling protocols under the Insecticides Rules, 1971, and strict compliance with BIS/FAO guidelines.
- 2.93.** Secondly, neither the complete test reports nor the raw chromatograms, protocols followed, or method validation records have been supplied as part of the Relied Upon Documents (RUDs). The denial of these technical documents violates the principles of natural justice and renders it impossible for the noticee to independently verify or contest the methodology and accuracy of the results. In absence of such foundational information, any inference drawn from the test reports lacks evidentiary sanctity.
- 2.94.** Thirdly, mere variation in concentration or non-detection in a single lab test cannot, per se, lead to a conclusion of misdeclaration or constitute a ground for confiscation under Section 111(m) of the Customs Act. The test result, without correlation to the shipping documents, invoices, foreign COAs, or source country specifications, fails to establish any deliberate misdeclaration.
- 2.95.** Finally, the imported goods in question were cleared after due filing of Bills of Entry, with complete declarations, attached Certificates of Registration under the Insecticides Act, 1968, and were subjected to customs examination and sample drawal. Therefore, the burden of proof to establish a deliberate and fraudulent misdeclaration lies entirely upon the Department, which has not been discharged in the present case.

2.96. In view of the above, it is respectfully submitted that the reliance on such inconclusive and uncorroborated test reports cannot be the sole basis for alleging misdeclaration, and consequently, the entire basis for invoking Sections 111(d), 111(m), 112(a)/(b), and 114AA of the Customs Act is liable to be rejected.

Alleged discrepancy in date of issue on certificate of registration

2.97. It is respectfully submitted that the allegation that the date of issue on the Certificate of Registration (COR) submitted/uploaded for the purpose of clearance of goods differs from the actual date of issuance, does not by itself establish mala fide intent or deliberate suppression. It is clarified that any such discrepancy, assuming without admitting its occurrence, is purely clerical or typographical in nature, and arose due to an inadvertent error in the reproduction or re-uploading of the COR by junior administrative personnel. There is no evidence to suggest that such a discrepancy was caused with an intent to mislead the authorities or to circumvent any condition of the Insecticides Act, 1968 or Customs Act, 1962.

2.98. It is pertinent to note that the goods in question were imported against a valid registration issued under Section 9(3) of the Insecticides Act for "Import for Export Only," and the underlying product, i.e., Emamectin Benzoate Technical 95.00% w/w min., was not prohibited or banned. The certificate is valid for one year and is extendable, and in past instances, such extensions were routinely granted on submission of affidavit and compliance reports. Therefore, a mere inconsistency in the stated date which neither affects the validity of the registration nor alters the nature of the goods cannot be equated with misdeclaration under Section 111(m) or deemed to render the goods "prohibited" under Section 111(d) of the Customs Act.

2.99. Furthermore, the department has not produced any material evidence to show that this alleged mismatch in dates resulted in any undue advantage, duty evasion, or contravention of any import restriction. The entire import was declared, accompanied by supporting documentation, subjected to customs examination, and samples were drawn. Thus, any error in the metadata or digital filing cannot override the fact that the original certificate was duly issued and remains the basis of the import. The SCN also fails to demonstrate how this discrepancy impacted the admissibility or legal status of the goods under the governing laws.

2.100. It is most respectfully submitted that the internal administrative function of tracking renewal dates and ensuring timely extensions was being handled by junior office staff who were entrusted with maintenance of compliance records. It is entirely plausible that the junior staff inadvertently missed renewal deadlines or made clerical errors in system uploads or documentation updates. It may also be possible that, out of anxiety to cover such lapse or avoid internal disciplinary embarrassment,

inadvertent manipulation of dates in internal records may have taken place at the clerical level without the knowledge or involvement of senior management. Such unintentional or clerical lapses, even if established, cannot by themselves constitute deliberate fraud, suppression of facts, or willful misdeclaration under the provisions of the Customs Act, 1962.

2.101. Accordingly, it is submitted that the discrepancy in the date of issue on the COR, being non-substantive, unintentional, and curable in nature, does not warrant penal action, nor does it justify the invocation of Sections 111(d), 111(m), 112, or 114AA. The same may therefore be treated as a technical lapse and the SCN deserves to be quashed on this ground alone.

Because the declared assessable value of Rs. 35,58,39,625/- of the goods imported by M/s. Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B have been correctly assessed and the same are not liable to be re-determined as Rs. 52,46,89,086/- as mentioned in Annexure-B under the Customs Valuation (Determination of Value of Imported) Rules,2007 as there is no mis- declaration of the description and thereby value of the goods.

2.102. There are 16 BE's covered for the re-determination of the assessable value. The total 27 entries are there against the 16 Bills of Entry. There are 19 entries in the table where the declared price by the noticee is equal to the contemporaneous value of the imported insecticides and is less than the value of the contemporaneous value of the imported insecticides [Entries No in the table 1,3,4,5,7(I & iv),8,9,10(I & ii), 11(I & ii) ,12(ii),13(ii & iii),14(I & ii)15(ii) & 16]. The declared value against these entries comes to 2341.84. For the remaining entries 2, 6 (I & ii),7(I & ii),12(i),13(i) &15(i) the value increased from 720.36 to 2408.88. The value has been increased on the basis of contemporaneous import and the mis-declarations of the description of the goods in the bill of entry has been taken from the Image 01 &02 as alleged in the impugned show cause notice. The Image 01 &02 did not contain the full details as claimed in the show cause notice and the same has been explained above. The same is appended in the remarks column of the table below. When there is no mis-declaration and value has enhanced on the basis of contemporaneous import is not acceptable. The value of the contemporaneous insecticides taken which has alleged to have imported. The reliance place on the contemporaneous import has not been made the part of the show cause notice. In these circumstances the value of the import goods cannot be enhanced and moreover the goods are not available.

2.103. Whether the show cause notice issuing authority has followed the proper procedure in rejecting the declared value and re-determining the value under the Customs Valuation Rules or not? It is desirable to have a glance at the said rules which are attached herewith for reference.

2.104. It is submitted that the transaction value has been rejected on the specious grounds that these goods were not what had been described in the import documents and related investigation which solely

relied upon images obtained from the iPhone of Shri Avtar Singh. The details so obtained from the said images give sketchy and incomplete description of goods rather a clear and reliable description which is helpful in valuation also. To determine the value of goods in question, first and foremost step is to conclusively determine the description of goods under import before embarking on rejection and re-determination of value of these goods. The notice failed to establish the correct description of goods under import if not what had been declared in the bills of entry and other import documents.

- 2.105.** Because the notice has neither tried to find out the value of the imported goods on the basis of value of similar goods imported at the material time and place of supply nor attempted to show how the import value of the goods has been rejected sequentially without cogent reasons. The notice while determining the value of goods imported in 16 BEs, mentions that “there was no rationale for the importer to overstate the value of imported goods. Hence in respect of the goods where the value declared by the importer is slightly higher than the contemporaneous value, the same is taken as the re-determined value”. It is submitted that such an approach is not envisaged in the rules cited/applicable for determination of value of imported goods. Principle of convenience has no place to be adopted when specific law/rules exist to determine the value of goods not acceptable to the department and the department has failed to discharge this obligation under the law. Therefore, the re-determined value as made out in the notice in paras 2.28 to 2.31 is flawed and needs to be discarded and un sustainable.
- 2.106.** Further the notice has relied upon the statement of one of the directors and also images obtained from his personal phone, while determining the value of imported goods. This method discards the laid down law /rules for determination of value of imported goods. Attention is drawn to para 2.29 where the notice mentions that “as the exact concentration of insecticides smuggled by the firm M/s Modern Insecticides Ltd., in the past are not known, so Rule 4 is not applicable in this case”. In support of this, the notice relies upon the live consignments intercepted at the Nhava Sheva.
- 2.107.** Here is humbly submitted that any co relation of description of goods imported in the past with the live consignment of goods may not be fair, legal and conclusive. It may be suggestive. For the purpose of determination of value of imported goods under the law, provisions of the Act/Rules are to be applied after exact determination of description of goods under import. Above inference in the notice suggests that the department has failed to determine the description of goods under import in the past. Thus, the re determination of value of goods in the absence of determination of description of goods under import is only speculative and not definite and not in consonance with law.
- 2.108.** The notice at para 2.30 mentions that ‘as per rule 5 of CVR, 2007 the value of goods can be re-determined using the transaction value of similar goods. As discussed above, the goods which can be legally imported are similar to the goods being smuggled through the firm M/s Modern Insecticides

Ltd. Hence, the value of the goods can be re-determined using the Rule 5 of CVR, 2007. Also, as per Rule 5 of the CVR, 2007, the value of similar goods should be at or around the same time, the goods being valued’.

- 2.109.** Further in para 2.31 the notice states that “in view of the same, the data from the contemporaneous imports made into India for the said insecticides has been taken into consideration. Since the import of insecticides is allowed as per registration granted for different insecticides, the value of the imports has been taken at the minimum concentration allowed to be imported for that particular insecticide. Further since this import was made from China, the imports of insecticides from China have been considered whose legal import data for the contemporaneous period is available. The details of the contemporaneous imports are attached as Annexure-D.” Above method adopted for re determination of value of imports made in the notice, denotes perfunctory approach in such determination of value contrary to the provisions of Act/Rules. The applicable cited rules do not leave supposition in determination of value. The notice talks about having taken minimum concentration of insecticides allowed to be imported and also legal import data from China for the contemporaneous period for redetermining value of imports. This suggests that the department did not have data of contemporaneous period from China of goods which were of concentration % imported by the noticee /similar goods for applying Rule 5 of the CVR, 2007. Such re-determined value of imported goods by the noticee merits to be rejected being contrary to the provisions of the applied rules.
- 2.110.** The said para states further that “it has been observed that contemporaneous value in respect of some of these insecticides is slightly on the lower side than that declared by the importer. However, since the importer was availing duty exemption benefits under notification no.52/2003 on account of their status as an EOU, it appears that there was no rationale for the importer to overstate the value of imported goods. Hence, in respect of the goods where the value declared by the importer is slightly higher than the contemporaneous value, the same is taken as the re-determined value”.
- 2.111.** In para 2.32, the notice mentions that ‘accordingly, the value of the goods imported vide the said consignments has been re-determined as detailed below-:’ in terms of table E. Above narration shows that re determination of value of imports has been done summarily and contrary to the applied rule. It denotes application of convenience in such determination of value of imported goods (whose identity has not been determined) by MIL. It is urged that the declared value of goods imported may be considered for the reasons as stated above.
- 2.112.** Because the re-determination of the value of the imported goods in terms of paras 2.28 to 2.31 of the notice, is neither fair nor legally sustainable before determination of correct description of under import. Details from images obtained from iphone of a person did not provide complete and correct

picture of description of goods under import. In the Image-01 &02 the descriptions of the insecticides imported has not been mentioned as detailed in the above tables. In such circumstance, it would not be proper and feasible to adopt the rules for re-determination of goods under imports in the specific bills of entry. Once the correct and true description of goods is made out, then the question for determination of its value on the basis of the contemporary import arises for the goods other than chemicals.

2.113. Imported goods being chemicals, its value depends on its quality/brand/nature/source/ volume % etc. In few instances, it is seen that the item under import is the same but differs in % volume/concentration. To illustrate the point, attention is drawn to the item at serial no.5 of table E where difference is only of % volume only. The description remains the same. It appears fairly that the department has failed to carry out definite enquiry to correctly determine the description of goods under import and its value. Further the data of legal imports from China, on the basis of which value has been re determined/arrived at, has not been made RUD to the impugned show cause notice to provide the noticee a fair opportunity to offer its defense.

2.114. Here attention is drawn to the statements dated 27/28.01.2021 of Ms Poonam Yadav where she provided names of related companies of MIL and also names of suppliers /buyers of MIL. Further Mr Lal Chand Gupta an employee of MIL provided in his voluntary statement names of parties. However, the notice is silent about verification undertaken in respect of such suppliers/buyers of MIL to conclusively determine and arrive at the proposed allegation about mis-declaration of description of imported/exported goods, diversion of imported and export of goods other than description declared in the shipping documents and their value.

2.115. It is submitted that the imports were chemicals/insecticides /pesticides having description given in the authorizations issued by the CIB &RC. Since what have been found allegedly 'forged' in the CRs is dates and not description of goods contained therein. Out of 55 bills of entry, only 16 are covered in the annexure –B to the notice where value of goods has been re determined on account of mis declaration of description of goods. Determination of description of goods under imports based upon images obtained from iPhone whose evidentiary value is only but incomplete information, doubtful, may not be fair, legal and sustainable. Attention is also drawn to the rule 11 of the CVR, 2007. As per this rule the importer or his agent has to furnish a declaration disclosing full details relating to value of imported goods besides other information related thereto. The notice does not state if the information /declaration so made were false, in the absence of such finding, truthfulness of the declaration cannot be discarded. Hence the value re-determined in the impugned notice is liable to set aside.

- 2.116.** The notice proposed to re-determine the value of goods imported by MIL. Here presuming but not admitting that the goods imported were agricultural insecticides/pesticides of the description other than declared in import documents, the notice is silent about method adopted for the re-determination of the value of goods under imports in terms of Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of value of Imported goods) Rules 2007. The department has not declared basis of arriving at such re-valuation of the goods under imports.
- 2.117.** It is submitted that there has not been any market enquiry or values contained in the invoices issued or returns filed by them so as to arrive at fair/transactional value of alleged imported goods before rejection of the transaction / declared value in import documents. Further any such re determination of value of imported goods will lack credibility and sustainability under law if it has failed to take note of quantity/quality under imports and time of import and place of supply of the goods under reference.
- 2.118.** Statements relied upon in the notice are silent about the valuation method or basis adopted in respect of the goods in imports. No query has been raised with regard to the value of the goods at the time of recording of the statement. Thus, the value arrived at or re-determined at Rs.52,46,89,086/- instead of Rs. 35,58,39,625/- declared in the import documents, is unfairly undertaken/ fastened contrary to the provisions of the cited rules.
- 2.119.** The impugned show cause notice has proposed to re-determined the value of the goods imported by the noticee in respect of bill of entries based upon the evidence found in the image 01 &02 of the i-phone. The image of phone has not been considered as reliable evidence unless corroborated by other evidence, as held in the case of Harvinder Kaur Vs the Assistant of Income Tax (Income Tax Appellate Tribunal, Chandigarh, Bench A, Chandigarh. Date of pronouncement is 01.04.2025, ITA No. 691&692/Chd/223, A.Y 2017-18 & 2018-19).
- 2.120.** However, in the present case, the declared description of the goods in the BE & value of the imports made has been rejected under Customs Act and re-determined the value on contemporaneous import. The value has been re-determined under rule 5 of the CVR, 2007. No such details have been made the RUD to the impugned show cause notice. In the absence of that the value re-determined is liable to set aside

Because, no evidences have been relied upon in the impugned show cause notice for rejecting the declared transaction value of the imported goods.

- 2.121.** Because the show cause notice issuing authority has summarily proceeded to reject the transaction value without providing for cogent and reasonable and quantifiable evidence under section 14 of the Act read with rules. The impugned show cause notice is liable to set aside. The impugned show cause

notice failed to appreciate that before rejecting the declared value of the imported goods, there has be reasons to doubt the truth or accuracy of the value declared with the proper officer and he can reject the value if data indicates that identical or similar goods were getting imported on significantly at higher value at or about the same time in comparable quantities and in comparable commercial transactions. The show cause notice issuing authority has re-determined the value of import goods on the basis of unsubstantiated documents, which is improper and bad in law. Therefore, the value re-determined by the department is liable to be set aside. However, the impugned show cause notice does not reflect such data which shows comparable quantities or comparable transactions at the same time before embarking on rejection of the declared value of imported goods needing re-determination of value under rule 5 *ibid*.

Because the Customs duty amounting to Rs.30,26,01,992/- in respect of imports by M/s. Modern Insecticides Limited against EOU status, vide 55 bills of entry as detailed in Annexure-C is not liable to be demanded under Section 28(4) of the Customs Act,1962 read with B-17 bond submitted by the noticee along with appropriate interest under the provisions of Section 28AA of the Customs Act,1962.

2.122. The impugned notice also demands customs duty amounting to Rs. 30,26,01,992/- in respect of imports made by the noticee against EOU status, vide 55 bills of entry, as detailed in annexure C under section 28 (4) of the customs act,1962 read with the B-17 bond by them along with interest under the provisions of Section 28AA *ibid*.

2.123. Demand of duty of customs is proposed in respect of imports made against the duty foregone on the insecticides alleged to have been diverted into the local market thus the benefit of duty exemption under Notification No. 52/2003-Cus dated 31.03.2003 on the basis of its status as an EOU, claimed at the time of import by the notice. The impugned notice is silent as to whom these imported insecticides have been diverted. The impugned notice has only leveled the allegations that the imported insecticides has been diverted to the market. Such allegations are not sustainable in the eyes of law which have not corroborative evidence. There are number of judgments that the onus is on the department to prove their allegation. The goods imported were used in the manufacture of specified goods and had been exported vide 27 shipping bills. The duty foregone in terms of bond executed by them is liable to be demanded only when they failed to fulfill the export obligations in respect of such imports made by them and prove with evidences that the imported goods have been diverted to open market. Since the notice is silent about to whom the goods were diverted with corroborative evidence, it is obvious and fair that export fulfillment obligation was met as required under the law. The demand is liable to be dropped.

