

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

 सत्यमेव जयते	भारत सरकार/ Government of India वित्त मंत्रालय/ Ministry of Finance आयुक्त सीमा शुल्क एनएस-II का कार्यालय, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन न्हावा शेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707 OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II, CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, DIST- RAIGAD, MAHARASHTRA-400707	
---	--	---

F.No.S/10- Adj-295/2022-23/CC/CAC/NS-II/JNCH

DIN	: 20260278NT0000444D4A
आदेश की तिथि	: 18.02.2026
Date of Order	: 18.02.2026
जारी किए जाने की तिथि	: 19.02.2026
Date of Issue	: 19.02.2026
आदेशसं.	394/2025-26/आयुक्त/एनएस-II/ सीएसी/जेएनसीएच
Order No.	: 394/2025-26/Commr. /NS-II /CAC /JNCH
पारितकर्ता	गिरिधर जी. पई
Passed by	आयुक्त, सीमाशुल्क (एनएस-II), जे.एन.सी.एच, न्हावा शेवा SH. GIRIDHAR G. PAI Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार (पार्टी)/ नोटिसीकानाम	मेसर्स एफिशिएंसी मल्टीट्रेडिंग प्राइवेट लिमिटेड
Name of Party/Noticee	: M/s. Efficiency Multitrading Pvt. Ltd.

मूलआदेश

ORDER-IN-ORIGINAL

1. इस आदेश की मूल प्रतिकी प्रतिलिपि जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम १९६२ की धारा १२९(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ, वेस्ट रीजनल बेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्तअधिकरण के सहायकरजिस्ट्रार को संबोधित होगी।

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.

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

Main points in relation to filing an appeal:-

फार्म	: फार्मन. सीए३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कमसे कम एक प्रति प्रमाणित होनी चाहिए)
Form	Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समय सीमा	: इस आदेश की सूचना की तारीख से ३ महीने के भीतर
Time Limit	Within 3 months from the date of communication of this order
फीस	: (क) एक हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये या उस से कम है (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) पाँच हजार रुपये— जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh (ग) दस हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५० लाख रुपये से अधिक है (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
भुगतान की रीति	: क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो।
Mode of Payment	A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य	: विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।
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.

इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उस में माँगे गये शुल्क अथवा उद्धृत शास्ति का ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२९ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

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.

Subject: Investigation into past exports with respect to mis-declaration of value of the goods declared as 'Cordage Cable' and 'High Twisted Cotton Ropes Hawser' exported by M/s. Efficiency Multitrading Pvt. Ltd.(IEC No. 0315058226) to avail illegitimate export incentives fraudulently.

Brief facts of the case

Based on intelligence developed, the goods declared as 'High twisted string ropes', falling under CTH 56079090 attempted to be exported by **M/s Collabrative Inc.** (IEC 1013009215) were examined and seized on 10.03.2016 by the officers of SSIB (X), as the said goods appeared to be grossly overvalued in order to claim undue benefit of MEIS. Investigation in the subject case revealed that it is a case of blatant fraud to claim illegitimate benefit of MEIS. Investigation in the subject case revealed that it was a case of blatant fraud to claim illegitimate benefit of MEIS by gross over-valuation of the declared goods by 300-400 times. Further it appeared that a specific modus operandi was adopted by a large number of exporters, wherein they were exporting a non-sensitive item i.e "rope", disguised in the name of different description under CTH 56079090 by grossly over-valuing the same for undue benefit of MEIS.

2. Accordingly, based on above intelligence and on perusal of the Export data in ICES system, it was observed that consignments of 'Cordage Cable' and 'High twisted cotton ropes hawser' of **M/s. Efficiency Multitrading Pvt. Ltd.** (IEC 0315058226), were already exported vide 60 Shipping Bills filed at Jawaharlal Nehru Customs House (JNCH). Out of these 60 SBs, 46 Shipping Bills were filed for export of 'Cordage Cable' and 14 Shipping bills were filed for the export of 'High Twisted Cotton Ropes Hawser'. The declared goods appeared to be highly overvalued to claim illegitimate benefit of MEIS @ 5% of the FOB value and other export benefits under CTH 56079090. Hence, the case was taken up by SIIB(X), NS-II, Nhava Sheva for detailed investigation with respect to past exports of M/s. Efficiency Multitrading Pvt. Ltd.

2.1. During investigation, it was found that the exporter had filed 60 Shipping Bills ('SBs' for brevity) for the export of 'Cordage Cable' and 'High twisted cotton ropes hawser' falling under CTH 56079090 having total declared FOB value of Rs. 96,03,77,750/under Export Promotion Scheme Code 19 (Drawback) and claim of drawback benefit of Rs. 2,90,735/and MEIS benefit of Rs. 4,80,18,888/-. The tariff heading 5607 is for "twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, drawback benefit of Rs. 2,90,735/- and MEIS benefit of Rs. 4,80,18,888/-. The tariff heading 5607 is for "twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics" and CTH 56079090 is for 'other'. Further, the declared Duty Drawback Serial number is 560799A where the drawback was @3% of FOB with cap of Rs. 11.5/- per Kg. The details of the impugned SBs are as below:

Table - I

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

S. No	SB No.	SB Dt.	Description of Goods (RITC)	Declared Net Weight	FOB (in Rs.)	Declared value in terms of weight (Rs. Per Kg)	Drawback	MEIS@ 5% of FOB
1	5128331	06-01-2016	CORDAG E CORD (56079090)	455	16366350	35970	5233	818317.5
2	5128457	06-01-2016		435	15646950	35970	5003	782347.5
3	5128458	06-01-2016		445	16006650	35970	5118	800332.5
4	5128599	06-01-2016		445	16006650	35970	5118	800332.5
5	5128658	06-01-2016		440	15826800	35970	5060	791340
6	5128715	06-01-2016		450	16186500	35970	5175	809325
7	5128721	06-01-2016		430	15467100	35970	4945	773355
8	5128822	06-01-2016		435	15646950	35970	5003	782347.5
9	5128911	06-01-2016		440	15826800	35970	5060	791340
10	5128988	06-01-2016		445	16006650	35970	5118	800332.5
11	5129104	06-01-2016		450	16186500	35970	5175	809325
12	5129173	06-01-2016		455	16366350	35970	5233	818317.5
13	5129373	06-01-2016		465	16726050	35970	5348	836302.5
14	5207457	11-01-2016		460	16546200	35970	5290	827310
15	5249014	13-01-2016		385	15530592	40339	4428	776529.6
16	5249391	13-01-2016		390	15732288	40339	4485	786614.4
17	5249938	13-01-2016		395	15933984	40339	4543	796699.2
18	5250023	13-01-2016		400	16135680	40339	4600	806784
19	5250077	13-01-2016		405	16337376	40339	4658	816868.8
20	5250168	13-01-2016		410	16539072	40339	4715	826953.6
21	5250171	13-01-2016		375	15127200	40339	4313	756360
22	5250185	13-01-2016		360	14522112	40339	4140	726105.6
23	5250296	13-01-2016		365	14723808	40339	4198	736190.4
24	5250404	13-01-2016		380	15328896	40339	4370	766444.8
25	5250496	13-01-2016		385	15530592	40339	4428	776529.6
26	5250621	13-01-2016		395	15933984	40339	4543	796699.2
27	5250629	13-01-2016		390	15732288	40339	4485	786614.4
28	525071	13-01-		400	16135680	40339	4600	806784