- 2.124.** It is further submitted that only allegation leveled by the department in this case is that the noticee exported 'Sulphur' instead of the declared goods i.e. insecticides. Assuming and without conceding this allegation for sake of argument, it is a moot point if the department quantifies the exports benefits equal to the value of the 'Sulphur' alleged to have been exported in place of insecticides to consider for the purpose of discharge of export obligations and proportionately, reduction in demand of duty of customs.
- 2.125.** The noticee unit is a 100% export-oriented unit working under physical control of the department and performing import-export in accordance with the guidelines prescribed by Development Commissioner, DGFT and MOF, DOR/CIB & RC. The noticee worked according to Letter of Permission/ Letter of Intent issued to them, the export items permitted- Insecticides/ pesticides- under the authorization issued to them by CIB & RC. Even if at the later stage, the department makes false allegations of exporting 'Sulphur, by noticee instead of Insecticides/ pesticides, then the value of Sulphur (different item) alleged to have been exported cannot be considered as the value eligible for export benefits. This is a basic and simple anomaly and inconsistency of this case. The alleged denial of export benefit in the light of 27 shipping bills made in the past, on the basis of images obtained from the i-Phone of Shri Avtar Singh who was one of the then directors of MIL, may not be fair, legally sustainable in view of lack of their evidentiary value under provisions of Section 138 (C) of the Act. The notice refers to forwarding of the said images obtained from iPhone of Shri Avtar Singh, vide letter dated 05.02.2021 (RUD -1). It is submitted that proper procedure as laid down under Section 138 (C) of the Act has not been followed which vitiates the evidentiary value of such relied upon piece of evidence to allege mis declaration of description of goods exported vide 27 shipping bills in the past.
- 2.126.** Further, reference is made to Standing Order No. 10/2020 dated 12.02.2011 issued by Commissioner of Customs (Exports) JNCH, Mumbai-II, on the issue of provisional assessment of shipping bills where samples are drawn or where value is required to be determined under the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. In para 2 of this Order, it is categorically emphasized that in case the goods are found to be other than that declared by the exporter for claiming export incentive/benefit, then it tantamount to mis-declaration and the natural course of action would be adjudication for confiscation and penalty and denial of export incentive / benefit, as the case may be.
- 2.127.** It is therefore submitted that demand of duty when fulfilled export benefits are not denied, is premature, flawed under the law. Duty cannot be demanded under Section 28 of the Act when goods had been cleared under bond. The department has not proved/established with corroborative evidence that the imported goods have been diverted to open market. The proposed demand of duty of customs

of Rs.30,26,01,992/- under the facts and circumstances, needs not to be proceeded along with Interest under section 28AA ibid is also not liable to be paid in view of submissions made above.

2.128. Assuming but not admitting that the customs duty has been calculated on the enhanced/Re-determined value of the 16 bills of entry. There are 16 BE's covered for the re-determination of the assessable value. There are total 27 entries against the 16 Bills of Entry. There are 19 entries in the table where the department has accepted the declared price/value. There are 8 entries in the table of the six bills of entry. The assessable value has been re-determined on the basis of contemporaneous import and the mis-declarations of the description of the goods in the bills of entry on the basis of Image 01 &02 as alleged in the impugned show cause notice. The Image 01 &02 did not contain the full details as claimed in the show cause notice and the same has been explained above in para 5.3. The same is appended in the remarks column of the table below. When there is no mis-declaration and value has enhanced on the basis of contemporaneous import is not acceptable. The value of the contemporaneous insecticides taken which has alleged to have imported. The reliance placed on the contemporaneous import has not been made the part of the show cause notice. The customs duty on the enhanced value against the six bills of entry is not demandable from the notice under section 28(4) of the Customs Act,1962.

2.129. Because the above liabilities cannot be recovered under Section 143(3) of the Customs Act, 1962 by enforcing the bond executed by M/s Modern Insecticides Limited, for alleged violation of the EoU scheme. In view of the above explanations by the noticee, the noticee has not violated any provisions of EOU scheme and the Bond executed in this behalf, therefore, the Bond cannot be enforced.

Because the penalty under Section 112 (a) & 114A of the Customs Act,1962 has been proposed incorrectly on M/s. Modern Insecticides Limited for allegedly importing prohibited goods by forging of certificate of registration, as mentioned in Annexure –A and for allegedly mis-declaring description & value of imported goods as mentioned in Annexure–B.

2.130. The section 112(a) is depicted below:

“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) [(ii)----- :

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;”

- 2.131.** Section 112 (a) is invocable if any of the following two conditions are satisfied. Firstly, a person does or omits to do any act which render the goods liable for confiscation or secondly, if a person abets the doing or omission of such an act. In the present case, noticee have neither done nor omitted to do any act which act, or omission has rendered the goods liable to confiscation. As explained in the submissions supra, confiscation of the goods is not possible. Hence, application of Section 112(a) is itself barred.
- 2.132.** Penalty under Section 112 of the Customs Act, 1962 is leviable only if the goods are liable for confiscation under Section 111. The invocation of this provision requires presence of mens rea, knowledge of the person concerned that the goods are liable to confiscation. For the reasons stated in the foregoing submissions, they did not do anything to render the goods liable for confiscation and therefore penalty under Section 112(a) of the Customs Act is not imposable.
- 2.133.** Further, mens rea is a necessary requirement for imposition of penalty under Section 112, vide the decision in Sij Electronics Comp Tech Vs. CC – 2001 (129) ELT 528 (Tri). In the issue at hand, the element of mens rea is absent as noticee have declared the description of the imported goods in the bills of entry vis-à-vis the supporting import documents. Hence, no intent to evade the payment of duty can be attributed to the Noticees.
- 2.134.** It is hereby submitted that the imported goods were neither prohibited goods nor were contrary to the any imposition for the time being in force. The noticee had the authorization to import the said goods in view of certificates of registration issued by the concerned authority and any infirmity which is curable did not render such imports “prohibited” so as to render them liable to confiscation under the said provisions or under section 111 (m) and 111(l) of the Act as the said goods are not available for determination of identity or description of goods or their value. Any exercise in this regard would be in the realm of presumption and assumption only as is the case in the present notice in the absence of tangible independent corroboration/findings to allege mis-declaration in description of goods and their value. At the outset itself, it is submitted that there is no mis-declaration of the description of the goods. The importer’s duty is to describe the goods and give only the primary facts. The case of the department is the certificates of registration submitted in support of the imports made were forged in the light of difference in dates of issue and dates as found in the said certificates uploaded. Kind attention is drawn to the Rule 6B of the Insecticides Rules, 1971 which has provision for addition, deletion, or alteration etc on the Certificate of Registration including labels, and leaflets and other

related activities and as per serial no 1 of the table attached thereunder, endorsement of Extension of Validity of CRs of Bio-pesticides/Insecticides-Fee payable for registration is Rs.5,000/- (Rupees Five Thousand Only) only. Above provision makes it clear that the alleged forgery or producing certificates which had different dates of issue is a curable and procedural omission committed out of ignorance on part of dealing officials of the noticee. This makes it evident that the alleged changing of date/forgery in certificates is curable and it is with some confusion or hurrying up the export obligation which led to this curable infirmity in the certificates of registration submitted in support of the imports. In view of the above penalty is liable to set aside.

2.135. The present SCN has proposed to impose penalty under Section 114A of the Customs Act, 1962 on the ground that the Noticee has not paid the duty on the imported goods by them with an intention to evade duty. For ease of reference, Section 114A of the Customs Act has been reproduced herein below:

“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 willful 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.”

2.136. From a perusal of the aforesaid provision, it is clear that penalty under section 114A of the Customs Act, 1962 can be imposed in cases when the duty has not been paid or short-paid/part-paid by the reason of collusion or any willful misstatement or suppression of facts. It is clear that the proposal to demand under Section 28(4) of the Customs Act is not sustainable in the present case and that there has been no suppression or mis-statement of facts by them. In fact, the customs department has always been aware of all the facts and the practice undertaken by them.

2.137. Penalty under Section 114A of the Customs Act, 1962 is imposable where any duty of customs has not been levied or paid or has been short levied or short paid by reason of collusion or any willful mis-statement or suppression of facts. It is settled law that in order to impose penalty under Section 114A, an assessee should have engaged in collusion or willful misstatement or suppression of facts with an intent to evade payment of duty.

2.138. The ingredients of Section 114A of the Customs Act, 1962 are not satisfied in the instant case. There is no allegation of willful suppression or misstatement against them in the present case. The sole ground for proposing duty demand under Section 28(4) of the Customs Act is mis-declaration.

2.139. It is further submitted that the penalty proposed under Section 112 (a) and section 114(A) of the Customs Act, 1962 is not attracted in the facts and circumstances of the case as made out above for

failure to corroborate the statements of the persons who were then directors in MIL and lack of evidentiary value of piece of evidence adduced in the form of images obtained from the iPhone in terms of provisions of Section 138 (c) ibid and which is the sole basis for allegation of mis-declaration of description of goods under imports in the past by MIL. The proposed levy of penalty under the said section may please be dropped/set aside.

2.140. It is further submitted that the penalty proposed under Section 112 (a) and section 114(A) of the Customs Act, 1962 is not attracted in the facts and circumstances of the case as made out above for failure to corroborate the statements of the persons who were then directors in MIL and lack of evidentiary value of piece of evidence adduced in the form of images obtained from the iPhone in terms of provisions of Section 138 (c) ibid and which is the sole basis for allegation of mis-declaration of description of goods under imports in the past by MIL. The proposed levy of penalty under the said section may please be set aside.

2.141. It is submitted that goods are not available for proposed confiscation under the Act. The goods imported were in the past and had been cleared for end use under the watch and supervision under the Act. It is therefore only fair and legal that penal provisions are not invoked when offending goods are not available for confiscation.

2.142. It is also requested that a personal hearing may kindly be granted before concluding the adjudication. The noticee reserves its right to amend, modify, add, etc., any submissions made by him before or at the time of hearing or to adduce additional documents or other evidence later at the time hearing or before adjudication of the matter.

2.143. In light of the foregoing submissions, and in the interest of justice and fair adjudication, the Noticee M/s Modern Insecticides Ltd most respectfully prays that your good office may kindly consider that the Show Cause Notice dated 20.06.2024 be dropped and all proceedings initiated thereunder be discharged, as the allegations are based on unverified, fragmented digital material and statements which are inadmissible in law, unsupported by independent evidence, and devoid of any credible corroboration. That due weightage be accorded to the fact that all import and export transactions in question were duly subjected to the scrutiny, examination, and clearance by Customs officers at the respective ports, and that no allegation of suppression, misdeclaration, or evasion has been substantiated through any actual seizure, tampering, or foreign customs verification. That the conclusions drawn by the Department, based primarily on electronic images allegedly recovered from mobile devices and selectively recorded statements, be disregarded, as: The source, authenticity, metadata, and context of such images have not been verified or forensically authenticated; The origin and ownership of said chats or images have not been proven through email headers, device trail, or

sender identification; No statement of critical operational personnel such as Ms. Jyoti Rani, Mr. Nazim Chaudhary, or Mr. Surendra Kumar has been produced, despite their identified roles in procurement, CIB, or documentation; Selective reliance on statements of clerical staff while ignoring core decision-makers reflects a biased approach in the investigation. That in terms of the settled position in law, the burden to prove suppression, misdeclaration, or fraudulent intent lies squarely with the Department, which it has failed to discharge in the present matter. The invocation of Sections 112, 114A, and 114AA of the Customs Act, 1962, is therefore unjustified and not maintainable in the absence of mens rea or demonstrable gain. That a personal hearing may kindly be granted to the Noticee, and further, that cross-examination of all persons whose statements have been relied upon in the SCN particularly Ms. Poonam Yadav, Mr. Lal Chand Gupta, Jyoti and any other relevant witnesses be allowed in accordance with the principles of natural justice, to enable the Noticee to confront, clarify, and rebut the facts attributed therein. That all consequential actions proposed, including the recovery of duty, denial of benefits, and imposition of penalties, be dropped, as the same are not supported by credible, admissible, or conclusive evidence either under the Customs Act or under any applicable allied legislation. That liberty be granted to the Noticee to file any additional submissions, documents, or clarifications, should any fresh material or findings be disclosed during the course of adjudication. The Noticee remains fully compliant with the law and is prepared to extend complete cooperation to your good office in bringing the matter to a fair and legally justified conclusion.

- 2.144.** The Noticee M/s Modern Insecticides Ltd made additional submissions vide email dated 30.01.2026 which are as follows:-

ADOPTION OF THE COMPANY'S REPLY AND DENIAL OF PERSONAL INVOLVEMENT:

- 2.145.** At the outset, we respectfully adopt and reiterate the submissions, evidentiary rebuttals, and legal contentions raised in the detailed reply filed by the Company, which may be deemed to form part of the present submission mutatis mutandis. The noticee specifically deny all allegations of wrongdoing levelled against them and submit that they had no direct or indirect role in the daily operations, regulatory filings, or import documentation of the Company.
- 2.146.** The company's Indian operations, documentation, and supplier correspondence were all managed by late Shri Daljit Singh, who had direct oversight over operational and regulatory compliance. The noticee's position as a director stationed in Dubai was supervisory in nature. Their role has been purely limited to overseas operations, and they were not based in India during the relevant period. All commercial decisions, documentation, and compliance-related work were managed by the Indian team under the direct supervision of late Shri Daljit Singh, who unfortunately passed away and whose

absence appears to have been misused to assign vicarious liability on the noticee and Shri Avtar Singh. It also appears that post his unfortunate demise, certain staff members may have attempted to rectify or backdate documents. Without corroborative evidence or cross-verification, the presumption of guilt against me is unfair and violative of Article 14 and 21 of the Constitution.

- 2.147.** The department has mainly sought to rely on certain images or data allegedly retrieved from a mobile device purported to be of Shri Avtar Singh. The noticee respectfully submit that no such evidence is linked to him either in content, authorship, or access. He was not in India at the relevant time, and he was not privy to any such content, nor has he communicated, shared, or received any document forming part of the alleged evidence.
- 2.148.** In fact, in his own statement dated 07.05.2024 clearly records that he had no knowledge or involvement regarding any changes in the Certificates of Registration, which were being handled exclusively by late Shri Daljit Singh. This fact has not been rebutted or contradicted by any material evidence by the department.
- 2.149.** It is also relevant to state that no goods classified as “prohibited” under Section 11 of the Customs Act have been imported. The department has not produced any notification or evidence to support that the goods were prohibited at the time of import merely due to procedural lapses. Representative samples were tested by DYCC JNCH/National Pesticides Lab, and though the test report allegedly points to concentration differences or missing components, there is no clear finding that the imported items were prohibited. It is submitted that variations in test results could also arise due to degradation in transit, sampling error, or lab procedural variance. Without categorical findings of “prohibited goods,” invoking penalties under Sections 111(d) or 112 is not sustainable. In fact, in at least one instance, extension was duly sought and granted, demonstrating good faith.
- 2.150.** It is respectfully submitted that the allegation regarding the expiry of Certificates of Registration (CoR) is misplaced. As per the scheme under which the imports were made, CoRs are extendable on simple request and were, in fact, extended in some cases. The scheme does not prescribe automatic prohibition of goods solely on the ground that the certificate validity date has expired if the goods otherwise conform to specifications and are eligible for import. The goods imported are not intrinsically prohibited under Section 11 of the Customs Act or any allied act. Hence, even if the staff erred in timely uploading or extending such certificates, the same does not amount to intentional misdeclaration or illegal import, nor does it justify penal action.

NON-COMPLIANCE WITH INDIAN EVIDENCE ACT AND IT ACT – ADMISSIBILITY OF ELECTRONIC RECORDS:

2.151. Lack of Knowledge About Images Found on Mobile Phone – No Connection. The department's case, as made out in the SCN, appears to rest significantly on certain images allegedly retrieved from a mobile device, purportedly showing some charts or content that forms the foundation of allegations. Its unequivocally submitted that:

- The noticee was never aware of the presence of such images on my mobile device;
- The noticee never created, received, forwarded, or stored such images with any knowledge or intent to commit any violation of law;
- The noticee suspect that such images may have been deliberately introduced by someone else, possibly by a disgruntled staff member or third party with ulterior motives;
- No independent source metadata, email trail, or authorship analysis has been produced by the department to establish a nexus between the noticee and the alleged content;
- The images in isolation, without origin, date, sender, or corroboration, cannot be accepted as admissible or conclusive evidence under the Indian Evidence Act, 1872 or Information Technology Act, 2000.

2.152. Despite that it is a settled position in Indian law that electronic evidence is admissible only if it meets the mandatory requirements under Section 65B of the Indian Evidence Act, 1872, as inserted by the Information Technology Act, 2000. Under Section 65B:

- Any electronic record, including charts or slips retrieved from mobile phones, must be certified by a person in control of the device or computer system.
- The certificate must detail the manner of retrieval, device details, and affirmation of authenticity.
- Without such certification, any digital content cannot be relied upon as primary evidence.

2.153. Section 65B (4) of the Evidence Act mandates that for any information derived from electronic records (such as mobile phones or computers) to be admissible, it must be accompanied by a valid certificate stating:

- the manner of production;
- the particulars of the device;
- that the contents were produced during the ordinary course of use;
- and that the device was operating properly.

2.154. In the instant case, the SCN fails to demonstrate:

- Whether the seized device (mobile phone) was forensically cloned or examined in a certified environment;
- Whether a Section 65B certificate was prepared and enclosed;
- Whether any authorized person has confirmed the integrity and relevance of the data.

2.155. CASE LAW:

- a. Anvar P.V. vs. P.K. Basheer [(2014) 10 SCC 473] – The Hon'ble Supreme Court held that secondary electronic evidence is inadmissible unless it is accompanied by a certificate under Section 65B (4). Oral admission of electronic data is also inadmissible unless the requirements of the section are met.
- b. Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal [(2020) 7 SCC 1] – Reiterated that compliance with Section 65B is mandatory, and even courts cannot dispense with the certificate requirement for admission of electronic evidence.

No Legal Panchanama or Forensic Chain of Custody Established.

2.156. The Noticee respectfully submits that:

- There is no panchanama on record indicating the location, date, or procedure of seizure of the alleged mobile phone or Digital Device.
- There is no mention of RUD (Relied Upon Document) identifying from where and in what condition the digital records were recovered.
- There is no forensic report, hash value, or log trail to confirm the authenticity or integrity of the data.

Chain of Custody & Source of Slips Must Be Proven:

2.157. If the slips are digital the department must prove how they were retrieved from which device, and Whether the person was in control of that device. If they were printed/physical slips, they must be linked to the company's accounting or inventory control system; otherwise, they can be fabricated, planted, or unconnected. It is settled Principle that without chain of custody, no document can be treated as reliable in law.

No Corroborative Evidence or Statements Available:

- 2.158.** The Supreme Court and High Courts have repeatedly held that digital evidence without corroboration or testimonial support lacks probative value. The absence of Authoritative statements from company employees, Inventory or shipping records, Purchase/sales records, Internal correspondence authenticating the Excel sheets renders the entire basis of the SCN speculative and unsubstantiated.
- 2.159.** In view of the above, the Noticee humbly prays that the digital evidence relied upon in the SCN may be rejected as inadmissible in law; the proceedings be dropped for lack of reliable, admissible, and corroborated evidence; the department be directed to allow cross-examination of any officers or witnesses relied upon in the SCN; hat the Noticee be given a further opportunity to submit forensic rebuttal if any fresh documents are introduced; Any action be taken only after full compliance with the Indian Evidence Act and IT Act provisions.

Images are self-Contradictory and not corroborated with the Shipping Bills or Bills of Entries:

- 2.160.** The images have been related to the Bill of Entries and certain Shipping Bills but those have not been made part of the Show Cause Notice and has not been supplied as RUD. Even otherwise the images relied upon by the department suffer from critical inconsistencies in both timelines and substance, thereby rendering them unreliable and inadmissible as evidence. For instance, Image 4, dated 04.07.2020, refers to the dispatch of “sulphur,” whereas Image 3, dated 17.07.2020, refers to sulphur again being handled at a later date. These internal contradictions suggest the possibility of post-facto insertion or manipulation of entries, especially since no metadata, access logs, or system timestamps have been provided to establish the authenticity or continuity of the digital trail. Moreover, no document has been furnished to substantiate that these entries relate to the Noticee. There are no transactional documents such as invoices, delivery challans, shipping bills, or packing lists accompanying these screenshots. The bare reproduction of tabular entries without any linkage to a transaction involving the Noticee fails the most basic test of documentary corroboration. These appear to be isolated data fragments with no probative value under evidentiary standards.
- 2.161.** A further contradiction lies in the department’s own classification of goods. While the images refer simply to “sulphur,” Table F of the SCN refers to “sulphur formulations.” It is submitted that in pesticide regulation, “formulation” is a term of art, implying a combination or processing of technical-grade material into a regulated pesticidal product. No manufacturing records, batch reports, test certificates, or CIBRC registration documents have been produced to show that the sulphur was ever processed into a formulation. Hence, the department appears to have arbitrarily escalated the product description without any technical or legal basis.

- 2.162.** The linkages drawn by the department between the Noticee and third-party transactions reflected in the images are similarly misconceived and speculative. In particular, Table D Item 7 refers to BE No. 6669526 dated 28.01.2020, which has been connected by the department with Image 7, allegedly showing a shipment by Indogulf to Dubai. However, the image explicitly names “Indogulf,” a distinct and unrelated entity. No financial, contractual, or shipping relationship between Indogulf and the Noticee has been established. The image is thus being wrongly attributed to the Noticee to construct a fictional pattern.
- 2.163.** Similarly, Image 10 refers to a shipment by Insecticide India Limited from Nhava Sheva to Dubai. Again, no ownership, agency, or documentation connects this shipment to the Noticee. The department’s attempt to invoke this image is a clear case of dragging unrelated transactions to manufacture a supposed chain of malfeasance without any evidentiary foundation.

DENIAL OF NATURAL JUSTICE:

- 2.164.** Request for Production of Any Findings by Dubai Customs or Foreign Agencies: It is further submitted that the Department, in its investigation, appears to suggest that verification was conducted through Dubai Customs or other foreign authorities. If such verification was indeed carried out and any credible evidence of wrongdoing or misdeclaration on our part was discovered, the same ought to have been duly annexed to the Show Cause Notice. However, no such findings, reports, or official communication from Dubai Customs or any other competent foreign agency have been produced or relied upon in the SCN. This omission clearly indicates that no adverse inference or confirmation of illegality could be drawn at the foreign port either in terms of the nature of goods exported or the documentation furnished therewith. It is respectfully submitted that unless any direct and verified material is received from the foreign port authorities conclusively establishing our role in any misdeclaration or evasion, no presumption of guilt can be drawn merely on conjecture or indirect digital material. We, therefore, call upon the Department to place on record any such verification report, if available, and also seek an opportunity to rebut the same with full disclosure, if such findings exist. In the absence of such conclusive evidence from the foreign end, the allegations stand unsupported and must be treated as speculative.

Coerced and Inadmissible Statement:

- 2.165.** The noticee further state, with utmost respect, that the statement recorded under Section 108 of the Customs Act on of Avtar Singh were taken under compelling circumstances. He was a senior citizen and suffer from serious difficulties in reading or writing. He could not comprehend documents written

in English or Hindi, and was made to put his thumb impression on the statement without being explained the contents. It was Shri Lal Chand Gupta, the accountant, who was primarily responding to the questions asked. The investigating officers were primarily interacting with him and merely asked Avtar Singh to affirm what he said. At no point was Avtar Singh informed of his rights, nor was he allowed to consult counsel or read any of the material. The so-called translation of the contents in Punjabi or Hindi was neither read aloud nor comprehended by him. The statement was not voluntary, and its use against the noticee would be wholly unjust and contrary to established principles of law. As per settled law that a statement made under compulsion or without proper comprehension or legal assistance is not admissible as a basis for penalty or prosecution.

Deliberate Suppression of Material Witnesses – Mala Fide and Biased Investigation:

2.166. It is most respectfully submitted that the present proceedings are vitiated by a selective, one-sided, and biased investigative approach, wherein critical and potentially exculpatory witness statements have been deliberately omitted from the list of Relied Upon Documents (RUDs). The statements of key managerial personnel, including those who were directly involved in procurement, production planning, compliance, and shipment execution, namely Employees Nos. 6 to 9, have not been placed on record, despite their direct and material relevance to the allegations. Of particular concern is the treatment of Mr. Daljit Singh, the primary Indian point of contact and operations head, who is now deceased. Instead of attributing responsibility to him (who was handling documentation and operational affairs in India), the department has conveniently deflected accountability onto foreign-based directors, who had no role in daily execution. This distortion is not only factually incorrect but demonstrates an intention to fix liability on unreachable persons while suppressing the actual chain of command. Further, the testimony of Ms. Poonam Yadav, the only senior-level statement relied upon, is internally inconsistent attributing instructions to different individuals at different times and is clearly indicative of a tutored or hesitant witness. No statements of her immediate superiors or departmental heads has been relied upon, nor has any explanation been provided as to why their testimony was excluded. Such selective reliance solely on junior employees while avoiding key managerial witnesses who could have corroborated the Noticee's version, points to a mala fide and predetermined investigation, aimed at securing a pre-decided outcome rather than uncovering the truth. This renders the entire evidentiary basis of the SCN suspect and liable to be discarded.

List of Concerned Employees and Their Status & Submission

S. No.	Name	Designation / Role	Status as per Record / Defense
1	Shri Avtar Singh	Director (Stationed Overseas)	Accused in personal capacity; denied involvement in daily operations in India.

2	Shri Charanjit Singh	Director (Stationed Overseas)	Co-accused; based abroad; no operational
3	Late Shri Daljit Singh Gujral	Indian Operations Head	Deceased; described as the key person handling documentation and compliance.
4	Ms. Poonam Yadav	Executive/Clerk	Gave statements against the directors; her testimony is challenged as tutored
5	Shri Lal Chand Gupta	Accountant	Acted as intermediary during statements; allegedly translated but is unreliable.
6	Ms. Jyoti Rani	Purchase Head	As per Lal Chand's statement, she supervised procurement; no statement put as RUD.
7	Mr Nazim Chaudhary	In-charge of CIB (since 2015)	Crucial for RC-related issues; no statement relied upon in SCN
8	Mr. Prashant Kumar	Paperwork and Documentation	Assisted with records and document control; no statement Relied upon in the SCN.
9	Mr. Surendra Kumar	Production Head	In charge of actual manufacturing; not relied upon in SCN.
10	Mr. Pandey Ji	Unknown Designation (possibly admin/Support)	Allegedly emailed documents to Poonam Yadav; no statement taken as RUD.
11	Ms. Mandeep Kaur	International Marketing Manager	Named by Poonam Yadav; still no statement taken as RUD.

Selective Use and Manipulation of Witness Statements (RUDs):

2.167. It is respectfully submitted that the investigation in the present matter reflects a selective and manipulated reliance upon witness statements, thereby seriously undermining the fairness and credibility of the proceedings. The department has relied heavily upon the statement of Shri Lal Chand Gupta (RUD-6), whose conduct during investigation itself raises serious doubts about the neutrality and reliability of the process. Records show that Shri Lal Chand Gupta was extended special treatment during statement recording, including hospitality, while basic courtesy was not extended even to Shri Avtar Singh, an 80-year-old individual appearing before the department in a wheelchair. Lal Chand in his statement states that “The officers offered me food and tea and provided the same as per convenience.” Such differential treatment casts serious doubt on the independence of his statement and the testimony of Lal Chand. Further, Shri Lal Chand Gupta is shown to have assisted Shri Avtar Singh during recording of his statement (RUD-19), despite Shri Avtar Singh clearly stating that he neither understands nor can read or write English. This circumstance raises grave concerns that the statement attributed to Shri Avtar Singh was not independently given but was influenced or coached through Shri

Lal Chand Gupta. More significantly, Shri Lal Chand Gupta appears to have signed Shri Avtar Singh's statement dated 06.04.2024 (RUD-18), even though records indicate he was not present throughout the proceedings, thereby raising serious questions regarding the authenticity and procedural integrity of the recording process. Further the date of signatures is 8.4.20, then how Avtar Singh would have understood what's mentioned in the English typed statement. It is further noteworthy that while Shri Lal Chand Gupta names Shri Daljit Singh as the person responsible for operational and documentation matters. A similar position emerges from the statement of Ms. Poonam Yadav (RUD-5), who also attributes operational responsibilities to Shri Daljit Singh, yet his statement has not been brought on record. This selective omission of material witnesses clearly amounts to suppression of evidence unfavourable to the departmental narrative. Additionally, statements of employees directly responsible for sales, export operations, procurement, and compliance which form the core allegations of the SCN have not been included as RUDs. Instead, reliance has been placed primarily on statements of junior or clerical personnel, thereby indicating a deliberate attempt to shape the investigation to suit a predetermined conclusion. The cumulative effect of these actions demonstrates that the investigative process appears to have been directed towards fastening liability upon specific individuals, namely Shri Charanjit Singh and Shri Avtar Singh, both of whom were stationed outside India and not involved in day-to-day operations. Such an approach violates fundamental principles of natural justice and reveals clear prejudice and bias in the conduct of investigation, rendering the evidentiary foundation of the SCN legally unsustainable.

Non-Supply of Bill of Entries and Shipping Bills alleged to have been contravened:

2.168. It is submitted that the very foundation of the present Show Cause Notice stands vitiated due to the non-annexation and non-reliance of the Bills of Entry and Shipping Bills on which the demand of duty and allegations of misdeclaration are purportedly based. These documents are the primary statutory records of import and export declarations, and in their absence, there is no admissible or verifiable basis to sustain any charge under the Customs Act, 1962. It is a settled principle of law that any duty demand must be supported by documentary evidence forming part of the relied-upon records (RUDs) of the SCN, which the Noticee is entitled to inspect and rebut. By failing to make the relevant Bills of Entry and Shipping Bills part of the RUDs, the department has denied the Noticee its fundamental right to defend itself on the basis of core transactional records. Consequently, the entire SCN becomes speculative and devoid of legal enforceability, as the liability cannot be crystallised in the absence of the very documents upon which the demand is allegedly computed and the misdeclaration is alleged. The omission of such basic documentary evidence reflects a gross procedural lapse, undermining the principles of natural justice and adjudicatory fairness. Therefore, the Noticee respectfully submits that the allegations raised and the duty demands proposed are liable to be dropped in limine.

Repeated Denial of Right to Cross-Examination:

2.169. It is most respectfully submitted that the Noticee had repeatedly sought cross-examination of key witnesses, specifically Ms. Poonam Yadav, whose statements form a significant part of the evidentiary basis relied upon by the Department in support of the impugned allegations. Despite multiple formal requests placed on record during the adjudication proceedings, the opportunity to cross-examine Ms. Yadav was neither granted nor any cogent reason provided for such denial. It is a settled position in law that where any adverse inference is drawn or proposed to be drawn from a witness statement, the person against whom such inference is made must be given an opportunity to test the veracity and credibility of that witness through cross-examination. In the absence of this procedural safeguard, no evidentiary value can be attached to such statements, as held by the Hon'ble Supreme Court in *Andaman Timber Industries v. CCE* [(2015) 324 ELT 641 (SC)] wherein it was observed that denial of cross-examination is a gross violation of the principles of natural justice. Therefore, any reliance placed on the untested and uncorroborated statement of Ms. Poonam Yadav is legally untenable and vitiates the adjudication process. The Noticee reiterates that such denial of cross-examination strikes at the root of a fair adjudication and renders the proceedings procedurally and legally unsustainable.

ABSENCE OF EVIDENCE TO ESTABLISH DIVERSION:

2.170. It is respectfully submitted that the impugned Show Cause Notice does not furnish any credible, cogent, or admissible evidence to substantiate the allegation of diversion of goods purportedly imported or exported by the Noticee. No physical verification report, seizure memo, third-party statements, transport documents, or surveillance-based data has been provided to demonstrate that the goods have been diverted to any location other than the declared destination. There is also no inventory mismatch, no alternate consignee identification, and no link with any clandestine recipient that could establish the occurrence of such alleged diversion. The entire allegation rests on assumptions and conjectures, and is devoid of any positive proof that can withstand judicial scrutiny. In absence of direct evidence of unauthorized disposal, clandestine movement, or unaccounted-for delivery, the allegation of diversion remains unfounded and speculative, and hence, unsustainable in law.

IMPROPER AND UNSUBSTANTIATED VALUATION:

2.171. It is submitted that in cases where contemporary import data for identical or similar goods was not available, the department has resorted to taking the highest assessable value from transactions involving different chemical concentrations or formulations, without justifying their comparability or equivalence in market value. This practice runs contrary to the principles enshrined under Rule 4 to Rule 8 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, which mandate sequential and reasoned application of valuation methodologies. Therefore, valuation

methodology adopted in the Show Cause Notice is arbitrary, without statutory backing, and contrary to the settled legal position under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. It is respectfully submitted that the Notice fails to apply Rule 3 read with Rule 4 to 9 of the Valuation Rules, which mandate that transaction value be accepted as the primary method of valuation unless the circumstances of the sale disqualify its adoption. There is no finding of rejection of transaction value in accordance with Rule 12, nor is there any cogent reasoning to support recourse to alternative methods. The department has unilaterally adopted inflated comparable values or assumed pricing metrics without contemporaneous evidence, supplier declarations, or basis in documentary records. The Noticee's own imports, supported by contemporaneous transaction documents, were available and represent the true assessable value under Rule 3 read with Rule 4. Instead, without recording reasons for rejecting the transaction value, the department has relied on dissimilar import data with different active ingredient concentrations, thereby violating the principles laid down in Valuation Rules. The substitution of value from imports with dissimilar specifications either higher concentration chemicals or different grades without any chemical, forensic, or trade justification, indicates a clear violation of: Rule 4(3) – which requires adjustments only when goods are “identical in all respects including physical characteristics, quality and reputation,” and Rule 5(2) – which prescribes that similar goods must be produced in the same country and be commercially interchangeable. Without Prejudice that there has been no misdeclaration or undervaluation but even otherwise in absence of a proper basis, the valuation suffers from arbitrariness and is liable to be quashed.

2.172. In view of the above and the submissions already made, it is respectfully reiterated that the impugned allegations are based on assumptions, incomplete evidence, and material not supplied as part of the relied upon documents (RUDs). The Noticee has cooperated fully and disclosed all factual and legal particulars with transparency. It is, therefore, humbly prayed that the proceedings initiated under the impugned Show Cause Notice be dropped in entirety, and the Noticee be granted full relief from the proposed duty, interest, and penalty. The ends of justice would be best served by accepting the bona fide conduct of the Noticee and concluding the proceedings accordingly.

2.173. Shri Avtar Singh has made following submissions vide an undated letter:-

Adoption of the Company's Reply and Denial of Personal Involvement:

2.174. At the outset, I respectfully submit that the facts, evidentiary rebuttals, and legal submissions in respect of the subject SCN have been comprehensively covered in the reply filed on behalf of the company, which may kindly be read as part and parcel of this submission. I hereby expressly adopt the same to the extent it relates to the substantive allegations, classification issues, test reports, jurisdictional

challenges, and procedural irregularities cited in the SCN. I reiterate that I was not operationally involved in the day-to-day functions of the company, and I categorically deny all allegations and implications levelled against me.

Imports and Exports Conducted Under Customs Supervision:

2.175. It is pertinent to note that the subject imports and exports were cleared and processed under direct customs supervision. The consignments were examined, samples were drawn, and assessments were duly made by the proper officers of Customs before clearance. There is no allegation of clandestine activity nor any suppression of documents, nor any material deviation from the declared particulars at the time of import/export. When import and export activities are subjected to the rigour of customs verification, first check examination, and sample testing, the inference of mens rea or deliberate suppression becomes even more untenable in the absence of specific evidence of wrongdoing'.

Lack of Knowledge About images Found on Mobile Phone:

2.176. The department's case, as made out in the SCN, appears to rest significantly on certain images allegedly retrieved from my personal mobile device, purportedly showing some charts or content that forms the foundation of allegations. I unequivocally submit that:

- I was never aware of the presence of such images on my mobile device;
- I never created, received, forwarded, or stored such images with any knowledge or intent to commit any violation of law;
- I suspect that such images may have been deliberately introduced by someone else, possibly by a disgruntled staff member or third party with ulterior motives.
- No independent source metadata, email trail, or authorship analysis. Has been produced by the department to establish a nexus between me and the alleged content;
- The images in isolation, without origin, date, sender, or corroboration cannot be accepted as admissible or conclusive evidence under the Indian Evidence Act, 1872 or Information Technology Act, 2000.