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

S. No	SB No.	SB Dt.	Description of Goods (RITC)	Declared Net Weight	FOB (in Rs.)	Declared value in terms of weight (Rs. Per Kg)	Drawback	MEIS@ 5% of FOB
	0	2016						
29	5250754	13-01-2016		405	16337376	40339	4658	816868.8
30	5250839	13-01-2016		410	16539072	40339	4715	826953.6
31	5286941	14-01-2016		480	17004000	35425	5520	850200
32	5286972	14-01-2016		475	16826875	35425	5463	841343.75
33	5286981	14-01-2016		470	16649750	35425	5405	832487.5
34	5286995	14-01-2016		460	16295500	35425	5290	814775
35	5286996	14-01-2016		465	16472625	35425	5348	823631.25
36	5287036	14-01-2016		455	16118375	35425	5233	805918.75
37	5287041	14-01-2016		470	16649750	35425	5405	832487.5
38	5287042	14-01-2016		480	17004000	35425	5520	850200
39	5287044	14-01-2016	HIGH TWISTED COTTON ROPES HAWSER (56079090)	450	15941250	35425	5175	797062.5
40	5287058	14-01-2016		465	16472625	35425	5348	823631.25
41	5287065	14-01-2016		475	16826875	35425	5463	841343.75
42	5287088	14-01-2016		460	16295500	35425	5290	814775
43	5287146	14-01-2016		455	16118375	35425	5233	805918.75
44	5287156	14-01-2016		470	16649750	35425	5405	832487.5
45	5300676	15-01-2016	CORDAGE CORD (56079090)	410	16539072	40339	4715	826953.6
46	5300678	15-01-2016		405	16337376	40339	4658	816868.8
47	5300736	15-01-2016		400	16135680	40339	4600	806784
48	5300759	15-01-2016		395	15933984	40339	4543	796699.2
49	5300770	15-01-2016		390	15732288	40339	4485	786614.4
50	5300787	15-01-2016		365	14723808	40339	4198	736190.4
51	5300790	15-01-2016		385	15530592	40339	4428	776529.6
52	5300792	15-01-2016		380	15328896	40339	4370	766444.8
53	5300840	15-01-2016		360	14522112	40339	4140	726105.6
54	5300841	15-01-2016		375	15127200	40339	4313	756360
55	5300861	15-01-2016		405	16337376	40339	4658	816868.8

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

S. No	SB No.	SB Dt.	Description of Goods (RITC)	Declared Net Weight	FOB (in Rs.)	Declared value in terms of weight (Rs. Per Kg)	Drawback	MEIS@ 5% of FOB
56	5300862	15-01-2016		410	16539072	40339	4715	826953.6
57	5300876	15-01-2016		400	16135680	40339	4600	806784
58	5300884	15-01-2016		395	15933984	40339	4543	796699.2
59	5300907	15-01-2016		385	15530592	40339	4428	776529.6
60	5300911	15-01-2016		390	15732288	40339	4485	786614.4
				25280	96,03,77,750		2,90,735	4,80,18,888

2.2. As the declared goods appeared to be highly overvalued, an alert was inserted in the EDI System against the IEC to restrict further fraudulent exports. Drawback section was also requested to withhold the drawback of the exporter vide letter dated 13.02.2017.

2.3. As per Appendix 3B of the FTP 2015-20, the goods classified under RITC 56079090 are entitled for reward rate @5% under the MEIS, the relevant portion of the said Appendix 3B is reproduced below:

TABLE-II

(Appendix 3B-MEIS Schedule, Table 2) ITC (HS) code wise list of products with reward rates under Merchandise Exports from India Scheme (MEIS)

S. No	HS Code	ITC(HS) Code	Description of goods	MEIS- Reward Rate (in%)		
				Country Group Code A	Country Group Code B	Country Group Code C
1	2	3	4	5	6	7
	560790		Other			
2363		56079010	Coir, Cordage and Ropes Other Than Cotton	5	5	5
2364		56079090	Other Twine, Cordage, Rope and Cables	5	5	5

2.4. As the declared goods appeared to be highly overvalued and classified under RITC 560790 in order to claim illegitimate MEIS benefit, ADG/DGFT, Mumbai was requested to withhold MEIS benefits and also requested for the details of MEIS Scrips issued to M/s Efficiency Multitrading Pvt. Ltd. Foreign Trade Development Officer/DGFT vide their letter in File No. 03/02/001/00015/AM17/ECA-11/98 dated 24.06.2016, had informed that 12 split MEIS Scrips (Nos. 0319066669 to 0319066680) all dated 13.04.2016 were issued to M/s Efficiency Multitrading Pvt. Ltd. and also provided copies of the same. A letter dated

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

17.08.2016 was forwarded to ADC/LRM, JNCH, Mumbai requesting to put an alert in the system against the Scrips issued to M/s Efficiency Multitrading Pvt. Ltd.

2.5. In the instant case, as the composition of the subject goods could not be ascertained as the goods were already exported, for comparison of values of the said exported goods, data of Shipping Bills other than those filed by the exporter having likekind goods were retrieved from the ICES 1.5 System pertaining to the year 2015-16 as the exporter had filed impugned SBs during 2015-16. Table-A below shows the comparative values and CTHs declared in Shipping Bills other than those filed by M/s Efficiency Multitrading Pvt. Ltd. and having goods of similar classification and like kind goods.