Coerced and inadmissible statement & violation of Natural Justice:

2.177. I further state, with utmost respect, that the statement recorded under section 108 of the customs Act was taken under compelling circumstances. I am a senior citizen and suffer from serious difficulties in reading or writing. I cannot comprehend documents written in English or Hindi, and was made to put my thumb impression on the statement without being explained the contents. It was Shri Lal Chand

Gupta, the accountant, who was primarily responding to the questions asked. The investigating officers. were primarily interacting with him and merely asked me to affirm what he said. At no point was I informed of my rights, nor was I allowed to consult counsel or read any of the material. The so-called translation of the contents in Punjabi or Hindi was neither read aloud nor comprehended by me. The statement is not voluntary, and its use against me would be wholly unjust and contrary to established principles of law. As per settled law laid down in:

- Poolpandi v. superintendent, central Excise" [1992 (62) ELT 241 (SC)]
- Vinod Solanki v. UOI" [(2009) 11 SCC 233]
- and multiple tribunal rulings under Customs and Central Excise jurisdictions, a statement made under compulsion or without proper comprehension or legal assistance is not admissible as a basis for penalty or prosecution.

No Justification for Personal Penalty and Absence of Mens Rea or Evidence:

2.178. I respectfully submit that in the absence of any demonstrable link between me and the alleged offences, no penalty under Sections 112, 114A, or 114AA of the Customs Act' 1962 can be Legally sustained. There is no financial benefit derived by me, no authorization given by me and no act or omission on my part that would amount to contravention of any provision of the Customs Act. Imposing penalty solely on the basis of designation, in the absence of evidence of active involvement, is against the settled position in law and also against equity, particularly in my case where I was not even stationed in India during the relevant period.

Certificate validity and No Prohibition in Law:

2.179. It is respectfully submitted that the allegation regarding the expiry of Certificates of Registration (CoR) is misplaced. As per the scheme under which the imports were made, CORs are extendable on simple request and were, in fact, extended in some cases. The scheme does not prescribe automatic prohibition of goods solely on the ground that the certificate validity date has expired if the goods otherwise conform to specifications and are eligible for import. The goods imported are not intrinsically prohibited under section 11 of the customs Act or any allied act. Hence, even if the staff erred in timely uploading or extending such certificates, the same does not amount to intentional misdeclaration or illegal import, nor does it justify penal action.

Lack of Evidence to Prove Prohibited Nature of Goods:

2.180. The department has not produced any notification or evidence to support that the goods were prohibited at the time of import merely due to procedural lapses. Representative samples were tested

by DYCC JNCH/National Pesticides Lab, and though the test report allegedly points to concentration differences or missing components, there is no clear finding that the imported items were prohibited. It is submitted that variations in test report could also arise due to degradation in transit, sampling error, or lab procedural variance. Without categorical findings of "prohibited goods, invoking penalties under Sections 111(d) and 112 is not sustainable.

Infirmities in Digital Evidence and Metadata:

2.181. It is also reiterated that the images allegedly retrieved from my phone lack chain of custody documentation. There is no metadata, email trail, or forensic validation to prove who created the images, who sent them, on what date and platform they were created or shared or whether they were even in my knowledge. The reliance on such orphaned digital evidence is contrary to the evidentiary standards laid down under the Indian Evidence Act, 1872, particularly Sections 65A and 65B, and the Information Technology, Act, 2000. In the absence of a certificate under section 65B or any primary evidence linking me to the origin, the entire basis of the allegation collapses.

Role of Late Shri Daljit Singh:

2.182. The company's Indian operations, documentation and supplier correspondence were all managed by late Shri Daljit Singh who had direct oversight over operational and regulatory compliance. My position as a director stationed in Dubai was supervisory in nature. Post his unfortunate demise, certain staff members may have attempted to rectify backdated documents. Without corroborative evidence or cross-examination, the presumption of guilt against me is unfair and violative of Article 14 and 21 of the Constitution.

Exports were Proper, No Misdeclaration, and Absence of Evidence:

2.183. It is respectfully submitted that the exports carried out by the company were duly declared in accordance with the applicable provisions of the Customs Act, 1962, and other allied laws. The export consignments were subjected to routine documentation, shipping bills scrutiny and in many cases, physical examination and sampling by customs authorities at the port of export. There is no allegation in the show cause Notice that the exports were clandestine, unreported or routed outside the authorized channels. On the contrary, all necessary documentation including invoices, packing lists, and declarations were duly filed and processed. The allegations of mis-declaration are based entirely on unverified digital material and certain WhatsApp chats without any corroboration. The department has not produced any evidence from port-side authorities, foreign buyers, shipping lines or bank remittances to establish that the description or classification of exported goods was false. There is also no evidence of any refund or drawback fraud in connection with such exports. In absence of any

tangible and admissible evidence linking the exported goods to any misdeclaration or unlawful gai,' the imposition of penalty is wholly unwarranted and unsustainable in law.

Request for Production of Any Findings by Dubai customs or Foreign Agencies:

2.184. It is further submitted that the Department, in its investigation, appears to suggest that verification was conducted through Dubai customs or other foreign authorities. If such verification was indeed carried out and any credible evidence of wrongdoing or misdeclaration on our part was discovered, the same ought to have been duly annexed to the show cause Notice. However, no such findings, reports, or official communication from Dubai Customs or any other competent foreign agency have been produced or relied upon in the SCN. This omission clearly indicates that no adverse inference or confirmation of illegality could be drawn at the foreign port either in terms of the nature of goods exported or the documentation furnished therewith. It is respectfully submitted that unless any direct and verified material is received from the foreign port authorities conclusively establishing our role in misdeclaration or evasion, no presumption of guilt can be drawn merely on conjecture or indirect digital material. We, therefore, call upon the Department to place on record any such verification report if available, and also seek opportunity to rebut the same with full disclosure, if such findings exist. In the absence of such conclusive evidence from the foreign end, the allegations stand unsupported and must be treated as speculative.

2.185. In view of the foregoing, I respectfully pray that the Show Cause Notice issued against me may kindly be dropped and discharged in my individual capacity; that the personal penalty proposed under sections 112, 114A and 114AA may not be imposed, in the interest of justice and in recognition of my bona fides and non-involvement; that any further adverse action proposed against me may be withheld, considering the infirmity in reliance on unverified digital evidence and coerced statement. I am available to provide any further clarification your office may require.

2.186. Shri Charanjit Singh has made following submissions vide an undated letter:-

Adoption of the Company's Reply and Denial of Personal Involvement:

2.187. At the outset, I respectfully adopt and reiterate the submissions, evidentiary rebuttals, and legal contentions raised in the detailed reply filed by the Company, which may be deemed to form part of the present submission mutatis mutandis. I specifically deny all allegations of wrongdoing levelled against me and submit that I had no direct or indirect role in the daily operations, regulatory filings, or import documentation of the Company. My role has been purely limited to overseas operations, and I was not based in India during the relevant period. All commercial decisions, documentation, and compliance-related work were managed by the Indian team under the direct supervision of late Shri

Daljit Singh, who unfortunately passed away and whose absence appears to have been misused to assign vicarious liability on me and Shri Avtar Singh.

Clearance under Customs Supervision, No Suppression or Fraud:

2.188. The subject import consignments were cleared only after due assessment, sample testing, and examination by the proper officers of Customs. The transactions were neither clandestine nor were there any attempts to suppress or mis-declare any information at the time of clearance. Once the consignments were found fit for clearance after physical verification, the question of deliberate suppression or fraud on my part, particularly when I was not handling these activities, does not arise.

Disconnection with Any Alleged Digital Evidence:

2.189. The department has sought to rely on certain images or data allegedly retrieved from a mobile device purported to be of Shri Avtar Singh. I respectfully submit that no such evidence is linked to me either in content, authorship, or access. I was not in India at the relevant time, and I was not privy to any such content, nor have I communicated, shared, or received any document forming part of the alleged evidence. In fact, my own statement dated 07.05.2024 clearly records that I had no knowledge regarding any changes in the Certificates of Registration, which were being handled exclusively by late Shri Daljit Singh. This fact has not been rebutted or contradicted by any material evidence.

No Mens Rea or Active Participation:

2.190. It is a settled position in law that penalties under Sections 112, 114A, or 114AA of the Customs Act, 1962 can only be imposed where there is evidence of knowledge, active participation, and mens rea. In my case:

- No act of omission or commission has been alleged specifically against me.
- I have derived no pecuniary gain or personal benefit from the alleged contraventions.
- No authorization or instruction has been issued by me for any such import activity.
- I was not the signatory, preparer, or supervisor of any of the Bills of Entry or related documentation.

The Supreme Court in *Commissioner of Customs v. Nokia India Pvt. Ltd.* [2015 (10) TMI 560- SC], and other High Courts have held that mere designation as a director is insufficient to infer liability unless specific involvement is shown.

Absence of Relied Upon Documents and Procedural Irregularities:

2.191. It is submitted that several key Relied Upon Documents (RUDs) referred to in the Show Cause Notice and annexures to DRI SCN related to the live consignment have not been made available to me.

Additionally, the panchnama related to the recovery of digital evidence has not been supplied. In the absence of these, I am denied the opportunity to understand and rebut the allegations, and hence the notice suffers from violation of principles of natural justice. This alone renders the proceedings vitiated in law.

Adverse Inference Drawn Due to Demise of Shri Daljit Singh:

2.192. It is also submitted that the late Shri Daljit Singh, who was heading Indian operations, was the person solely responsible for correspondence with the licensing authorities, certificate submissions, and interactions with foreign suppliers. His unfortunate demise has left a vacuum, and the investigating authorities have wrongly attempted to shift the burden of his actions onto persons like me who were not even present in India. This not only prejudices the defense but also reflects a lack of fairness in investigative procedure.

Errors or Lapses in Certificate Uploads Not Attributable to Me:

2.193. As discussed in the company's reply, even if there is any alleged discrepancy in the Certificate of Registration uploaded or presented at the time of import, the same is an extendable condition, and no mens rea or fraudulent intent has been alleged or proven. There is every possibility that any such lapse, if at all, was a clerical or procedural omission by junior staff. I had no role or control in such operational aspects of document upload or validation.

No Contraband or Prohibited Goods Involved:

2.194. It is also relevant to state that no goods classified as "prohibited" under Section 111 of the Customs Act have been imported. Even assuming expiry of certificate validity, the goods themselves are not intrinsically prohibited. In fact, in at least one instance, extension was duly sought and granted, demonstrating good faith.

2.195. In light of the foregoing, I respectfully pray that: The Show Cause Notice issued against me in my individual capacity may be withdrawn and dropped; No penalty under Sections 112, 114A, or 114AA may be imposed upon me, as the statutory requirements for invoking such provisions are wholly unfulfilled; Any adverse inference may be avoided in the interest of fairness, particularly given the absence of any evidence connecting me with the alleged offence and my non-executive, overseas-based role. I reiterate my willingness to fully cooperate in any further inquiry, if required.

2.196. Shri Anil K. Rawal (Authorized Representative) Representing M/s Modern Insecticides Ltd. & its Directors, vide email dated 04.03.2026 has submitted that the Noticee Late Shri Avtar Singh, has unfortunately expired during the pendency of the proceedings. A copy of the Death Certificate issued

by the competent authority has already been placed on record for your kind consideration. It is further submitted that undersigned is representing the company and its directors in the present proceedings. Accordingly, on the instructions and directions of the company, the present application is being filed to formally place on record the demise of the said director and to seek appropriate relief on his behalf. It is submitted that penal proceedings under the Customs Act, 1962 are personal in nature, and in the absence of the Noticee, continuation of such proceedings for the purpose of imposing personal penalties would serve no legal purpose. The Hon'ble courts and tribunals have consistently held that personal penal liability does not survive against a deceased person, and therefore adjudication against such a person becomes legally unsustainable and infructuous. In view of the above circumstances, it is requested that the fact of demise of the Noticee, supported by the Death Certificate already submitted, may be taken on record; that the proceedings against the deceased Noticee, particularly in respect of personal penal consequences, may kindly be dropped / treated as abated in accordance with law.

3. PERSONAL HEARING

- 3.1.** Shri Anil K. Rawal (ARG Law Chambers) appeared for Personal Hearing virtually on 30.01.2026 on behalf of M/s Modern Insecticides Ltd., Shri Charanjit Singh and Shri Avtar Singh and following submissions were made by him during course of personal hearing:-:

Complete Inadmissibility of Electronic Evidence:

- 3.2.** The department's allegations rely heavily on unverified digital images, chats, and Excel tables purportedly retrieved from Shri Avtar Singh's iPhone. This electronic evidence is legally and factually unsustainable for the following critical reasons:

I. Complete Inadmissibility and Legal Vitiating of Electronic Evidence: The entire foundation of the SCN **relies** on a "working copy" of data (images, Excel tables, and chats) purportedly retrieved from an Apple iPhone belonging to Late Shri Avtar Singh. This electronic evidence is legally void and factually unsustainable for the following critical reasons:

- **Mandatory Statutory Non-Compliance:** The electronic records are fundamentally inadmissible due to the absolute failure to produce the mandatory certificate under Section 65B (4) of the Indian Evidence Act, 1872, and Section 138C of the Customs Act, 1962. As settled by the Hon'ble Supreme Court in Anvar P.V. vs. P.K. Basheer and Arjun Panditrao Khotkar, secondary electronic evidence without such certification is a legal nullity and cannot be relied upon.
- **Compromised Chain of Custody & Lack of Forensic Integrity:** The department failed to

produce a certified forensic report from an authorized examiner notified under Section 79A of the Information Technology Act, 2000. The seized data was shockingly transferred via ordinary courier without forensic sealing, hash values, or imaging logs, gravely compromising its integrity. Furthermore, the foundational Panchnama detailing the seizure procedure was deliberately withheld from the Relied Upon Documents (RUDs), completely breaking the chain of custody.

- **Uncorroborated, Contradictory, and Unrelated Fragments:** The relied-upon digital Images exhibit severe internal chronological contradictions (e.g., post-facto insertions regarding "sulphur" handling) and are entirely devoid of transactional corroboration. Bare tabular entries have been presented without any linking financial or shipping documents (such as invoices, delivery challans, or packing lists). Moreover, third-party transactions involving distinct entities like "Indogulf" and "Insecticide India Limited" have been speculatively and falsely attributed to the Noticee to manufacture a chain of malfeasance.
- **Coerced Admissions Cannot Cure Evidentiary Defects:** The department's attempt to validate this tainted digital data through the recorded "admission" of Late Shri Avtar Singh is legally perverse. An illiterate, 80-year-old individual who cannot read or write English or Hindi cannot technically authenticate complex digital extractions. As established in *Tofan Singh vs. State of Tamil Nadu*, such uncorroborated statements made to officers hold no substantive evidentiary value and cannot cure gross procedural defects.

II. Coerced Statements, Misplaced Liability & Denial of Natural Justice: The department's case is severely vitiated by a biased investigative approach, reliance on involuntary admissions, and gross violations of procedural fairness. This is evidenced by the following:

- **Misplaced Vicarious Liability:** Following the unfortunate demise of Late Shri Daljit Singh the Indian operations head who exclusively managed all day-to-day documentation, commercial decisions, and CIB compliance the department is unfairly shifting vicarious liability onto the overseas directors, Shri Avtar Singh and Shri Charanjit Singh, who had no direct operational role in India.
- **Coerced and Inadmissible Statements:** The confessional statements relied upon were not voluntary and were extracted under compelling circumstances. Specifically, Late Shri Avtar Singh was an illiterate, 80-year-old senior citizen. He was made to affix his thumb impression

on technical English and Hindi documents that he could neither read nor comprehend, rendering the admission legally inadmissible.

- **Biased Investigation & Suppression of Evidence:** The investigation demonstrates a highly prejudiced and pre-determined approach by selectively relying on the tutored and contradictory statements of junior clerks, such as Ms. Poonam Yadav and Shri Lal Chand Gupta. Concurrently, the department deliberately suppressed and excluded testimonies from key operational managers who were directly responsible for procurement, production, and regulatory compliance.
- **Denial of Cross-Examination:** In a gross violation of the principles of natural justice, the Noticee was repeatedly denied the fundamental right to cross-examine key witnesses, specifically Ms. Poonam Yadav. Without the opportunity to test the veracity of her claims, any reliance on her uncorroborated statements is legally untenable.

III. Flawed Valuation Methodology & Suppression of Material Documents: The department's proposed **duty** demand is legally unenforceable as it relies on an arbitrary valuation methodology and a glaring failure to supply primary statutory records. This is evidenced by the following critical lapses

- **Arbitrary Re-determination of Value:** The department arbitrarily rejected the declared transaction values for 16 Bills of Entry and applied prices from dissimilar "contemporaneous imports". This approach blatantly violates the sequential application mandated by Rule 4 to Rule 8 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- **Illogical Basis and Proof of Bona Fides:** The department's own data shows that in several instances, the Noticee's declared prices were actually higher than the contemporaneous imports. Discarding valid transaction values merely because they are on the higher side establishes the Noticee's bona fide conduct and transparency, highlighting the absurdity of the department's attempt to artificially inflate values.
- **Non-Supply of Primary Statutory Records (RUDs):** Although statements of various persons were recorded under Section 108 of the Customs Act, 1962, the investigating agency selectively relied upon only those statements that supported its case, while disregarding others. Further, the entire foundation of the duty demand and misdeclaration charges is vitiated because the primary statutory records specifically the relevant Bills of Entry and

Shipping Bills upon which the demand is purportedly based were never supplied as Relied Upon Documents (RUDs).

- **Withholding of Crucial Data:** Additionally, critical calculation documents such as RUD 15 and RUD 16, as well as the data of contemporaneous imports from China used to re-determine the value, were deliberately withheld from the Noticee. Denying the Noticee access to the very documents upon which the liability is computed is a gross violation of natural justice and renders the demand legally void and unenforceable.