TABLE - A

Sr. No.	SB No./ SB Date	RITC Code.	Description of Goods.	Declared quantity (in Kgs) (Transaction Value)	Net (in Rs. in Lakh)	Country of Destination	Exporter Name
1	1952050/22.07.2015	56079090	Rope made of polypropylene plastic rope	22321 (Rs.112/Kg)	24.91	UAE	Gala brush ltd.
2	2043550/22.07.2015	56079090	Ropes/twine made of polypropylene	20740 (Rs.113/Kg)	23.46	UAE	Amit filaments
3	2865412/07.09.2015	56079090	Rope made of polypropylene plastic rope	21587 (Rs.86/Kg)	18.41	UAE	Gala brush ltd.
4	4489441/03.12.2015	56079090	Cotton rope	1025 (Rs. 116/Kg)	1.19	UAE	Jafferbhoy & co. IEC-388009381
5	*5128331 / 06.01.2016	56079090	CORDAGE CORD	455 (Rs.35970/Kg)	163.66	IRAN	Efficiency Multitrading Pvt. Ltd.
6	*5128457 / 06.01.2016	56079090		435 (Rs.35970/Kg)	156.47	IRAN	
7	*5250754 / 13.01.2016	56079090		405 (Rs.40339/Kg)	163.37	IRAN	
8	*5250839 / 13.01.2016	56079090		410 (Rs.40339/Kg)	165.39	IRAN	
9	*5286941 / 14.01.2016	56079090	HIGH TWISTED COTTON	480 (Rs.35425/Kg)	170.04	IRAN	
10	*5286972 / 14.01.2016	56079090	ROPES HAWSER	475 (Rs.35425/Kg)	168.27	IRAN	

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

11	*5286981 / 14.01.201 6	560790 90		470 (Rs.35425/Kg)	166.50	IRAN
12	*5286995 / 14.01.201 6	560790 90		460 (Rs.35425/Kg)	162.96	IRAN
13	*5300676 / 15.01.201 6	560790 90	CORDAGE CORD	410 (Rs.40339/Kg)	165.39	IRAN
14	*5300678 / 15.01.201 6	560790 90		405 (Rs.40339/Kg)	163.37	IRAN
15	*5300736 / 15.01.201 6	560790 90		400 (Rs.40339/Kg)	161.36	IRAN
16	*5300759 / 15.01.201 6	560790 90		395 (Rs.40339/Kg)	159.34	IRAN

*Shipping Bills filed by M/s Efficiency Multitrading Pvt. Ltd.

2.6 Comparative study on values of like-kind goods as detailed at Table-A revealed that there is substantial difference between the values declared by M/s Efficiency Multitrading Pvt. Ltd and by other exporters. The goods exported by M/s Efficiency Multitrading Pvt. Ltd. appear to be highly overvalued as the values declared by other exporters appear to be reasonable with the respective description of the goods. It appears that the exporter is intentionally exporting a non-sensitive item i.e., "rope" which is disguised in the name of different descriptions under CTH 56079090 with exorbitantly higher value and therefore the transaction value declared by the Exporter cannot be accepted as true value in this case. Hence, the declared value appeared to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, as per Rule 3 (3) ibid, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be redetermined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

2.7 Rule-4 of the Customs Valuation Rules-2007 is reproduced below for ready reference:

"RULE 4. Determination of export value by comparison. —

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

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including—

- (i) difference in the dates of exportation,
- (ii) difference in commercial levels and quantity levels,
- (iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
- (iv) difference in domestic freight and insurance charges depending on the place of exportation.”

2.8. It is evident from data acquisitioned from ICES1.5 system that goods of like kind under same CTH 56079090 were exported during 2015-16 which is the same period under which the Shipping Bills filed by M/s Efficiency Multitrading Pvt. Ltd. were under investigation. Therefore, valuation of the goods exported by M/s Efficiency Multitrading Pvt. Ltd. was done on the basis of data retrieved from ICES 1.5 for the like-kind goods for the year 2015-16, under Rule-4 of the Customs Valuation Rules-2007 as it satisfies all the conditions stipulated therein.

2.9. It is pertinent to mention here that investigation in the instant case is based on the seizure of the goods declared as ‘High twisted cotton ropes hawser’ and ‘High twisted string ropes’, under CTH 56079090 attempted to be exported by M/s. Collabrative Inc. (IEC 1013009215) wherein the value of the goods had been declared exorbitantly on the higher side to claim undue benefit of MEIS. Further, market enquiry was conducted on the samples drawn from the effected seizure of the goods pertaining to M/s Collabrative Inc. and the average price for “High Twisted Cotton ropes hawser’ was re-determined to Rs. 113/- per Kg and the average price for “High Twisted String Ropes” was re-determined to Rs. 87/- per kg, as against the declared value of Rs. 34,732.46/- and 44,281.25/- per kg respectively.

2.10. As M/s. Efficiency Multitrading Pvt. Ltd. had also adopted the same modus operandi as discussed above, for quantification of valuation, the highest value quoted in Shipping Bills other than those filed by M/s Efficiency Multitrading Pvt. Ltd. as detailed at Table-A is taken which is Rs.116/- per Kg corresponding to SB No. 4489441 dated 03.12.2015 as it satisfies all the conditions stipulated under sub-rule (2) of Rule-4 ibid. Therefore, the value is re-determined considering value at Rs.116/per Kg as detailed below:

TABLE-B
(Export by M/s Efficiency Multitrading Pvt. Ltd.)

Sr. No	S/Bill No	SB Date	Declared Net Wt. (in Kg)	Declared FOB (IN Rs.)	Declared value in terms of wt. (Rs. Per Kg)	Re-determined FOB value @ Rs.116/Kg	Drawback claimed (in Rs)	Re-determined Draw back @ 3% (in	MEIS Claimed (In Rs.)	Re-determined MEIS (in Rs.)

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

								Rs)		
1	512833 1	06-01- 2016	455	1636635 0	35970	52780	5233	1583	818317.5	2639
2	512845 7	06-01- 2016	435	1564695 0	35970	50460	5003	1514	782347.5	2523
3	512845 8	06-01- 2016	445	1600665 0	35970	51620	5118	1549	800332.5	2581
4	512859 9	06-01- 2016	445	1600665 0	35970	51620	5118	1549	800332.5	2581
5	512865 8	06-01- 2016	440	1582680 0	35970	51040	5060	1531	791340	2552
6	512871 5	06-01- 2016	450	1618650 0	35970	52200	5175	1566	809325	2610
7	512872 1	06-01- 2016	430	1546710 0	35970	49880	4945	1496	773355	2494
8	512882 2	06-01- 2016	435	1564695 0	35970	50460	5003	1514	782347.5	2523
9	512891 1	06-01- 2016	440	1582680 0	35970	51040	5060	1531	791340	2552
10	512898 8	06-01- 2016	445	1600665 0	35970	51620	5118	1549	800332.5	2581
11	512910 4	06-01- 2016	450	1618650 0	35970	52200	5175	1566	809325	2610
12	512917 3	06-01- 2016	455	1636635 0	35970	52780	5233	1583	818317.5	2639
13	512937 3	06-01- 2016	465	1672605 0	35970	53940	5348	1618	836302.5	2697
14	520745 7	11-01- 2016	460	1654620 0	35970	53360	5290	1601	827310	2668
15	524901 4	13-01- 2016	385	1553059 2	40339	44660	4428	1340	776529.6	2233
16	524939 1	13-01- 2016	390	1573228 8	40339	45240	4485	1357	786614.4	2262
17	524993 8	13-01- 2016	395	1593398 4	40339	45820	4543	1375	796699.2	2291
18	525002 3	13-01- 2016	400	1613568 0	40339	46400	4600	1392	806784	2320
19	525007 7	13-01- 2016	405	1633737 6	40339	46980	4658	1409	816868.8	2349
20	525016 8	13-01- 2016	410	1653907 2	40339	47560	4715	1427	826953.6	2378
21	525017 1	13-01- 2016	375	1512720 0	40339	43500	4313	1305	756360	2175
22	525018 5	13-01- 2016	360	1452211 2	40339	41760	4140	1253	726105.6	2088
23	525029 6	13-01- 2016	365	1472380 8	40339	42340	4198	1270	736190.4	2117
24	525040 4	13-01- 2016	380	1532889 6	40339	44080	4370	1322	766444.8	2204
25	525049 6	13-01- 2016	385	1553059 2	40339	44660	4428	1340	776529.6	2233
26	525062 1	13-01- 2016	395	1593398 4	40339	45820	4543	1375	796699.2	2291
27	525062 9	13-01- 2016	390	1573228 8	40339	45240	4485	1357	786614.4	2262
28	525071 0	13-01- 2016	400	1613568 0	40339	46400	4600	1392	806784	2320
29	525075 4	13-01- 2016	405	1633737 6	40339	46980	4658	1409	816868.8	2349
30	525083	13-01-	410	1653907	40339	47560	4715	1427	826953.6	2378

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
 SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

	9	2016		2						
31	528694 1	14-01- 2016	480	1700400 0	35425	55680	5520	1670	850200	2784
32	528697 2	14-01- 2016	475	1682687 5	35425	55100	5463	1653	841343.7 5	2755
33	528698 1	14-01- 2016	470	1664975 0	35425	54520	5405	1636	832487.5	2726
34	528699 5	14-01- 2016	460	1629550 0	35425	53360	5290	1601	814775	2668
35	528699 6	14-01- 2016	465	1647262 5	35425	53940	5348	1618	823631.2 5	2697
36	528703 6	14-01- 2016	455	1611837 5	35425	52780	5233	1583	805918.7 5	2639
37	528704 1	14-01- 2016	470	1664975 0	35425	54520	5405	1636	832487.5	2726
38	528704 2	14-01- 2016	480	1700400 0	35425	55680	5520	1670	850200	2784
39	528704 4	14-01- 2016	450	1594125 0	35425	52200	5175	1566	797062.5	2610
40	528705 8	14-01- 2016	465	1647262 5	35425	53940	5348	1618	823631.2 5	2697
41	528706 5	14-01- 2016	475	1682687 5	35425	55100	5463	1653	841343.7 5	2755
42	528708 8	14-01- 2016	460	1629550 0	35425	53360	5290	1601	814775	2668
43	528714 6	14-01- 2016	455	1611837 5	35425	52780	5233	1583	805918.7 5	2639
44	528715 6	14-01- 2016	470	1664975 0	35425	54520	5405	1636	832487.5	2726
45	530067 6	15-01- 2016	410	1653907 2	40339	47560	4715	1427	826953.6	2378
46	530067 8	15-01- 2016	405	1633737 6	40339	46980	4658	1409	816868.8	2349
47	530073 6	15-01- 2016	400	1613568 0	40339	46400	4600	1392	806784	2320
48	530075 9	15-01- 2016	395	1593398 4	40339	45820	4543	1375	796699.2	2291
49	530077 0	15-01- 2016	390	1573228 8	40339	45240	4485	1357	786614.4	2262
50	530078 7	15-01- 2016	365	1472380 8	40339	42340	4198	1270	736190.4	2117
51	530079 0	15-01- 2016	385	1553059 2	40339	44660	4428	1340	776529.6	2233
52	530079 2	15-01- 2016	380	1532889 6	40339	44080	4370	1322	766444.8	2204
53	530084 0	15-01- 2016	360	1452211 2	40339	41760	4140	1253	726105.6	2088
54	530084 1	15-01- 2016	375	1512720 0	40339	43500	4313	1305	756360	2175
55	530086 1	15-01- 2016	405	1633737 6	40339	46980	4658	1409	816868.8	2349
56	530086 2	15-01- 2016	410	1653907 2	40339	47560	4715	1427	826953.6	2378
57	530087 6	15-01- 2016	400	1613568 0	40339	46400	4600	1392	806784	2320
58	530088 4	15-01- 2016	395	1593398 4	40339	45820	4543	1375	796699.2	2291
59	530090 7	15-01- 2016	385	1553059 2	40339	44660	4428	1340	776529.6	2233
60	530091	15-01-	390	1573228	40339	45240	4485	1357	786614.4	2262

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

1	2016		8						
TOTAL		252	96,03,77		29,32,	2,90,735	87,97	4,80,18,8	1,46,62
		80	,750		480		4	88	4

2.11. Accordingly, the re-determined FOB value of the impugned goods worked out to be Rs. 29,32,480/- as against declared FOB of Rs. 96,03,77,750/-. By inflating the FOB value, the exporter, M/s Efficiency Multitrading Pvt. Ltd. attempted to claim MEIS of Rs. 4,80,18,888/- and Drawback of Rs.2,90,735/- whereas they were eligible to claim MEIS of Rs.1,46,624/- and Drawback. of Rs.87,974/- only. It appears that by mis-declaring the value of the goods, the exporter had inflated FOB value of the export goods by Rs. 95,74,45,270/- to claim excess/undue export benefit to the tune of Rs. 4,80,75,024/-(MEIS of Rs.4,78,72,264/- + Drawback of Rs. 2,02.761/-).

2.12. During the course of investigation, summons was issued to Director of M/s Efficiency Multitrading Pvt. Ltd. on 13.05.2016 and 18.07.2016. A reply letter dated 21.05.2016 and 30.07.2016 respectively with reference to above summons were received from Shri Aditya B. Rathod, Director stating the reason for his absence and requesting to grant time to present himself. Later, summon dated 22.02.2017 issued to Director of the firm but the director didn't turn up for recording of statement. As the exporter was not responding to the summons issued, therefore, officers of this unit visited the premises of M/s Efficiency Multitrading Pvt. Ltd. to conduct verification of the addresses of the exporter on the said address on 08.03.2017, the address was found correct, but the exporter M/s Efficiency Multitrading Pvt. Ltd. office was not available on declared address. At the given address, a shop named "Maharaja Enterprise & Max Enterprise" was found. On enquiring about exporter M/s Efficiency Multitrading Pvt. Ltd., a man present in that shop stated that he did not know about the exporter, M/s Efficiency Multitrading Pvt. Ltd. Further, officers of this unit visited the premises of both the Directors of M/s Efficiency Multitrading Pvt. Ltd. to conduct verification of the addresses on the said address on 09.05.2019, the address was found correct, but they were not residing at the said address.