IV. Curable Procedural Defects, Unsubstantiated Diversion & Jurisdictional Bars: The department's allegations of smuggling, diversion, and illegal Importation fail to hold up against statutory provisions and the lack of physical evidence. This is demonstrated by the following points:

- **Registration Certificates (CRs) are a Curable Defect:** The SCN alleges that imports across 39 Bills of Entry are liable for confiscation due to altered dates on the CIB Registration Certificates, However, this is merely a curable, procedural defect. Under Rule 6-B of the insecticides Rules, 1971, these certificates are routinely extendable upon a simple request and a nominal fee of Rs. 5,000. A clerical error regarding renewal dates does not fundamentally alter the nature of the goods, nor does it convert legally permitted imports into "prohibited goods" under Section 2(33) or Section 11 of the Customs Act.
- **Zero Proof of Domestic Diversion:** The exorbitant duty demand of Rs. 30.26 crores rests on the baseless assumption that duty-free EOU imports were diverted into the domestic market. The department completely failed to provide any corroborative evidence such as transportation records, movement registered, seizure memos: identified local buyers to substantiate this alleged diversion. In realty, MIL is a 100% EOU working under the physical control of the department and strictly fulfilled its export obligations.
- **Confiscation and Redemption Fines are Legally Barred:** The SCN wrongly proposes the confiscation of goods that have already been cleared for home consumption and are no longer physically available. Under established law, goods that are not available cannot be legally confiscated under Section 111, nor can redemption fines be imposed under Section 125 when the goods were not released on bond.

- **Lack of Territorial Jurisdiction:** The SCN is ex facie illegal and suffers from a fatal jurisdictional defect, as it improperly consolidates imports cleared through distinct and separate customs jurisdictions (INNSA1 and INBOM4) into a single demand without lawful authority.

4. DISCUSSION AND FINDINGS

- 4.1. I have carefully gone through the Show Cause Notice, material on record and facts of the case, as well as written and oral submissions made by the Noticees. Accordingly, I proceed to decide the case on merit.
- 4.2. It is incumbent upon the Adjudicating Authority to duly consider the views and objections of the noticees prior to passing any order. In the present case, an opportunity of personal hearing was granted to the noticees by the Adjudicating Authority on 30.01.2026. The said hearing was attended by Shri Anil K. Rawal of ARG Law Chambers, appearing on behalf of M/s Modern Insecticides Ltd., as well as Shri Charanjit Singh and Shri Avtar Singh. The written submissions tendered by the noticees, as well as the record of the personal hearing, have been duly taken on record and have been incorporated in the preceding paragraphs of this order.
- 4.3. I find that the requirements stipulated under Section 28(8) and Section 122A of the Customs Act, 1962 have been duly complied with. Further, the principles of natural justice have been adequately been followed in the present proceedings. Having satisfied myself that the procedural requirements and the principles of natural justice have been duly adhered to, I now proceed to adjudicate the matter on merits, taking into consideration the allegations set out in the Show Cause Notice.
- 4.4. On careful perusal of the Show Cause Notice and case records, I find that the following main issues are required to be decided in the case:
 - A. Whether or not 430.12 MTs of goods imported by M/s Modern Insecticides Limited vide 39 bills of entry, as mentioned in Annexure-A of the Show Cause Notice, should be held liable for confiscation under Section 111(d) of the Customs Act, 1962, for forging of certificate of registration and 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B of the Show Cause Notice, should be held liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, for misdeclaration of the description and the value of goods.
 - B. Whether or not classification of the goods mentioned in Bill of Entry No. 6293868 dated 30-12-2019 imported by M/s Modern Insecticides Limited under CTH 38089990 should be rejected for

misdeclaration of the description and, thereby, classification and same should be reclassified under CTH as 38089330.

- C. Whether or not declared assessable value of Rs. 35,58,39,625/- of the goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B, should be rejected and the same should be re-determined as Rs. 52,46,89,086/- as mentioned in Annexure-B under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, for misdeclaration of the description and thereby value, as tabulated in Table E.
- D. Whether or not Customs duty amounting to Rs. 30,26,01,992/- in respect of imports by M/s Modern Insecticides Limited against EoU status, vide 55 bills of entry, as detailed in Annexures – C, should be demanded under Section 28 (4) of the Customs Act, 1962 read with the B-17 bond submitted by them along with appropriate interest under the provisions of Section 28AA of the Customs Act, 1962.
- E. Whether or not penalty under Section 114A of the Customs Act, 1962 should be imposed on M/s Modern Insecticides Limited, for non-levy of duty on imported goods, as mentioned in Annexure-C.
- F. Whether or not penalty under Section 112(a) of the Customs Act, 1962 should be imposed on M/s Modern Insecticides Limited, for importing prohibited goods by forging of certificate of registration, as mentioned in Annexure-A and for mis-declaring description & value of imported goods, as mentioned in Annexure-B.
- G. Whether or not penalty under Section 114AA and 112 (a) of the Customs Act, 1962 should be imposed on Shri Avtar Singh and Shri Charanjit Singh the then Directors of M/s Modern Insecticides Limited, mis-declaring description & value of imported goods, as mentioned in Annexure-B.
- H. Whether or not the above liabilities should be liable to recovered under Section 143(3) of the Customs Act, 1962 by enforcing the bond executed by M/s Modern Insecticides Limited, for violating the EoU obligations, without prejudice to the other options for recovery.

4.5. After having framed the substantive issues which are required to be decided, I now proceed to examine each of the issues individually one by one for detailed analysis based on the facts and circumstances mentioned in the Show Cause Notice, provisions of the Customs Act, 1962, nuances of various judicial pronouncements as well as Noticee's oral and written submissions and documents/evidences available on record.

Whether or not 430.12 MTs of goods imported by M/s Modern Insecticides Limited vide 39 bills of entry, as mentioned in Annexure-A of the Show Cause Notice, should be held liable for confiscation under Section 111(d) of the Customs Act, 1962, for forging of certificate of registration and 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B of the Show Cause Notice, should be held liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, for misdeclaration of the description and the value of goods.

4.6. I find that the SCN has proposed confiscation of 430.12 MTs of goods imported by M/s Modern Insecticides Limited vide 39 bills of entry, as mentioned in Annexure-A of the Show Cause Notice, under Section 111(d) of the Customs Act, 1962 for forging of certificate of registration. Section 111 of the Customs Act, 1962 is as follows: -

111. Confiscation of improperly imported goods, etc.—The following goods brought from a place outside

.....

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

.....

(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;

(m) 2[any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3[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];

4.7. I find that M/s Modern Insecticides Ltd. is alleged to have submitted altered Certificates of Registration (CRs) issued by the Central Insecticides Board to secure clearance for imported insecticides in respect of 39 bills of entry which have been mentioned in Annexure-A to the Show Cause Notice. A detailed comparison of the certificates submitted before Customs with the original records obtained from competent authority confirms that the dates of issuance were deliberately modified in the said 39 bills of entry. I find that the importer's claim of unawareness is legally

untenable, as it bears the ultimate responsibility for ensuring that all documents submitted to Customs are authentic, valid, and compliant with regulatory requirements.

- 4.8.** Further, I find that Smt. Poonam Yadav, in her statement recorded under Section 108 of the Customs Act, 1962 on 27.01.2021 and 28.01.2021, stated that all import-related documents such as invoices, packing lists, Certificates of Analysis (COA), Bills of Lading, and Certificates of Registration were forwarded to the Customs House Agent for clearance on the directions of Shri Charanjit Singh and Shri Avtar Singh, and that the said persons were taking the decisions relating to the affairs of the company. Furthermore, I find that Shri Lal Chand Gupta, in his statement recorded under Section 108 of the Customs Act, 1962 on 27.10.2023, inter alia, stated that although Shri Amandeep Singh is the present Director of Modern Insecticides Limited, Shri Charanjit Singh and Shri Avtar Singh are the major shareholders of the company and continue to exercise control over the operations and take important decisions for the company.
- 4.9.** I find that in his statements recorded under Section 108 of the Customs Act, 1962 on 06.04.2024 & 08.04.2024, Shri Avtar Singh, Former Director, MIL, admitted that Certificate of Registration issued by Central Insecticides Board & Registration Committee (CIB&RC), were forged because the licenses were getting expired and they needed to buy insecticides for business. In the said statements, Shri Avtar Singh also affirmed the correctness of the statements given by Smt. Poonam Yadav and Shri Lal Chand Gupta.
- 4.10.** I find that the use of forged documents to obtain import clearance constitutes a grave violation of customs law and undermines the regulatory framework established to protect public health and safety. I further find that the Noticees, in their written submissions, have attempted to shift the blame for forging the Certificates of Registration onto junior staff of the company. However, this contention is not acceptable in view of the clear and categorical statements recorded under Section 108 of the Customs Act, 1962, which establish that the import-related documents were forwarded to the Customs House Agent for customs clearance on the directions of Shri Charanjit Singh and Shri Avtar Singh, who were effectively controlling the affairs and decision-making of the company. The responsibility for ensuring the authenticity and validity of documents submitted to Customs rests squarely with the importer, and such responsibility cannot be delegated or shifted to subordinate employees or intermediaries.
- 4.11.** Once a document is established to be forged, the same becomes a nullity in the eyes of law and any benefit obtained on the basis of such document becomes legally unsustainable. I find that Hon'ble Supreme Court of India in *Commissioner of Customs (Preventive) vs. Aafloat Textiles India Pvt. Ltd. &*

Others, [reported at (2009) 235 E.L.T. 587 (S.C.)] observed, in respect of forged licences used for import:

“28. As noted above, SILs were not genuine documents and were forged. Since fraud was involved, in the eye of law such documents had no existence. Since the documents have been established to be forged or fake, obviously fraud was involved and that was sufficient to extend the period of limitation.”

- 4.12.** I find that the importer’s contention that the alterations constitute merely curable procedural defects under Rule 6-B of the Insecticides Rules, 1971, is without merit. This case involves intentional alteration of certificates, not clerical oversight or delayed renewal. Altered CRs cannot be legitimized by extensions or payment of nominal fees, as they represent deliberate misrepresentation intended to circumvent regulatory controls. Consequently, the imported goods, presented for clearance on the basis of such forged documents, are treated as prohibited under Section 2(33) of the Customs Act, 1962.
- 4.13.** In view of the foregoing findings and discussions, I hold that M/s Modern Insecticides Limited imported insecticides against forged and altered Certificates of Registration. The defenses raised by the Noticees based on alleged unawareness, procedural lapses, or negligence of staff are not legally sustainable. Such conduct constitutes a serious violation of the provisions of the Customs Act, 1962 and defeats the regulatory framework governing the import of insecticides. Importers are under a statutory obligation to ensure that the documents submitted before Customs are genuine and valid. Accordingly, I find that the allegation in the Show Cause Notice that M/s Modern Insecticides Limited imported insecticides on the strength of forged Certificates of Registration stands duly established.
- 4.14.** In view of the foregoing discussion and findings, I hold that M/s Modern Insecticides Limited imported the subject goods under the said 39 Bills of Entry by submitting forged and altered Certificates of Registration purportedly issued by the Central Insecticides Board & Registration Committee. Such forged certificates are legally void and incapable of conferring any lawful authority for the import of insecticides. Consequently, the import of the said goods without valid Certificates of Registration is in clear contravention of the provisions of the Insecticides Act, 1968 and the Insecticides Rules, 1971, which regulate the registration and import of insecticides in India. Goods imported in violation of such statutory restrictions and without valid authorization fall within the ambit of “prohibited goods” as defined under Section 2(33) of the Customs Act, 1962. Accordingly, the 430.12 MT of insecticides imported by M/s Modern Insecticides Limited through the aforesaid 39 Bills of Entry, as detailed in Annexure-A to the Show Cause Notice, are liable for confiscation under Section 111(d) of the Customs Act, 1962.

- 4.15.** Now moving to 169.50 MTs goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B of the Show Cause Notice, I find from the records available on file that, based on the request of SIIB, NS-I, JNCH, a search was conducted at the premises of MIL, Ludhiana by officers of CGST Ludhiana Commissionerate. Vide letter F. No. IV (HQRS) Prev/Ldh/05/131/2019-20/Pt/355 dated 05.02.2021, data retrieved from electronic gadgets seized during the search was forwarded to SIIB (I), JNCH. Forensic analysis of data from an Apple phone of Shri Avtar Singh revealed incriminating images pointing to MIL's involvement in mis-declaration of imported and exported goods, along with forgery of CIB licenses.
- 4.16.** I find that scrutiny of the Bills of Entry filed by M/s Modern Insecticides Limited, along with the images recovered from the mobile phone of Shri Avtar Singh, revealed mis-declaration of the insecticides in respect of 16 Bills of Entry. The said images establish that the products actually imported were different from the descriptions declared in the respective Bills of Entry. Further, it is observed that in 14 out of the said 16 Bills of Entry, the Certificates of Registration submitted before Customs were forged.
- 4.17.** Analysis of Image-01 showed that the "Product Name" column corresponds to the actual imported goods, while the "Selling to Modern by the name of" column represents the description declared in the Bill of Entry, and "Selling Price to Modern" reflects the unit price in the declaration. Image-02 confirmed similar discrepancies, with blank columns in the declared description, but cross-referencing with import data showed clear mis-declaration.
- 4.18.** I find that multiple summonses were issued to Shri Avtar Singh and Shri Charanjit Singh to confront them with the images, but they repeatedly failed to appear. The evidence clearly shows that MIL imported insecticides different from those declared in the Bills of Entry. Therefore, MIL mis-declared the description of goods in the 16 Bills of Entry besides forging the License in majority of the cases.
- 4.19.** Eventually, the statements of Shri Avtar Singh, former Director of MIL, were recorded on 06.04.2024 and 08.04.2024 under Section 108 of the Customs Act, 1962, which confirmed the mis-declaration of goods, revealing that MIL at times, did not possess the required Certificates of Registration issued by the Central Insecticides Board (CIB) for the insecticides being imported. To circumvent this, the importer deliberately altered the labels on the consignments to reflect insecticides for which required certificates existed. In other instances, the dates on the certificates were forged to make them appear valid, enabling MIL to procure and import insecticides even after the expiration of the original licenses. Shri Avtar Singh also confirmed that the data reflected in the forensic report had been extracted from his mobile phone. The statements, read with the electronic evidence and import

documents, clearly establish deliberate mis-declaration of the description of goods and manipulation of supporting registration certificates.

- 4.20.** I find that the imported goods were insecticides whose import is restricted and is regulated by Insecticides Act, 1968. Import of insecticides without valid Certificates of Registration issued by the Central Insecticides Board (CIB) was intended to circumvent regulatory controls. Consequently, the imported goods, without valid Certificates of Registration issued by the Central Insecticides Board (CIB) should be treated as prohibited under Section 2(33) of the Customs Act, 1962 which clearly falls within the scope of Section 111(d) of the Customs Act, 1962. The imported goods were different from those declared in the respective Bills of Entry. Consequently, the goods actually imported were not included in the entry made under the Act, thereby attracting Section 111(l). Further, since the description of the goods did not correspond with the declaration made in the Bills of Entry, the provisions of Section 111(m) are also attracted. Furthermore, I find that Mis-declaration of description directly impacts the declared value of goods. Once the description itself is found to be incorrect, the declared transaction value loses its reliability and becomes liable to rejection under Rule 12 of the Customs Valuation Rules, 2007. Consequently, the goods also become liable for confiscation under Section 111(m) of the Customs Act, 1962 for mis-declaration in respect of value and other particulars in the Bill of Entry. Therefore, I find that 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B, should be held liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, for misdeclaration of the description and the value of goods.
- 4.21.** I find that the Noticees have tried to cast aspersions on the evidentiary value of the images obtained from the iPhone of Shri Avtar Singh. I find that the images retrieved from the iPhone of Shri Avtar Singh, along with statements recorded under Section 108 of the Customs Act, 1962, constitute admissible and reliable evidence. These images clearly indicate the discrepancy between the description of imported goods in the Bills of Entry and the actual goods imported by MIL. The noticee's claim that the images are "incomplete" or "sketchy" is incorrect, as the images have been corroborated with import documents, Bills of Entry, and forensic analysis, establishing deliberate mis-declaration. It is also pertinent that Shri Avtar Singh, in his statements recorded under Section 108 *ibid*, confirmed that the data reflected in the forensic report had been extracted from his iPhone.
- 4.22.** I further find that, acting on specific intelligence, three live Bills of Entry filed by M/s Modern Insecticides Limited were intercepted and the goods were examined under Panchnamas dated 17.09.2020 and 21.09.2020. Samples drawn were tested by Dy. Chief Chemist, JNCH and National Pesticides Investigation Laboratory (NPIL). The test reports revealed that the goods were not as declared. In respect of Bill of Entry No. 8386146 dated 05.08.2020, the goods declared as Imidacloprid

95% were found to be Pyrazosulfuron Ethyl 98.18%, and Lambda Cyhalothrin was found to be of different concentrations than declared. In respect of Bill of Entry No. 8344379 dated 01.08.2020, the samples tested negative for Emamectin Benzoate, the declared product. Similarly, in respect of Bill of Entry No. 8386145 dated 05.08.2020, the samples did not show the presence of Castor Oil and could not be chemically identified despite being declared as such. I further find that the Secretary, Central Insecticides Board (CIB), vide email confirmed that the Certificates of Registration submitted for clearance were forged and manipulated to appear valid. Accordingly, the goods were liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. I also note that these imports were subject matter of a separate Show Cause Notice adjudicated vide Order No. 199/2022-23/JC/NS-I/CAC/JNCH dated 01.06.2022, wherein the goods were held liable for confiscation on account of mis-declaration and use of forged Certificates of Registration.

- 4.23.** From the above, I find that the mis-declaration of goods and use of forged Certificates of Registration by M/s Modern Insecticides Limited stand independently established through physical interception, laboratory testing, and confirmation from the Central Insecticides Board. This evidence, being scientific and independent in nature, corroborates the findings based on forensic electronic data and statements recorded under Section 108 of the Customs Act, 1962, and establishes a consistent modus operandi adopted by the Noticee to circumvent statutory requirements governing import of insecticides.
- 4.24.** It is settled law that statements of responsible persons along with documentary evidence are sufficient to substantiate mis-declaration of imported goods. Furthermore, it is well settled that proceedings under the Customs Act are quasi-judicial and civil in nature, and the standard of proof applicable is that of preponderance of probability. The evidence available on record, namely the forensic analysis of electronic data retrieved from the iPhone of Shri Avtar Singh, corroborated with Bills of Entry, laboratory reports and statements recorded under Section 108 of the Customs Act, 1962, sufficiently establish the charge of mis-declaration. Therefore, I find that the contention of the Noticees is without merit.
- 4.25.** I have also considered the submission of the noticee that the statement of Shri Avtar Sigh recorded under Section 108 of the Customs Act, 1962 was obtained under compelling circumstances and that he was unable to understand the contents of the statement on account of language and age-related difficulties.
- 4.26.** I find that the said contention is not supported by any contemporaneous evidence and appears to be an afterthought raised only at the stage of adjudication. The statement was recorded by the proper officer in exercise of statutory powers under Section 108 of the Customs Act, 1962, which authorizes Customs

officers to summon persons to give evidence and produce documents during inquiry. Statements recorded under this provision are admissible in evidence and carry significant evidentiary value.

- 4.27. I observe that the noticee had affixed his thumb impression on the statement. There is nothing on record to indicate that at the time of recording of the statement, or immediately thereafter, the noticee raised any objection alleging coercion, compulsion, misunderstanding of language, or incorrect recording of the contents. It is a settled legal position that where a person alleges coercion or involuntariness in respect of a statement, such allegation must be raised at the earliest opportunity; otherwise the plea loses credibility.
- 4.28. It is pertinent to note that the investigation in the present case is not founded solely upon the statements of the Noticees. The allegations are substantiated by substantial and independent evidence, including documentary records, Bills of Entry, electronic data retrieved during the course of investigation, and other corroborative materials such as laboratory test reports of samples drawn from live consignments. Therefore, the evidentiary foundation of the case does not rest exclusively on the impugned statements, but is reinforced by multiple independent and reliable sources of evidence.
- 4.29. Given that in the present proceedings, statements recorded under Section 108 of the Customs Act, 1962 have been relied upon, I deem it necessary to reiterate the settled legal position that such statements constitute substantive and admissible evidence. It has been held by various judicial fora that Section 108 is an enabling act and an effective tool in the hands of Customs to collect evidences in the form of voluntary statements. The Hon'ble Courts in various judicial pronouncements, have further strengthened the validity of this enabling provision. It has been affirmed that the statement given before the Customs officers is a material piece of evidence and certainly can be used as substantive evidence, among others, as held in the following cases:
- i. *Asst. Collector of Central Excise, Rajamundry v. M/s. Duncan Agro India Ltd.* reported in 2000 (120) [E.L.T.](#) 280 (S.C.) : Statement recorded by a Customs Officer under Section 108 is a valid evidence
 - ii. In 1996 (83) [E.L.T.](#) 258 (S.C.) in the case of *Shri Naresh J. Sukawani v. Union of India* :
“4. *It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act.*”
 - iii. The Apex Court in the case *Hazari Singh V/s. Union of India* reported in 1999 (110) [E.L.T.](#) 406 (S.C.), has held that Confessional statement made to a Customs Officer, when police were not present, admissible in evidence, and do not come within the inhibition of Sections 24 and 25 of the Indian Evidence Act because Customs Officers are not police officers within the meaning of those provisions - Sections 108, 122 and 135 of Customs Act, 1962.

- iv. The Apex Court in the case of Surjeet Singh Chhabra V/s. Union of India reported in 1997 (89) E.L.T. 646 (S.C.) has held that *the Customs officials are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call Panch witnesses for examination and cross-examination by the petitioner.*
- v. In the case of Bhana Khalpa Bhai Patel Vs. Asstt. Collr. of Customs, Bulsar [1997 (96) E.L.T. 211 (SC)], the Hon'ble Apex Court at Para 7 of the judgment held that :-“ *It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandra v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (H.Q.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C.) = (1997) 3 S.C.C. 721.*”
- vi. In the case of Raj Kumar Karwal Vs. UOI 1990 (48) E.L.T. 496 (S.C.), the Hon'ble Supreme Court held that Department of Revenue Intelligence (D.R.I.) Officers appointed with power of investigation under Section 53 thereof - Not 'police officer' - Confessional statement made to them not hit by Section 25 of the Indian Evidence Act, 1872 when read with Sections 173 & 190 of the Code of Criminal Procedure, 1973.
- vii. Hon'ble Supreme Court's decisions in the case of Romesh Chandra Mehta Vs. the State of West Bengal 1999 (110) E.L.T. 324 (S.C.) held that Customs Officer is not a Police Officer - Statements made before him under Section 108 of Customs Act, 1962 are admissible in evidence and are not hit by Section 25 of Indian Evidence Act - Sections 122 and 135 ibid corresponding Sections 9, 14 and 33 of Central Excises and Salt Act, 1944.

4.30. Accordingly, I find that the statement recorded under Section 108 of the Customs Act, 1962 is voluntary, legally valid, and admissible in evidence, and the same can be relied upon along with other documentary and electronic evidence available on record for determining the issues involved in the present proceedings

4.31. After holding the imported goods liable for confiscation, I proceed to determine whether the option for redemption under Section 125 of the said Act may be extended. Section 125 of the Customs Act, 1962 empowers the adjudicating authority to allow redemption of confiscated goods upon payment of a fine, in lieu of confiscation, except in cases where the goods are prohibited and their release would defeat the purpose of the statutory restrictions. Although the goods fall within the category of restricted goods requiring valid Certificates of Registration under the Insecticides Act, 1968, they are not goods whose import is absolutely prohibited. I also note that the goods were imported a considerable time ago and are no longer physically available for confiscation, having presumably been consumed. In such circumstances, ordering absolute confiscation is neither practicable nor meaningful. Therefore, in

terms of Section 125 of the Customs Act, 1962, redemption fine can be imposed in lieu of confiscation. In the present case, the goods have been rendered liable for confiscation due to mis-declaration and use of forged and altered Certificates of Registration, which vitiates the legality of the import and amounts to a serious violation of the regulatory framework governing insecticides.

- 4.32.** Furthermore, I note that the goods were imported duty free under the benefit of Notification No. 52/2003-Cus dated 31.03.2003 on the basis of the importer's status as an Export Oriented Unit (EOU), as per the Letter of Permission issued under Para 6.05 of the Foreign Trade Policy 2015-2020. In this regard, the importer M/s Modern Insecticides Limited had executed a B-17 Bond, as prescribed under Notification No. 1/2018-C.E. (N.T.) dated 05.12.2018, binding itself to fulfill the export obligations and comply with the conditions of the EOU scheme. The said bond is liable to be invoked in the event of failure to discharge the obligations cast upon the EOU, including fulfillment of the stipulated export obligations.
- 4.33.** I further find that during the course of investigation, certain incriminating images were recovered from the mobile phone of Shri Avtar Singh. From the forensic analysis of Image-03, Image-04 and the data compiled therein, it is evident that the goods actually exported by MIL were different from those declared in the respective Shipping Bills. While the Shipping Bills declared export of various agricultural insecticide/pesticide formulations, the goods actually exported were Sulphur Formulation. This clearly establishes that MIL had mis-declared the description of goods in the Shipping Bills.
- 4.34.** In order to ascertain the role of the persons responsible for the said mis-declaration, summons dated 04.09.2023, 30.10.2023 and 11.12.2023 were issued to Shri Avtar Singh and Shri Charanjit Singh to appear before the investigating authority and record their statements, and to confront them with the above images in respect of past imports and exports of MIL. It is further observed that earlier summons had also been issued to them on three occasions in the year 2020 and once in the year 2021. Despite multiple opportunities being provided to Shri Avtar Singh and Shri Charanjit Singh to appear before the investigating authority and explain the incriminating evidence, they deliberately failed to cooperate with the investigation.
- 4.35.** Therefore, I find that MIL mis-declared the description of goods exported under 27 Shipping Bills, as detailed in Table-F of the Show Cause Notice. By declaring exports of high-value insecticide formulations, whereas in reality Sulphur Formulation was exported, MIL attempted to artificially fulfil the export obligations imposed upon it under Notification No. 52/2003-Cus issued under the Customs Act, 1962, which grants duty exemption to Export Oriented Units subject to fulfillment of export obligations. It therefore emerges that MIL, having an export obligation to fulfil under the EOU scheme, resorted to fraudulent exports in order to create a facade of compliance with the said

obligations. The investigation reveals that instead of exporting the declared insecticide formulations, MIL actually exported Sulphur, which is significantly lower in value compared to the insecticides declared in the Shipping Bills.

- 4.36. I also find that the imported goods were allowed duty free on the basis of the B-17 Bond executed by the importer MIL to ensure fulfillment of export obligations under the EOU scheme. Since the export obligations have not been genuinely fulfilled and the exports shown by MIL have been found to be fraudulent, the said bond is liable to be invoked.
- 4.37. It is well settled that in cases where goods imported under bond are held liable for confiscation, redemption fine in lieu of confiscation can be imposed even if the goods are not physically available for seizure. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in Weston Components Ltd. vs. Commissioner of Customs reported in 2000 (115) E.L.T. 278 (S.C.), wherein the Hon'ble Court held that :-

It is an admitted fact that the goods were released to the appellant on an application made by it and on the appellant executing a bond. Under these circumstances if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, then the mere fact that the goods were released on the bond being executed, would not take away the power of the customs authorities to levy redemption fine.

- 4.38. Accordingly, I order that the 430.12 MTs of insecticides imported by M/s Modern Insecticides Limited vide the 39 Bills of Entry, as detailed in Annexure-A of the Show Cause Notice, are liable to confiscation under Section 111(d) of the Customs Act, 1962. Also, I order that 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B of the Show Cause Notice, should be held liable for confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962. However, in terms of Section 125 of the said Act, I give an option to the importer to redeem the confiscated goods on payment of an appropriate redemption fine, as determined separately in this order.

Whether or not classification of the goods mentioned in Bill of Entry No. 6293868 dated 30-12-2019 imported by M/s Modern Insecticides Limited under CTH 38089990 should be rejected for misdeclaration of the description and, thereby, classification and same should be reclassified under CTH as 38089330.

- 4.39. I have carefully examined the assertions made in the Show Cause Notice, the documents relied upon by the investigating agency, and the records relating to the import of goods by M/s Modern

Insecticides Limited vide Bill of Entry No. 6293868 dated 30.12.2019. The importer had declared the goods under Customs Tariff Heading (CTH) 38089990. However, the investigation has alleged that the goods are more appropriately classifiable under CTH 38089330.

- 4.40.** I find that from the data in the form of images retrieved during investigation from the mobile phone of Shri Avtar Singh and the comparison thereof with the import data of M/s Modern Insecticides Limited, it is evident that the goods declared in the Bills of Entry did not correspond with the actual goods imported. In respect of Bill of Entry No. 6293868 dated 30.12.2019, the goods were declared as “Emamectin Benzoate Technical 95% W/W Min.” However, the evidence available on record, including the images recovered and the import data of MIL, indicates that the goods actually imported were “Gibberellic Acid 90% TC.” This clearly establishes that the description of the goods declared in the Bill of Entry did not match the actual goods imported. The importer’s propensity to indulge in mis-declaration is further evidenced by the laboratory test reports of samples drawn from live consignments, which confirmed that the goods imported were not in conformity with the declarations made.
- 4.41.** I further find that Emamectin Benzoate is an insecticide used for pest control, whereas Gibberellic Acid is a plant growth regulator used for regulating plant growth and development. As per the scheme of classification under Chapter 38 of the Customs Tariff Act, 1975, Heading 3808 covers Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products. Within this heading, sub-heading 380893 specifically covers herbicides, anti-sprouting products and plant growth regulators, whereas sub-heading 380899 covers other products not elsewhere specified under the heading.
- 4.42.** It is a settled legal principle, reflected in the General Rules for the Interpretation of the Customs Tariff (GRI), that a specific tariff entry prevails over a general or residual entry. I find that CTH 38089330 specifically covers Gibberellic Acid as a plant growth regulator, whereas CTH 38089990 is a residual “other” entry for goods not elsewhere specified. As the actual goods imported correspond precisely with the specific description under 38089330, classification under this specific entry is warranted in accordance with the GRI principle.
- 4.43.** Further, I find that Central Board of Indirect Taxes and Custom vide Circular No. 1022/10/2016-CX dated 06.04.2016 (F. No. 106/03/2013-CX.3) describes Gibberellic Acid as a plant growth regulator classifiable under CTH 38089330. The circular clearly distinguishes plant-growth regulators like Gibberellic Acid from insecticides, supporting the view that the goods cannot be classified under CTH 38089990. Accordingly, I find that the classification of the goods imported vide Bill of Entry No.

6293868 dated 30-12-2019 by M/s Modern Insecticides Limited under CTH 38089990 should be rejected and the same should be reclassified under CTH as 38089330.

Whether or not declared assessable value of Rs. 35,58,39,625/- of the goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B, should be rejected and the same should be re-determined as Rs. 52,46,89,086/- as mentioned in Annexure-B under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, for misdeclaration of the description and thereby value, as tabulated in Table E.

- 4.44. I find that from the statements of Shri Avtar Singh recorded under Section 108 of the Customs Act, 1962, along with data retrieved through forensic analysis of his Apple phone, it has been established that MIL mis-declared the imported goods. It is further observed that, in most instances, the licenses relied upon for the import of the said goods were found to be forged. Such deliberate mis-declaration of description and use of forged regulatory documents render the declared transaction value unreliable and unacceptable, thereby attracting the provisions of Rule 12(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Therefore, the value of the imported goods is rightfully rejected in terms of Rule, 12 of CVR, 2007. Consequently, the value of the imported goods needs to be re-determined under Section 14(1) of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- 4.45. I find that re-determination of value is to be carried out sequentially through Rules 4 to 9 in terms of Rule 3(4) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The first rule to be applied is Rule 4 which is transaction value of identical goods. I find that imports of insecticides are strictly controlled under the Insecticides Act, 1968, which mandates that only those importers, having valid Certificate of Registration/Import Permit from CIB/RC, can import a specific insecticide from designated suppliers with defined chemical composition. In the present case, it has been established that the importer had mis-declared the description of the goods and had tampered with labels and Certificates of Registration. In view of such mis-declaration and alteration of regulatory documents, the actual identity, concentration and chemical composition of the goods imported under the said Bills of Entry could not be conclusively established. Since Rule 4 requires reliable identification of identical goods with comparable characteristics and composition, the essential conditions for application of Rule 4 are not satisfied in the present case. Accordingly, I find that Rule 4 cannot be applied for re-determination of the value of the imported goods.
- 4.46. I now proceed to examine the applicability of Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. In terms of Rule 5, the assessable value of imported goods may be re-determined on the basis of the transaction value of similar goods imported at or about the same

time. In the present case, I find that the goods imported by M/s Modern Insecticides Limited (MIL) are comparable to similar insecticides imported by other importers during the relevant period. I further observe that the investigating agency has duly considered the country of export, contemporaneity of imports, quantity involved, and concentration of the active ingredient while identifying comparable imports. The contemporaneous import data relied upon relates to legally imported goods of similar nature during the relevant period. I also note that in cases where the value declared by the importer was higher than the contemporaneous value, the declared value itself was adopted as the re-determined value. Such an approach is consistent with the principles of customs valuation and ensures that no undue hardship is caused to the noticee.

- 4.47.** In view of the above, I find that the declared assessable value of Rs. 35,58,39,625/- in respect of the goods imported by M/s Modern Insecticides Limited through 16 Bills of Entry, as detailed in Annexure-B of the Show Cause Notice, has been rightly rejected. I further hold that the assessable value has been correctly re-determined at Rs. 52,46,89,086/-, as detailed in Annexure-B of the Show Cause Notice, in accordance with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- 4.48.** I find that the Noticee M/s Modern Insecticides Ltd. (MIL) has raised objections regarding the methodology adopted for re-determination of the transaction value of the imported goods. However, the contention that the contemporaneous import data relied upon by the department was not exact or identical cannot be accepted. Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 permits adoption of the transaction value of similar goods imported at or about the same time, and does not require that the goods be identical in every respect. In the present case, the department has relied upon contemporaneous imports of legally imported similar insecticides from China available during the relevant period, which constitutes a reasonable and legally permissible basis for re-determination of value.
- 4.49.** I further find that the objection raised regarding adoption of the minimum concentration available in comparable imports is also devoid of merit. Adoption of the minimum concentration does not violate the provisions of the Customs Valuation Rules, 2007; rather, it reflects a conservative and balanced approach intended to avoid arbitrary enhancement of value. The methodology adopted ensured that the re-determined value remained fair, reasonable and beneficial to the noticee wherever possible.
- 4.50.** The noticee has also contended that the exact identity and description of the imported goods were not conclusively established. In this regard, I find that the investigation has relied not merely upon isolated images recovered during investigation, but upon the entirety of evidentiary material collected, including import documents, statements, electronic records and contemporaneous import data. The

evidences on record sufficiently establish the nature of the goods imported and the corresponding mis-declaration involved.

- 4.51. I further note that despite repeated issuance of summons and sufficient opportunities extended during investigation, the directors and responsible persons of MIL failed to meaningfully participate in the proceedings and did not furnish complete technical literature, specifications or any reliable contemporaneous import data to substantiate the correctness of the declared transaction value. In such circumstances, where the importer fails to cooperate and withholds relevant information, the department is justified in proceeding on the basis of the best available evidence on record. Accordingly, I do not find merit in the objections raised by the noticee against the methodology adopted for re-determination of value

Whether or not Customs duty amounting to Rs. 30,26,01,992/- in respect of imports by M/s Modern Insecticides Limited against EOU status, vide 55 bills of entry, as detailed in Annexures – C, should be demanded under Section 28 (4) of the Customs Act, 1962 read with the B-17 bond submitted by them along with appropriate interest under the provisions of Section 28AA of the Customs Act, 1962.