2.13. Further, Summon dated 24.07.2017 issued to Shri Aditya Bhikaji Rathore, Shri Nilesh Katwal – Directors of M/s. Efficiency Multitrading Pvt. Ltd. and Shri Rajesh Kumar Upadhyay, M/s. PBN Logistics. But no one turned up for the statements. Further, summons dated 19.01.2018 was reissued to the directors of the company at all the available office and residential addresses in the KYC documents provided by ROC and Bank. But summons issued to Directors at the office and residential addresses returned with remarks "Left" or "Addressee Unknown". In view of the above it appears that addresses of IEC holder were not genuine addresses.

2.14. During the further course of investigation, the Registrar of Companies (ROC), 100, Everest, Marine Drive, Mumbai was requested to provide the details of supporting documents submitted by M/s Efficiency Multitrading Pvt. Ltd. for ROC registration vide this office letter dated 12.05.2017 and accordingly a reply received vide letter No. ROC/CTC/732 dated 23.05.2017 providing Certificate of Incorporation (COI), Memorandum of Association (MOA), Article of Association (AOA), Form 32 and Form DIR. As per the FORM DIR-12,

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

the directors are Shri Ramu Balakrishna Mane, S/o. Balakrishna Baburaw Mane, Sai Kiran E 16, NagindasPada, Ganesh Nagar, Nalasopara - E, Thane - 401209 (Mob no. 9833183142, PAN BHVPM7119K, Dob: 16/08/1965, Aadhar no. 6697 7109 0259) and Shri Aditya Bhikaji Rathore (Mob No. 8879804242, Add: No. 3, Ground Floor, Building No. 23, Bhandari Street, Cross Lane 1st, Kumbharwada, Mumbai).

2.14.1 The Current A/c no. of the company as per IEC is 19790210021958, UCO Bank. The drawback A/c number mentioned in the Shipping Bills is 19790210021958 and Branch Code is UCBA0001979. Letters dated 20.07.2016, 05.05.2017 and 25.09.2017 were forwarded to UCO Bank requesting to provide KYC documents, SWIFT details of foreign transactions and details of transactions of the A/C no. 19790210021958. In response, UCO Bank vide their letter dated 12.08.2016 and 10.10.2017, had provided the KYC documents, SWIFT details and transaction details.

2.14.2 After scrutiny of the KYC documents provided by UCO Bank vide their letter dated 10.10.2017, the directors are Shri Aditya Bhikaji Rathore (Address: No. 3, Ground Floor, Building No. 23, Bhandari Street, Cross Lane 1st, Kumbharwada, Mumbai) and Shri Nilesh H. Katwal (Address: Flat no. 25, Sagar Niwas, Carter Road no. 5, Borivali East, Mumbai). As per transaction details provided by UCO Bank, advance remittance of Rs. 22.46 crore approx. received in UCO bank account of the firm M/s Efficiency Multitrading Pvt. Ltd. and approx. amount Rs. 22.23 crores transferred to the account of M/s. Parv Industries.

2.14.3 Further, EDI system was not showing any CHA name in the requisite column for the impugned 60 shipping bills filed by M/s. Efficiency Multitrading Pvt. Ltd. EDI Section, JNCH was requested to provide the CHA details. Vide letter F No. EDI/21/2007/JNCH(Pt. VII) dated 18.12.2018 from AC/EDI has informed that CHA firm is P.B.N. Logistics in all the impugned 60 shipping bills.

2.14.4. During the further course of investigation, DC/Customs Broker Section, New Customs House, Mumbai was requested to provide the present status of CB firm M/s P.B.N. Logistics(11/1942) vide this office letter dated 14.10.2019 and 31.12.2020. In response C. B. Section informed vide letter F. No. S/6-58/2013-14 Admn(CB) dated 08.02.2021 that PAN No. AANFP6521ACH003 belongs to Customs Broker M/s P.B.N. Logistics having Customs Broker License No. 11/1942 valid till 07.10.2022. Further it is informed that it is a partnership firm having Three partners (Mr. Pradip Debon, Mr. Indranil Roy and Mr. Gopal Krishna Roy). Address of Kolkata Office is 2, Church Lane, 2nd Floor, Suit No. 201H(T), Kolkata-700001, Tel.-033-22434278, email-pradippbnlogistics@gmail.com and Mumbai Office address is Plot No. 232, T.P.S-III, R. B. Mehta Marg, Jaya Apartment, Ghatkopar(E) Mumbai-400077, Maharashtra.

2.14.5 Further, during the course of investigation, CHA/CB M/s. P.B.N. Logistics was issued summons bearing no. JL/201/2017 dated 27.03.2017 for giving statement under Section 108 of the Customs Act, 1962. In response to the summons, Sh. Rajesh Kumar Upadhyay, Manager of CHA firm M/s P.B.N. Logistics (11/1942) appeared before the investigation. Vide his statement dated 27.03.2017, Sh. Rajesh Kumar Upadhyay inter-alia stated that: that

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

he met Mr. Ramesh Singh in New Custom house Mumbai 7-8 years back and then they became friend; that Ramesh Singh visited his office in Jan-Feb 2015 and discussed regarding export clearance for various types of ropes, to which he agreed; that then Mr. Ramesh Singh introduced him to Mr. Nilesh Jadyar; that Mr. Nilesh Jadyar said that Mr. Ramesh Singh would handle all the works related to KYC documents of exporter and other documentation related formalities; that Mr. Nilesh Jadyar also said that payments for export shipments will be taken care of by Mr. Ramesh Singh; that he received the documents for the subject consignment from Mr. Ramesh Singh; that he asked Ramesh Singh about the reason for high value of the goods to which Mr. Ramesh Singh stated that the ropes were of high quality and were used for ship building industries and hence they were of high value; that Ramesh Singh said that they were not claiming high drawback benefits for the subject consignment, so there were no issue in that; that he is not aware of the fact that who signed documents on behalf of CHA firm M/s. PBN Logistics; that Shri Ramesh Singh used to get the documents signed from that person on behalf of M/s. PBN Logistics but his work was going on smoothly so he never had any problem; that on being asked why he did not object unauthorized person signing documents he stated that Shri Ramesh Singh had assured him that nothing will happen and he allowed it in good faith; that he has received approximately 7-8 lakh from Shri Ramesh Singh for all the work done of the subject consignment by his CHA firm M/s. PBN Logistics, Mumbai; that according to his chat with Shri Ramesh Singh the exporter has been Show Caused by SIIB(X), JNCH and case has been closed after depositing fine and penalty; that according to him Shri Ramesh Singh and Shri Nilesh Jadyar is the main accused in this case.