- 4.52. I find that M/s Modern Insecticides Limited had imported various consignments of insecticides under the Export Oriented Unit (EOU) scheme against Notification No. 52/2003-Cus dated 31.03.2003, which allows duty-free import of goods subject to fulfillment of prescribed conditions, including utilization of imported goods for manufacture of export products and fulfillment of export obligations. In order to avail the benefit of the said notification, the importer had executed a B-17 Bond, binding itself to comply with the conditions of the EOU scheme and to discharge the applicable duty liability in the event of non-fulfilment of the stipulated conditions.
- 4.53. I further find that the investigation has brought on record that the imports made by M/s Modern Insecticides Limited were not in accordance with the provisions governing the EOU scheme. As discussed in the preceding paragraphs of this order, the importer had resorted to submission of forged and altered Certificates of Registration and had also mis-declared the description of imported goods in several Bills of Entry. Such acts demonstrate deliberate intent to circumvent statutory requirements governing the import of insecticides in India besides depriving the revenue of its rightful share of duty.
- 4.54. I also find that the investigation has established that the exports shown by the importer for the purpose of fulfilling export obligations were not genuine. From the analysis of the images and data retrieved from the mobile phone of Shri Avtar Singh, it is evident that the goods actually exported under various Shipping Bills were different from those declared therein. While the Shipping Bills indicated export of high-value insecticide formulations, the actual goods exported were found to be Sulphur formulation,

which is significantly lower in value. This clearly indicates that the exporter had mis-declared the description of export goods with the intention of creating an artificial record of fulfillment of export obligations under the EOU scheme.

- 4.55.** Thus, it emerges that the importer had availed the benefit of duty exemption under Notification No. 52/2003-Cus without genuinely fulfilling the conditions of the said notification. The duty-free imports were permitted solely on the basis of the undertaking given by the importer through the execution of the B-17 Bond that the imported goods would be used for manufacture of export products and that the stipulated export obligations would be fulfilled. However, the investigation clearly establishes that the importer failed to fulfill the export obligations in a bona fide manner and instead resorted to mis-declaration of export goods to create a facade of compliance.
- 4.56.** In view of the above facts, I find that the conditions of Notification No. 52/2003-Cus dated 31.03.2003 have been violated by M/s Modern Insecticides Limited. Consequently, the duty foregone on the goods imported under the said notification becomes recoverable in terms of the provisions of the Customs Act, 1962 read with the B-17 Bond executed by the importer. Further, I find that the acts of the importer involving submission of forged documents, deliberate mis-declaration of imported goods, and fraudulent exports clearly establish suppression of material facts and wilful mis-statement with intent to evade payment of duty. Therefore, the extended period of limitation under Section 28(4) of the Customs Act, 1962 is rightly invocable in the present case.
- 4.57.** The noticee has contested the said demand primarily on the grounds that the Show Cause Notice has not specifically identified the persons to whom the imported goods were allegedly diverted, and therefore the allegation of diversion to the domestic market is not sustainable. I find that once it is established that the exports declared for discharge of export obligation were not genuine, the importer becomes liable to pay the duty foregone under the exemption notification irrespective of whether diversion of imported goods to the domestic market is specifically established.
- 4.58.** The noticee has also contended that even if it is assumed that sulphur was exported instead of insecticides, the value of such exports should be considered for the purpose of discharge of export obligations and that the demand for duty should be reduced proportionately. I find that this contention is legally untenable and contrary to the very scheme of the Export Oriented Unit (EOU) framework. Under the EOU scheme and Notification No. 52/2003-Cus dated 31.03.2003, duty-free import of goods is permitted strictly for the purpose of manufacture and export of authorized products. The export obligation is required to be fulfilled through export of such authorized products manufactured using the imported inputs. In the present case, the investigation has established that the Shipping Bills declared export of insecticide formulations, whereas the goods actually exported were sulphur

formulations. Such exports, being different from the declared goods and not corresponding to the authorized products under the EOU scheme, cannot be treated as valid exports for the purpose of discharge of export obligations.

4.59. Further, mis-declaration of export goods defeats the very basis on which the exemption under Notification No. 52/2003-Cus was granted. Allowing the value of such mis-declared exports to be counted toward export obligation would amount to legitimizing a fraudulent transaction and would render the conditions of the exemption notification meaningless. The obligation under the EOU scheme is not merely to export goods of any value, but to export the declared and authorized products in accordance with the statutory requirements. Therefore, the alleged export of Sulphur in place of insecticides cannot be accepted as fulfillment of export obligations, nor can the value of such exports be considered for the purpose of reducing the demand of customs duty. Accordingly, the contention of the noticee is rejected.

4.60. Accordingly, I hold that Customs duty amounting to Rs. 30,26,01,992/- in respect of imports made by M/s Modern Insecticides Limited under the EOU scheme vide 55 Bills of Entry, as detailed in Annexure-C of the Show Cause Notice, is liable to be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962, read with the B-17 Bond executed by them, along with applicable interest under Section 28AA of the Customs Act, 1962.

Whether or not, penalty under Section 114A of the Customs Act, 1962 should be imposed on M/s Modern Insecticides Limited, for non-levy of duty on imported goods, as mentioned in Annexure-C.

4.61. I have carefully examined the proposal in the Show Cause Notice for imposition of penalty on M/s Modern Insecticides Limited under Section 114A of the Customs Act, 1962. Section 114A provides that where duty has not been levied or has been short-levied by reason of collusion, wilful mis-statement or suppression of facts, the person who is liable to pay such duty shall also be liable to a penalty equal to the duty so determined.

4.62. In the present case, it has been established in the foregoing paragraphs that M/s Modern Insecticides Limited had imported goods duty free under the benefit of Notification No. 52/2003-Cus dated 31.03.2003, by virtue of its status as an Export Oriented Unit (EOU). The said benefit was extended to the importer subject to the fulfillment of export obligations and compliance with the conditions prescribed under the notification and the relevant provisions of the Foreign Trade Policy.

4.63. However, the investigation has revealed that the noticee had mis-declared the description of imported goods, used forged Certificates of Registration, and further mis-declared the description of exported

goods in Shipping Bills in order to create a false appearance of fulfillment of export obligations under the EOU scheme. The evidence available on record, including forensic analysis of electronic data recovered from the mobile phone of Shri Avtar Singh, statements recorded under Section 108 of the Customs Act, 1962, and the comparison of import and export documents, clearly establish that the exports declared by the noticee did not correspond with the goods actually exported. By declaring exports of higher-value insecticide formulations while actually exporting lower-value Sulphur formulations, the noticee attempted to fraudulently demonstrate compliance with the export obligations under the EOU scheme. Furthermore, the importer's propensity to indulge in mis-declaration is further evidenced by the laboratory test reports of samples drawn from live consignments, which confirmed that the goods imported were not in conformity with the declarations made.

- 4.64.** I, therefore, find that the duty-free import of goods by M/s Modern Insecticides Limited was obtained by suppression of material facts, wilful mis-statement and deliberate mis-declaration, resulting in non-levy of customs duty amounting to Rs. 30,26,01,992/-, as detailed in Annexure-C. Accordingly, the said duty has been rightly demanded under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the said Act.
- 4.65.** Since the ingredients required for invoking the extended period under Section 28(4), namely wilful mis-statement, suppression of facts and deliberate mis-declaration, are clearly established in the present case, the penal provisions of Section 114A of the Customs Act, 1962 are squarely attracted.
- 4.66.** In view of the above facts and circumstances, I hold that M/s Modern Insecticides Limited is liable for imposition of penalty under Section 114A of the Customs Act, 1962, equal to the duty determined under Section 28(4) of the said Act, the quantum of which shall be determined in the operative portion of this order.
- 4.67.** I have carefully considered the submissions made by the noticee, wherein they have contended that penalties proposed under Sections 112(a) and 114A of the Customs Act, 1962 are not sustainable on the grounds that the goods were not liable to confiscation, that there was no mens rea on their part, that the Certificates of Registration allegedly containing altered dates represent only curable procedural defects under Rule 6B of the Insecticides Rules, 1971, and that the electronic evidence relied upon by the Department lacks evidentiary value. The noticee has also contended that since the goods are no longer available for confiscation, the penal provisions cannot be invoked. I find that the above submissions are not tenable in view of the facts and evidence available on record. I find that all these issues have already been discussed in above paras, and no merit was found in these contentions.
- 4.68.** I find that the noticees have requested cross-examination of certain persons whose statements were relied upon in the Show Cause Notice. I have carefully considered the request. It is observed that the

allegations in the Show Cause Notice are primarily based on documentary evidence such as import documents and records recovered during investigation. The statements recorded during investigation are only supplementary to the documentary evidence and not the sole basis for the allegations. In such circumstances, cross-examination of the persons whose statements were recorded during investigation is not essential for determining the issues involved in the present proceedings. It is a settled position that cross-examination is not an absolute right and can be declined where the adjudicating authority forms an opinion that the request is not necessary for deciding the case. Moreover, the noticees have not demonstrated as to how denial of cross-examination would cause prejudice to their defence, particularly when the case is substantially supported by other documentary evidence. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court in *Kanungo & Co. vs. Collector of Customs* [1983 (13) E.L.T. 1486 (S.C.)], wherein it was held that

“12. We may first deal with the question of breach of natural justice. On the material on record, in our opinion, there has been no such breach. In the show cause notice issued on August 21, 1961, all the materials on which the Customs Authorities have relied was set out and it was then for the appellant to give a suitable explanation. The complaint of the appellant now is that all the persons from whom enquiries were alleged to have been made by the authorities should have been produced to enable it to cross-examine them. In our opinion, the principles of natural justice do not require that in matters like this the persons who have given information should be examined in the presence of the appellant or should be allowed to be cross-examined by them on the statements made before the Customs Authorities. Accordingly, we hold that there is no force in the third contention of the appellant.”

In view of the above facts and circumstances, I find that the request for cross-examination is not warranted in the present case and the same is therefore rejected.

Whether or not penalty under Section 112(a) of the Customs Act, 1962 should be imposed on M/s Modern Insecticides Limited, for importing prohibited goods by forging of certificate of registration, as mentioned in Annexure-A and for mis-declaring description & value of imported goods, as mentioned in Annexure-B.

- 4.69. I have carefully considered the proposal in the Show Cause Notice for imposition of penalty on M/s Modern Insecticides Limited under Section 112(a) of the Customs Act, 1962. Section 112(a) provides that any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, shall be liable to penalty.

- 4.70. In the present case, it stands established that the importer has used forged Certificates of Registration in respect of multiple Bills of Entry and has also mis-declared the description and value of the imported goods. I further find that the importer availed exemption under Notification No. 52/2003-Cus dated 31.03.2003 without fulfilling the prescribed conditions and resorted to mis-declaration of export goods to create a fictitious fulfilment of export obligations. These acts have rendered the goods liable to confiscation under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, and consequently make the importer, M/s Modern Insecticides Limited, liable to penalty under Section 112(a) of the said Act.
- 4.71. However, I observe that the fifth proviso to Section 114A of the Customs Act, 1962 stipulates that where a penalty has been imposed under the said section, no penalty shall be imposed under Section 112 or Section 114 for the same act or omission.
- 4.72. In the present case, since penalty under Section 114A of the Customs Act, 1962 has been imposed on the Noticee in respect of the impugned goods for the same acts of misdeclaration and use of forged documents, I refrain from imposing any separate penalty under Section 112(a) of the Customs Act, 1962 in view of the statutory bar contained in the aforesaid proviso.
- 4.73. Accordingly, while the acts of M/s Modern Insecticides Limited render the goods liable to confiscation under Section 111 of the Customs Act, 1962, no separate penalty is imposed under Section 112(a) on the Noticee in view of the penalty imposed under Section 114A of the said Act.

Whether or not penalty under Section 114AA and 112 (a) of the Customs Act, 1962 should be imposed on Shri Avtar Singh and Shri Charanjit Singh, the then Directors of M/s Modern Insecticides Limited, mis-declaring description & value of imported goods, as mentioned in Annexure-B.

- 4.74. I have carefully examined the proposal in the Show Cause Notice for imposition of penalty upon Shri Avtar Singh and Shri Charanjit Singh, who were the Directors of M/s Modern Insecticides Limited during the relevant period of imports. From the facts discussed in the preceding paragraphs of this order, it has already been established that the importer had used forged and altered Certificates of Registration issued by the Central Insecticides Board & Registration Committee (CIB&RC) and also mis-declared the description of the imported goods as well as exported goods.
- 4.75. I find that the use of forged Certificates of Registration was not a mere procedural lapse but a deliberate act intended to circumvent the statutory requirement of possessing a valid registration under the Insecticides Act, 1968 for import of insecticides. As discussed earlier in this order, comparison of the Certificates submitted before Customs with the original records obtained from the competent

authority clearly established that the dates of issuance had been deliberately altered to make the certificates appear valid at the time of import. The statement of Shri Avtar Singh recorded under Section 108 of the Customs Act, 1962 also confirms that such Certificates of Registration were tampered with, as the earlier licenses had expired and the company needed to continue importing insecticides for business purposes.

- 4.76.** The evidence on record, therefore, clearly establishes that the import of 430.12 MTs of insecticides under 39 Bills of Entry was carried out on the strength of forged regulatory documents. Such forged documents, being legally non-existent, cannot confer any lawful authority for import and consequently render the goods liable to confiscation under Section 111(d) of the Customs Act, 1962.
- 4.77.** In addition to the above findings, the investigation has also established that in respect of 16 Bills of Entry, as detailed in Annexure-B of the Show Cause Notice, the importer deliberately mis-declared the description of the imported goods and consequently undervalued the consignments at the time of importation. Further, in 14 out of these 16 Bills of Entry, the importer submitted forged Certificates of Registration purportedly issued by the Central Insecticides Board & Registration Committee (CIB&RC) in order to facilitate clearance of the goods. The analysis of the electronic data retrieved from the mobile phone of Shri Avtar Singh, one of the Directors of the importing firm, revealed images and data which clearly correlate the actual goods imported with the altered descriptions declared in the respective Bills of Entry. The said electronic evidence, when read in conjunction with the import documents on record and the statements recorded under Section 108 of the Customs Act, 1962, establish that the goods actually imported were different from those declared before the Customs authorities, and that the mis-declaration was made with the intent to evade the applicable restrictions and to suppress the correct assessable value. Accordingly, the goods covered under the said 16 Bills of Entry were rendered liable to confiscation under Sections 111(d), (l) and (m) of the Customs Act, 1962, for violation of statutory restrictions and for mis-declaration of description and value in the import documents.
- 4.78.** I further observe that despite repeated summons issued during the course of investigation, Shri Avtar Singh and Shri Charanjit Singh failed to appear before the investigating authority to clarify the incriminating evidence. Such deliberate non-cooperation with the investigation proceedings further strengthens the inference that the said persons were fully aware of the irregularities and consciously avoided providing explanations regarding the forged certificates and mis-declared imports.
- 4.79.** Furthermore, I find that M/s Modern Insecticides Limited had imported the impugned goods by availing exemption under Notification No. 52/2003-Cus dated 31.03.2003 without fulfilling the conditions prescribed therein, and by resorting to mis-declaration of description of the exported goods.

The importer has thus failed to fulfil the export obligations in a bona fide manner and has created fictitious export records by mis-declaring the export goods. Accordingly, I find that the impugned goods are liable for confiscation under the provisions of Section 111 of the Customs Act, 1962, inter alia, for mis-declaration and contravention of the conditions of exemption notification and the EOU scheme.

- 4.80.** In terms of Section 112(a) of the Customs Act, 1962, any person who, in relation to goods liable to confiscation, does or omits to do any act which renders such goods liable to confiscation, or abets the doing or omission of such act, shall be liable to penalty. In the present case, the evidence on record clearly establishes that the imports carried out by M/s Modern Insecticides Limited through the aforesaid 55 Bills of Entry involved submission of forged Certificates of Registration and mis-declaration of description and thus value of goods of imported as well as exported goods which have already been held to render the subject goods liable to confiscation under Sections 111 of the said Act.
- 4.81.** Being the Directors responsible for the affairs of the importing company during the relevant period, Shri Avtar Singh and Shri Charanjit Singh were responsible for the conduct of the company's business and the import transactions undertaken by it. The acts of using forged Certificates of Registration and filing Bills of Entry and Shipping Bills containing incorrect description and value could not have been carried out without the knowledge and approval of the persons managing the affairs of the company. Their involvement is further evidenced by the electronic data retrieved from the mobile phone of Shri Avtar Singh and the admissions made by Shri Avtar Singh in his statements recorded under Section 108 of the Customs Act, 1962. The statements of Smt. Poonam Yadav and Shri Lal Chand Gupta, also recorded under Section 108 of the Customs Act, 1962, further corroborate that the aforesaid Directors were actively taking decisions relating to the affairs and operations of the company.
- 4.82.** I also find that the import documents and supporting records submitted before Customs authorities contained false and incorrect material particulars relating to description, regulatory compliance and value of the goods. The use of such forged Certificates of Registration and false declarations in import and export documentation clearly attracts the provisions of Section 114AA of the Customs Act, 1962, which provides for penalty where any person knowingly makes, signs or uses any declaration, statement or document which is false or incorrect in any material particular in the transaction of any business relating to Customs.
- 4.83.** However, I find that Shri Anil K. Rawal, Authorized Representative, Representing M/s Modern Insecticides Ltd. & its Directors vide email dated 04.03.2026 has submitted that Noticee, Shri Avtar Singh, has unfortunately expired during the pendency of the proceedings. He also submitted that the proceedings against the deceased Noticee, particularly in respect of personal penal

consequences, may kindly be dropped / treated as abated in accordance with law. Shri Anil K. Rawal, vide his earlier email dated 30.01.2026 had submitted death certificate dated 12.12.2025 bearing Registration No: DU/ES/25/0085379858 and Document Sr. No: ES25824298 in which it has been mentioned that Shri Avtar Singh Gujral Son of Shri Mangal Singh has died on 07.12.2025. Same is reproduced below: -

ਰਜਿਸਟਰੇਸ਼ਨ ਨੰਬਰ /Registration No: DU/ES/25/0085379858	Document Sr. No : ES25824298
	