2.14.6. BRC status with respect to the IEC (0315058226) has been downloaded from DGFT site which shows BRC against S/Bill No. 5128721, 5128457, 5128822, 5128658, 5128911, 5128458, 5128599, 5128988, 5128715, 5129104, 5128331, 5129173 and 5129373 all dated 06.01.2016 and 5207457 dated 11.01.2016 and having status as 'USED' for all S/Bills. No other BRC has been found.

2.14.7 Further, as per the EDI System, the drawback for all the shipping bills of M/s Efficiency Multitrading Pvt. Ltd. except 2 Shipping bills i.e. 5286996 and 5287042 dated 14.01.2016 has been disbursed.

2.14.8 Letter dated 30.01.2017 to JC/Sales Tax seeking information with respect to VAT returns. Vide letter No. JC (EIU)/ 2016-17/E- 704 Audit Report, VAT Returns/ B-1460 Mumbai dated 09.03.2017, it was communicated that M/s. Efficiency Multi Trading Pvt. Ltd. is not registered under VAT Act, 2002.

2.14.9 During the further course of investigation, a letter dated 03.11.2017 was sent to UCO Bank requesting to provide details of Bank accounts linked with PAN, details of inward/outward foreign remittance with copy of FIRC/SWIFT Message and details of introducers of account of M/s. Efficiency Multitrading Pvt. Ltd. Also, a letter dated 14.12.2017 to UCO Bank requesting to provide the accounts details of M/s Parv Industries (local supplier). But no reply has been received. Summons dated 19.01.2018 issued to the Director of M/s. Parv Industries. Further, letter dated 23.01.2018 to Branch Manager, SBI,

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

Anand requesting to provide KYC documents and account statement of M/s. Parv Industries. But no reply is received.

2.14.10 Further, letters dated 24.01.2018 and 09.03.2018 to DC (Prev), Anand requesting them to verify the address of M/s. Parv Industries and vide their letter in F.No. IV/06-Pre/113/Misc.Inq/17-18/Gr.D/135 dated 07.05.2018, DC/Central GST & Central Excise, Vadodara has communicated that

- M/s. Parv Industries was found at the given address at 511, GIDC Estate, Phase. Iv, Vithal Udyognagar, Anand and Shri Jetalkumar S. Dave is the proprietor of M/s. Parv industries; that it is a small office taken on rent and there is no manufacturing facility with the firm; that they had never manufactured Cordage Cord/ Rope; that Statement of Shri Jetalkumar S. Dave was recorded by Customs (Prev), Anand on 23.04.2018 wherein he has stated that he had never physically supplied any goods to M/s. Efficiency Multitrading Pvt. Ltd. and he had only provided Blank Bill books to M/s. Efficiency Multitrading Pvt. Ltd; that the bills were prepared and signed by M/s. Efficiency Multitrading; that the transport documents were also arranged by them; that Shri Santosh Doshi (Mob: 09819774071) (residing at Pune and having office at Churchgate, Mumbai) contacted and informed him about M/s. Efficiency Multitrading Pvt. Ltd.; that Santosh Doshi informed that the said company needs invoices/bills in respect of the product Cordage Cord/Rope which were supposed to be exported; that Santosh Doshi offered him Rs. 19 lakh for providing the invoices from his firm; that he was facing financial crunch, he has accepted the said offer; that an amount of Rs. 22,07,25,000 was received in my SBI account through RTGS from M/s. Efficiency Multitrading Pvt. Ltd. and he transferred the amount to accounts of different persons/companies on the direction of Shri Santosh Doshi except an amount of Rs. 19 lakh. Copy of the bank statement is also provided.
- Further, Shri Jetalkumar S. Dave, Proprietor of M/s Parv Industries vide his letter dated 04.05.2018 submitted SBI Bank account statement reflecting the credit of payment amounting to Rs. 22,47,25,000/- from M/s Efficiency Multitrading Pvt. Ltd., Mumbai and debit of payment from M/s Parv Industries account amounting to Rs. 22,30,00,400.75/- and same were credited to account of different parties (i.e. Masumi Overseas, Mahavir Gems, Vishal Vijay). He further submitted that the difference amount of Rs. 17,24,599.25/- and another amount of Rs. 1,50,000/- reflected in the bank statement was received by him and adjusted by the bank against his NPA loan.

2.14.11 Further, during the course of investigation, a letter dated 09.03.2018 was forwarded to Chairman, Indian Bank Association (IBA) requesting to provide details of bank accounts and KYC details linked with the PAN no. of M/s. Efficiency Multi Trading Pvt. Ltd. A reply received vide letter No. OPR/PLS/4677 dated 14.03.2018 informing that as IBA does not have the information sought, the same should be sought from Member institution and provided the detailed list of all the Member Institutions.

2.14.12 Further, summons dated 11.06.2018 was issued to Shri Santosh Doshi (to hand him over personally during his visit to this office for M/s. Masumi Overseas), however, he refused to accept the summons in this case. Summons dated 03.08.2018 issued to Shri Jetal Dave, Director of M/s. Parv Industries. But no response is received. Summons dated

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

04.10.2018 was issued to Shri Santosh Doshi, Director of M/s Masumi overseas. But he did not turn up for recording statement.

2.15. From the above, it appears that, M/s. Efficiency Multitrading Pvt. Ltd has illegally claimed MEIS and other export benefits by exporting a non-sensitive item i.e., "rope", disguised in the name of different descriptions under CTH 56079090 having inferior quality at extremely inflated price. Further, the exporter by mis-declaring the value of goods had suppressed the true/actual export value of the goods. On perusal of Table B, it is revealed that the Exporter had knowingly declared higher price of the goods with mala-fide intention to claim undue MEIS and Drawback benefits which was not legitimately due to him, thereby causing loss to the Government Exchequer. This shows the guilty intention of the exporter.

2.16. Relevant provisions of law applicable in this case:-

- (i) *Section 2(30) of the Customs Act, 1962:* Market price in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.
- (ii) *Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992:* No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the export and import policy (now termed as Foreign Trade Policy) for the time being in force.
- (iii) *Section 50(2) of the Customs Act, 1962:* The exporter of any goods, while presenting a Shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.
- (iv) *Section 113 (i) of the Customs Act, 1962:* Confiscation of goods attempted to be improperly exported, etc.- The following export goods shall be liable to confiscation- any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act.
- (v) *Section 113 (i)(a) of the Customs Act, 1962:* Any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75.
- (vi) *Section 114 (iii) of the Customs Act, 1962:* In the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.
- (vii) *Section 114AA of the Customs Act, 1962:* Penalty for use of false and incorrect material – If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times of the value of goods.
- (viii) *Section 114AB of the Customs Act, 1962 :* *Penalty for obtaining instrument by fraud, etc. – Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.*
- (ix) *Rule 11 of the Foreign Trade (Regulations), 1993:* Stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
 SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

goods shall in the S/bill or any other documents prescribed under the Customs Act, 1962, state the value, quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a truthful declaration of such statement at the foot of such Shipping bill or any other documents.

(x) 28AAA. Recovery of duties in certain cases. —

(1) Where an instrument issued to a person has been obtained by him by means of

- (a) collusion; or
- (b) willful misstatement; or
- (c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), by such person or his agent or employee and such instrument is utilized under the provisions of this Act or the rules made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relating to such utilization of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued: Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under Section 28.

Explanation 1.— For the purposes of this sub-section, “instrument” means any scrip or authorization or license or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilized under the provisions of this Act or the rules made or notifications issued thereunder.

Explanation 2. — The provisions of this sub-section shall apply to any utilization of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent.

(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilization of the instrument till the date of recovery of such duty.

(3) For the purposes of recovery under sub-section (2), the proper officer shall serve notice on the person to whom the instrument was issued requiring him to show cause, within a period of thirty days from the date of receipt of the notice, as to why the amount specified in the notice (excluding the interest) should not be recovered from

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

him, and after giving that person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty or interest or both to be recovered from such person, not being in excess of the amount specified in the notice, and pass order to recover the amount of duty or interest or both and the person to whom the instrument was issued shall repay the amount so specified in the notice within a period of thirty days from the date of receipt of the said order, along with the interest due on such amount, whether or not the amount of interest is specified separately.

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

(A) *RULE 3 - Determination of the method of Valuation*

- (1) Subject to rule 8, the value of export goods shall be the transaction value.
- (2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.
- (3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (4), the value shall be determined by proceeding sequentially through rules 4 to 6.

(B) *RULE 4. Determination of export value by comparison. –*

- (1) “the value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).
- (2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including –
 - (i) difference in the dates of exportation,
 - (ii) difference in commercial levels and quantity levels,
 - (iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
 - (iv) difference in domestic freight and insurance charges depending on the place of exportation”.

(C) *RULE 5. Computed value method. – “If the value cannot be determined under Rule 4, it shall be based on a computed value, which shall include the following: -*

- (a) *cost of production, manufacture or processing of export goods;*
- (b) *charges, if any, for the design or brand;*
- (c) *an amount towards profit”.*

(D) *RULE 6. Residual Method. –“Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles*

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

and the general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods”.

(E) *RULE 7. Declaration by the exporter.*—“The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf”.

(F) *RULE 8. Rejection of declared value.* –

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

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

(xii) *Sub Regulation 11 of Customs Brokers Licensing Regulations, 2013, Obligations of Customs Broker:*

(d) Advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(n) Verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information.

2.17. Whereas, from the investigation, the following facts emerge that:

2.17.1 M/s. Efficiency Multitrading Pvt. Ltd. (IEC 0315058226) had filed impugned 60 SBs through Customs Broker M/s. P.B.N. Logistics and exported a non-sensitive item i.e., “rope”, disguised in the name of ‘Cordage Cable’ and ‘High twisted cotton ropes hawser’ under CTH 56079090 at inflated value. The total declared FOB value of the exported goods was Rs.96,03,77,750/- and export benefits of Rs. 4,83,09,623/- (drawback benefit of Rs. 2,90,735/- and MEIS benefit @ 5% of the FOB value of Rs. 4,80,18,888/-) were claimed.

2.17.2 In the instant case, as the composition of the subject goods could not be ascertained as the goods were already exported, for comparison of values of the said exported goods, data of Shipping Bills other than those filed by the exporter having like kind goods were retrieved from the ICES 1.5 System pertaining to the year 2015-16. Table-A above shows the comparative values and CTHs declared in Shipping Bills other than those filed by M/s. Efficiency Multitrading Pvt. Ltd. and having goods of similar classification and like kind

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

goods. Comparative study on values of like-kind goods as detailed at Table-A above revealed that there is substantial difference between the value declared by M/s Efficiency Multitrading Pvt. Ltd and by other exporters. In view of the above, the goods exported by M/s Efficiency Multitrading Pvt. Ltd. appeared to be highly overvalued as the values declared by other exporters appear to be reasonable with the respective description of the goods. It appears that the exporter is intentionally exporting a non-sensitive item i.e., "rope" which is disguised in the name of different descriptions under CTH 56079090 with exorbitantly higher value and therefore the transaction value declared by the Exporter cannot be accepted as true value in this case. Hence, the declared value appeared to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2907 accordingly, as per Rule 3 (3) *ibid*, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be re-determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. As discussed in foregoing paragraphs, the highest value quoted in Shipping Bills other than those filed by M/s Efficiency Multitrading Pvt. Ltd as detailed at Table-A above i.e., Rs.116/per Kg corresponding to SB No. 4489441 dated 03.12.2015 was adopted and applied to impugned goods as it satisfies all the conditions stipulated under sub-rule (2) of Rule-4 *ibid*.

2.17.3. Accordingly, after detailed investigation, FOB of the impugned goods was redetermined to Rs. 29,32,480/- only as discussed above, in terms of Rule 4 of Customs valuation (Determination of Value of Export Goods) Rules, 2007. Thus, it appears that by mis-declaring the value of the impugned goods, the Exporter had inflated FOB value of the export goods by Rs. 95,74,45,270/- and thereby illegally availed/attempted to avail excess/undue export benefit to the tune of Rs. 4,80,75,024/-(MEIS of Rs.4,78,72,264/+ Drawback of Rs. 2,02,761/-) as detailed at Table-B above.

2.17.4 The exporter has claimed MEIS benefit for the subject 60 Shipping Bills under the provisions of Chapter 3 of Foreign Trade policy 2015-20, Public Notice 02/2015-20 dated 01.04.2015 issued by DGFT and CBIC Notification 24/2015-Customs dated 08.04.2015. After the re-determination of the actual value of the subject goods as per Rule - 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR), covered under the said 60 shipping bills, the claimed MEIS amount is required to be rejected and demanded and recovered from the exporter with interest due thereupon under Section 28AAA of the Customs Act, 1962 for wilful misstatement of value of the goods and suppression of the facts. A chart showing the shipping bill wise re-determined MEIS amount has been detailed at Table-B and the re-determined MEIS amount comes to Rs. 1,46,624/- only. Hence, the illegitimate MEIS claim in case of subject 60 shipping bills amounting to Rs. 4,80,18,888/- is liable to be rejected and the excess MEIS benefit amounting to Rs. 4,78,72,264/- should be recovered from the exporter with interest due thereupon under Section 28AAA of the Customs Act, 1962.