ਪੰਜਾਬ ਸਰਕਾਰ/ Government of Punjab	ਸਿਹਤ ਤੇ ਪਰਿਵਾਰ ਭਲਾਈ ਵਿਭਾਗ / Health and Family Welfare Department
ਚੀਫ ਰਜਿਸਟਰਾਰ ਜਨਮ ਤੇ ਮੌਤ, ਪੰਜਾਬ / Chief Registrar (Birth & Death), Punjab	ਮੌਤ ਦਾ ਸਰਟੀਫਿਕੇਟ/Death Certificate
ਡੀ ਪੀ ਐਚ /D.P.H - 369	
ਫਾਰਮ / Form - 7	
ਇਹ ਤਸਦੀਕ ਕੀਤਾ ਜਾਂਦਾ ਹੈ ਕਿ ਹੇਠ ਲਿਖੇ ਸੂਚਨਾ ਅਨੁਸਾਰ ਮੌਤ ਰਿਕਾਰਡ ਵਿਚੋਂ ਲਈ ਗਈ ਹੈ ਜਿਹੜੀ ਕਿ ਸਬ ਰਜਿਸਟਰਾਰ, ਜਨਮ ਤੇ ਮੌਤ, ਬਲਾਕ ਸੀ.ਐਚ(ਐਮ) (ਐਮ.ਸੀ ਲੁਧਿਆਣਾ) ਤਹਿਸੀਲ ਲੁਧਿਆਣਾ ਪੱਛਮੀ ਜਿਲ੍ਹਾ ਲੁਧਿਆਣਾ ਪੰਜਾਬ, ਦੇ ਸਾਲ 2025 ਦੇ ਰਜਿਸਟਰ ਵਿਚ ਦਰਜ ਹੈ।	
This is to certify that following information has been taken from the original death record which is registered in the death register of Sub Registrar, Birth & Death Block CH(M) (MC Ludhiana) , Tehsil Ludhiana West , District Ludhiana of Punjab State for the year 2025 .	
ਮ੍ਰਿਤਕ ਦਾ ਨਾਮ /Name of Deceased: ਅਵਤਾਰ ਸਿੰਘ ਗੁਜਰਾਲ / AVTAR SINGH GUJRAL	
ਲਿੰਗ /Sex: ਪੁਰਸ਼ / Male	
ਜੀਵਨਸਾਥੀ ਦਾ ਨਾਂ / Spouse's Name: ਗੁਰਮੀਤ ਕੌਰ / GURMEET KAUR	
ਪਿਤਾ ਦਾ ਨਾਮ /Father's Name: ਮੰਗਲ ਸਿੰਘ / MANGAL SINGH	
ਮਾਤਾ ਦਾ ਨਾਮ /Mother's Name : ਕੌਸ਼ਲਿਆ ਵੰਤੀ / KAUSHALYA WANTI	
ਮੌਤ ਦੀ ਮਿਤੀ /Date Of Death: 07/12/2025	ਮੌਤ ਦਾ ਅਸਥਾਨ /Place Of Death:
ਰਜਿਸਟਰੇਸ਼ਨ ਦੀ ਮਿਤੀ /Date of Registration: 11/12/2025	ਹੀਰੋ ਡੀ.ਐਮ.ਸੀ. ਹਾਰਟ ਇੰਸਟੀਚਿਊਟ ਲੁਧਿਆਣਾ / HERO D M C HEART INSTITUTE LUDHIANA
ਮ੍ਰਿਤਕ ਦਾ ਮੌਤ ਸਮੇਂ ਪਤਾ / Address of Deceased at the time of death	ਮ੍ਰਿਤਕ ਦਾ ਪੱਕਾ ਪਤਾ / Permanent Address of the Deceased
ਮਕਾਨ ਨੰਬਰ 1331, ਕ੍ਰਿਸ਼ਨਾ ਨਗਰ, ਸਿਵਿਲ ਲਾਈਨਸ, ਸਹਿਰ ਲੁਧਿਆਣਾ, ਉਪ ਤਹਿਸੀਲ/ਤਹਿਸੀਲ ਲੁਧਿਆਣਾ ਵੈਸਟ, ਜਿਲ੍ਹਾ ਲੁਧਿਆਣਾ, ਪੰਜਾਬ, 141001 / HOUSE NO.1331, KRISHNA NAGAR, CIVIL LINES, CITY LUDHIANA, SUB TEHSIL/TEHSIL LUDHIANA WEST, DISTRICT LUDHIANA, PUNJAB, 141001	ਮਕਾਨ ਨੰਬਰ 1331, ਕ੍ਰਿਸ਼ਨਾ ਨਗਰ, ਸਿਵਿਲ ਲਾਈਨਸ, ਸਹਿਰ ਲੁਧਿਆਣਾ, ਉਪ ਤਹਿਸੀਲ/ਤਹਿਸੀਲ ਲੁਧਿਆਣਾ ਵੈਸਟ, ਜਿਲ੍ਹਾ ਲੁਧਿਆਣਾ, ਪੰਜਾਬ, 141001 / HOUSE NO.1331, KRISHNA NAGAR, CIVIL LINES, CITY LUDHIANA, SUB TEHSIL/TEHSIL LUDHIANA WEST, DISTRICT LUDHIANA, PUNJAB, 141001
Date of Issuance : 12/12/2025	Signature of the Issuing Authority:
	Signed By: LOVELESH KUMAR
	Sign Date: 12/12/2025
	Designation : Sub Registrar
	Location : CH(M) (MC Ludhiana)
Remark - OK APPROVED	
ਨੋਟ :- ਜਨਮ ਅਤੇ ਮੌਤ ਰਜਿਸਟਰੇਸ਼ਨ ਐਕਟ 1969 ਦੀ ਧਾਰਾ 12 ਅਤੇ ਪੰਜਾਬ ਜਨਮ ਅਤੇ ਮੌਤ ਰਜਿਸਟਰੇਸ਼ਨ ਨਿਯਮ 2004 ਦੇ ਨਿਯਮ 8 ਦੇ ਅਧੀਨ ਜਾਰੀ ਕੀਤਾ ਗਿਆ।	
Note:- Issued u/s 12 of the Registration of Births and Deaths Act, 1969 and rule 8 of the Punjab Registration of Births and Deaths Rules 2004.	
<ol style="list-style-type: none"> The authenticity of this document can be verified using document serial number at the web link https://esewa.punjab.gov.in/certificate/Verification or by scanning QR code. Any discrepancy in details on this document as compared to those available on the verification web link renders this document invalid. This is a digitally signed certificate and doesn't require physical signature, or hologram, or stamp as per Punjab Government Notification no. E122499/GRMC/172 Dated: 31-08-2022, available at https://punjab.gov.in The responsibility of verification of this document before accepting the same for any legal purposes would rest with the Institution / Organization / Company or any other Entity where this document is produced. This certificate is valid as per Information Technology Act 2000 as amended from time to time. In case of any discrepancy, please inform the issuing authority about the discrepancy in the certificate. 	
Page 1 / 1	Print Date 12/12/2025

4.84. To verify the genuineness of the aforementioned death certificate, a letter was issued to the Joint Commissioner (Preventive), CGST Ludhiana Commissionerate, seeking verification of the authenticity of the said death certificate and confirmation as to whether the certificate pertains to the same Shri Avtar Singh who is a noticee in the present case.

- 4.85.** In response, the Joint Commissioner (Anti-Evasion), CGST Ludhiana Commissionerate, vide letter dated 12.05.2026, informed that the address of Shri Avtar Singh, former Director of M/s Modern Insecticides Ltd situated at H.No. 1331, Krishna Nagar, Civil Lines. Ludhiana, 141001 was visited on 08.05.2026 by the officers of CGST Ludhiana. A housekeeping staff present at the premises informed that the relatives of Shri Avtar Singh live abroad. The visiting officers then contacted the office of the Modern Insecticides Ltd and they submitted a declaration/undertaking that the death certificate dated 12.12.2025 is genuine and they also provided copies of Aadhar Card, Pan Card and Passport of Shri Avtar Singh.
- 4.86.** I have carefully considered the submission made that Late Shri Avtar Singh, one of the directors of the noticee company, expired during the pendency of the proceedings and that the penal proceedings against him should therefore be dropped on the ground that personal penal liability does not survive against a deceased person.
- 4.87.** At the outset, I note that the fact of demise of Late Shri Avtar Singh has been placed on record along with a copy of the death certificate issued by the competent authority. While the demise of the said noticee is not in dispute, the contention that the proceedings themselves become infructuous on account of such demise is not entirely correct.
- 4.88.** The proceedings initiated through the Show Cause Notice have been issued not only against Late Shri Avtar Singh in his individual capacity but also against the company and other noticee for violations of the provisions of the Customs Act, 1962 in relation to the import and export transactions under investigation. The role of Late Shri Avtar Singh, as brought out during investigation, forms an integral part of the factual matrix of the case and is relevant for determining the overall liability arising from the impugned transactions.
- 4.89.** It is settled that while personal penalties may not be enforceable against a deceased person, the adjudicating authority is not precluded from examining the role of such person for the purpose of determining the liability of other noticees, including the company, particularly where the acts and omissions of such person were undertaken in the capacity of a director or person in charge of the affairs of the company.
- 4.90.** In the present case, the investigation has revealed serious violations including the use of forged Certificates of Registration for clearance of imported goods and the utilization of such forged documents and also mis-declaration of the imported and exported goods. These acts formed the basis for availing duty exemptions and are directly relevant for determination of duty liability, confiscability of goods and imposition of penalties on the surviving noticees under the provisions of the Customs Act, 1962.

- 4.91.** Accordingly, while the question of enforcement of any personal penalty against Late Shri Avtar Singh may not survive in view of his demise, the proceedings themselves do not abate and must necessarily continue for the purpose of determining the liability of the noticee company and other noticee involved in the case.
- 4.92.** In view of the above, the request to treat the proceedings as infructuous on account of the demise of Late Shri Avtar Singh is not acceptable. However, in view of the demise of the said noticee, any proposal for imposition of personal penalty does not survive against him and therefore cannot be enforced.
- 4.93.** As far as the other Noticee Shri Charanjit Singh is concerned, I find that he being the then Director of M/s Modern Insecticides Limited, had knowingly permitted and facilitated the use of forged Certificates of Registration in respect of multiple Bills of Entry, and was actively involved in the mis-declaration of description and value of imported goods. I further find that he being the director of the importer had availed exemption under Notification No. 52/2003-Cus dated 31.03.2003 without fulfilling the prescribed conditions and had resorted to mis-declaration of export goods to create fictitious fulfilment of export obligations.
- 4.94.** Accordingly, I hold that Shri Charanjit Singh through his acts of omission and commission have rendered the impugned goods liable for confiscation under the provisions of Section 111 of the Customs Act, 1962, inter alia, for mis-declaration, forging the Certificates of Registration and contravention of the conditions of the exemption notification and the EOU scheme. I also observe that despite repeated summons, Shri Charanjit Singh failed to appear before the investigating authority. Such non-compliance, in the face of incriminating evidence on record, reinforces the conclusion regarding his knowledge and involvement in the said acts.
- 4.95.** I find that Shri Charanjit Singh, by virtue of his position as Director of the importing entity and his active involvement in the aforesaid acts, had rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962. His acts and omissions have directly contributed to improper importation and wrongful availment of duty exemption.
- 4.96.** In view of the above, I hold that Shri Charanjit Singh is liable for imposition of penalty under Sections 112(a) and 114AA of the Customs Act, 1962, for his role in knowingly dealing with goods liable to confiscation and for use of false and forged documents. The quantum of penalty shall be determined in the operative portion of this order.

Whether or not the above liabilities should be liable to recovered under Section 143(3) of the Customs Act, 1962 by enforcing the bond executed by M/s Modern Insecticides Limited, for violating the EOU obligations, without prejudice to the other options for recovery.

- 4.97.** I have carefully considered the proposal in the Show Cause Notice for recovery of the liabilities determined in this order by enforcing the bond executed by M/s Modern Insecticides Limited. It is observed that the importer had availed the benefit of duty-free imports under Notification No. 52/2003-Cus dated 31.03.2003 by virtue of its status as an Export Oriented Unit (EOU). For availing such benefit, the importer had executed a B-17 Bond binding itself to comply with the conditions of the EOU scheme, including fulfilment of export obligations and adherence to the provisions of the applicable laws governing the import and use of such goods.
- 4.98.** As discussed in the preceding paragraphs of this order, it has been established that M/s Modern Insecticides Limited had imported goods on the strength of forged Certificates of Registration and had also mis-declared the description and value of the imported goods. It has further been established that the exports declared by the importer for the purpose of discharge of export obligations were not genuine, inasmuch as the goods actually exported were different from those declared in the Shipping Bills. These acts clearly demonstrate violation of the conditions of the EOU scheme as well as breach of the obligations undertaken under the B-17 Bond executed by the importer.
- 4.99.** In terms of Section 143 of the Customs Act, 1962, where any bond has been executed for the due compliance of the provisions of the Act or for fulfilment of any condition relating to the import or export of goods, and such condition is not fulfilled, the proper officer is empowered to enforce the bond and recover the amount due thereunder. Sub-section (3) of Section 143 provides that if the obligations stipulated in the bond are not fulfilled within the prescribed time, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is empowered, without prejudice to any other action that may be taken under the Customs Act, 1962 or any other law for the time being in force, to enforce the bond and recover the amounts due in accordance with law.
- 4.100.** Since the investigation has clearly established that the importer failed to fulfil the export obligations in a genuine manner and had violated the conditions subject to which duty exemption was granted, the benefit of the exemption notification becomes unavailable and the duty foregone becomes recoverable. Consequently, the bond executed by M/s Modern Insecticides Limited is liable to be enforced for recovery of the duty, interest, fine and penalties determined in this order.
- 4.101.** Accordingly, I hold that the liabilities determined in this order are recoverable under Section 143(3) of the Customs Act, 1962 by enforcing the B-17 Bond executed by M/s Modern Insecticides Limited, without prejudice to any other mode of recovery available under the provisions of the said Act.

5. ORDER

5.1. In view of the foregoing discussion and findings, I pass the following order: -

- (i) I order confiscation of 430.12 MTs of goods imported by M/s Modern Insecticides Limited vide 39 bills of entry as mentioned in Annexure-A of the Show Cause Notice, under Section 111(d) of the Customs Act, 1962, for forging of certificate of registration. However, I give option of redemption under Section 125 of the Customs Act, 1962, upon payment of redemption fine of Rs. 5,00,00,000/- (Rupees Five Crore only).
- (ii) I order confiscation of 169.50 MTs of goods imported by M/s Modern Insecticides Limited vide 16 bills of entry as mentioned in Annexure-B Show Cause Notice, under Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962, for misdeclaration of the description and the value of goods. However, I give option of redemption under Section 125 of the Customs Act, 1962, upon payment of redemption fine of Rs. 5,00,00,000/- (Rupees Five Crore only)
- (iii) I reject the classification of the goods under CTH 38089990 in respect of Bill of Entry No. 6293868 dated 30.12.2019, imported by M/s Modern Insecticides Limited, and order that the same be re-classified under CTH 38089330.
- (iv) I order rejection of the declared assessable value of Rs. 35,58,39,625/- (Rupees Thirty-Five Crore Fifty-Eight Lakhs Thirty-Nine Thousand Six hundred and twenty-five only) of the goods imported by M/s Modern Insecticides Limited vide 16 bills of entry, as mentioned in Annexure-B of the Show Cause Notice and order re-determination of the same as Rs. 52,46,89,086/- (Rupees Fifty-Two Crore Forty-Six Lakhs Eighty-Nine Thousand and Eighty-Six only) as mentioned in Annexure-B of the Show Cause Notice under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (v) I confirm demand and order recovery of Customs duty amounting to Rs. 30,26,01,992/- (Rupees Thirty Crore Twenty-Six Lakhs One Thousand Nine Hundred and Ninety-Two only) from M/s Modern Insecticides Limited in respect of imports by them against EOU status, vide 55 bills of entry, as detailed in Annexures – C of the Show Cause Notice, under Section 28 (4) of the Customs Act, 1962 read with the B-17 bond submitted by them along with appropriate interest under the provisions of Section 28AA of the Customs Act, 1962.
- (vi) I impose Penalty of Rs. 30,26,01,992/- (Rupees Thirty Crore Twenty-Six Lakhs One Thousand Nine Hundred and Ninety-Two only) alongwith applicable interest under Section 114A of the Customs Act, 1962 on M/s Modern Insecticides Limited, for non-levy of duty on imported goods, as mentioned in Annexure-C of the Show Cause Notice. Since penalty under Section 114A of the

Customs Act, 1962 is being imposed on M/s Modern Insecticides Limited, I refrain from imposing a separate penalty under Section 112(a) of the said Act.

- (vii) I refrain from imposing penalty on Shri Avtar Singh, the then Director of M/s Modern Insecticides Limited on account of his demise.
- (viii) I impose Penalty of Rs. 1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) under 112 (a) of the Customs Act, 1962 and Penalty of Rs. 10,00,00,000/- (Rupees Ten Crore only) under Section 114AA on Shri Charanjit Singh, the then Director of M/s Modern Insecticides Limited, for mis-declaring description & value of imported goods, as mentioned in Annexure-B of the Show Cause Notice.
- (ix) I order that the above liabilities be recovered under Section 143(3) of the Customs Act, 1962 by enforcing the bond executed by M/s Modern Insecticides Limited, for violating the EOU obligations, without prejudice to the other options for recovery. I order that the same may be appropriated towards the liabilities mentioned above.

This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

(यशोधन अरविंद वनगे /Yashodhan Arvind Wanage)
प्रधान आयुक्त, सीमाशुल्क/ Pr. Commissioner of Customs
एनएस-1, जेएनसीएच / NS-I, JNCH

To,

1. M/s. Modern Insecticides Ltd.,
Amar Paradigm, Survey No - 110/I1/3,
Baner Road, Pune, Maharashtra- 41 1045
2. Shri Charanjit Singh,
Director of M/s. Modern Insecticides Ltd. (e-mail id-info @milworld.com)

30-A, Shastri Nagar, Adj. Archies Gallery, Ishmeet Singh Chowk,
Ludhiana, Punjab- 141001.

3. Legal Heirs of Late Shri Avtar Singh,
Director of M/s. Modern Insecticides Ltd. (e-mail id-info @milworld.com)
30-A, Shastri Nagar, Adj. Archies Gallery, Ishmeet Singh Chowk,
Ludhiana, Punjab- 141001.

Copy to:

1. The Addl. Commissioner of Customs, Group II (C-F), JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
5. Deputy Director, DRI, MZU, 13, Sir Vithaldas Thackersay Marg, New Marine lines, Mumbai-20
6. AC/DC, SIIB (I), JNCH
7. Joint Commissioner (P), CGST Ludhiana Commissionerate, GST Bhavan, F-Block, Rishi Nagar, Ludhiana-141004
8. Office Copy.