2.17.5 The exporter had violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 in as much, as they did not make a correct declaration of value of goods, in Shipping Bills filed by them to the Customs authorities.

2.17.6 As the exporter had not made declaration truthfully in the Shipping Bills, they appear to have violated the conditions of section 50(2) of the Customs Act, 1962, and hence it appeared that there was a deliberate mis-declaration and suppression of facts regarding the actual value of the impugned goods on the part of the exporter with mala-fide intention to claim undue export benefits not otherwise available to them.

2.17.7 It appears that the exporter M/s. Efficiency Multitrading Pvt. Ltd. (IEC 0315058226) had mis-declared the impugned goods in terms of their value and attempted to defraud the Government by claiming undue higher amount of Drawback, MEIS benefits and thereby knowingly acted in a manner which rendered the goods covered by impugned 60 Shipping Bills, liable to confiscation under Section 113(i) and 113(i)(a) of the Customs Act, 1962 even though these actions of the exporter are related to the goods exported earlier and which are not available for confiscation.

2.17.8 It further appears that the exporter, M/s. Efficiency Multitrading Pvt. Ltd. have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of intentional mis-declaration of value of the impugned goods and attempting to export improperly as their omission and commission has rendered the goods liable for confiscation u/s Section 113(i) of the Customs Act, 1962.

2.17.9 Directors of M/s. Efficiency Multitrading Pvt. Ltd.ie., Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal have mis-declared the value of the exported goods with an intention to avail MEIS and drawback benefits not due on the said exported goods. This act of Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal, through their company M/s Efficiency Multitrading Pvt. Ltd., appears to have made them liable to penal action under Section 114 (iii) of the Customs Act, 1962 for their acts of omission and commission which have rendered the said goods liable to confiscation. Further, they have knowingly and intentionally made the declaration in the subject shipping bills which is false or incorrect with respect to value of the subject goods for undue claim of export benefits. Therefore, this act of Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal, appears to have made them liable to penal action under Section 114AA and Section 114AB of the Customs Act, 1962 for making false declaration.

2.17.10 As directors of M/s. Efficiency Multitrading Pvt. Ltd.ie., Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal have mis-declared the value of the exported goods with an intention to avail undue MEIS fraudulently, they are also liable for penalty u/s 114 AB of Customs Act, 1962 for this intentional mis-declaration of value with willful mis-statement and suppression of facts.

2.17.11 Shri Santosh Doshi, Director of M/s Masumi Overseas contacted Shri Jetal S. Dave Proprietor of M/s Parv Industries and arranged fake invoices through M/s Parv Industries and has mis-declared in terms of value for claim of undue benefits of MEIS and drawback scheme. Shri Santosh Doshi also arranged transport documents/LR and offered Rs.19 Lakh to Shri Jetal S. Dave for providing invoices/bills in respect of the product Cordage Cord/Rope which were supposed to be exported. An amount of Rs. 22,47,25,000 was received in Shri

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

Jetal S. Dave's SBI account through RTGS from M/s. Efficiency Multitrading Pvt. Ltd. and he transferred the amount to accounts of different persons/companies on the direction of Shri Santosh Doshi. Further, they have knowingly and intentionally made the declaration in the subject shipping bills which is false or incorrect with respect to value of the subject goods for undue claim of export benefits. Therefore, this act of Shri Santosh Doshi, appears to have made them liable to penal action under Section 114AA of the Customs Act, 1962 for making false declaration.

2.17.12 Shri Jetal S. Dave Proprietor of M/s Parv Industries provided invoices/bills of his firm to M/s. Efficiency Multitrading Pvt. Ltd. through Shri Santosh Doshi for undue benefit of Rs. 19 Lakh(approx) and have knowingly and intentionally supported to make false/fake invoices of his firm. This act of Shri Jetal S. Dave appears to have made them liable to penal action under Section 114AA of the Customs Act, 1962 for their acts of omission and commission for making false declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts.

2.17.13 The CB M/s. P.B.N. Logistics(11/1942) were authorized by the exporter for clearance of the goods to be exported and the CB M/s. P.B.N. Logistics knowingly involved themselves in clearance of the subject goods which were overvalued with an intension to favour the exporter with undue benefit of export incentives. The act of CB from the filling of the shipping bill to clearance of the subject goods after knowing the case of the goods is an act of omission and commission to avail the undue benefit of export incentives.

2.17.14 The CB had also failed in carrying out the obligations mandated to be followed under the CBLR, 2013 (as amended CBLR 2018). Further, it appears from the above that the said CHA/CB has not acted efficiently in discharge of his duty, as they have contravened various provisions; it means that they have also contravened Regulation 11 (m) of the CBLR, 2013(as amended CBLR 2018). Violation of various sub clauses of Regulation 11 namely regulation 11 (d), 11 (e) and 11 (m) had been committed by the CHA/CB. It appears that the CHA/CB had acted in very callous manner and that by contravening the aforesaid regulations of CBLR 2013(as amended CBLR 2018), the Customs House Agent appears to have connived in the unjust enrichment of the exporter in availing the undue benefits for which the exporter was not eligible in view of the mis-declaration of value of the goods under export. Accordingly, the Customs House Agent by their acts of mis-conduct and for contravention of provision of the Regulations under CBLR 2013(as amended CBLR 2018) mentioned herein above aided and abetted the said fraudulent export and thereby appears to have rendered themselves for penal consequences under section 114 (iii)& 114AA of the Customs Act, 1962.

2.18. In view of the above, M/s. Efficiency Multitrading Pvt. Ltd., having its registered office at 87, Prem Jivan Bldg., 3rd Floor, Office No. 12, Kazi Shayed Street, Khand Bazar, Masjid Bunder-West, Mumbai-400003 and its Directors, Shri Aditya Bhikaji Rathod and Shri Nilesh Katwal and Shri Santosh Doshi, Director of M/s Masumi Overseas, Shri Jetal S. Dave, Proprietor of M/s Parv Industries and CB firm, M/s P.B.N. Logistics(11/1942), were called

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

upon to Show Cause to the Commissioner of Customs, NS-II, JNCH, having office at Jawaharlal Custom House, Nhava Sheva, Tal-Uran, Dist Raigad, Maharashtra, as to why:

- i) the declared FOB value of Rs. **96,03,77,750/-** of goods covered under 60 Shipping Bills, as detailed at Table-I should not be rejected under rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR) and re-determined to Rs. **29,32,480/-** as detailed at Table-B as per Rule-4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007(CVR), read with section 14 of the Customs Act, 1962, for reasons and in the manner detailed above;
- ii) the claimed MEIS benefit amounting to Rs. **4,80,18,888/-** on declared FOB value of previous 60 Shipping Bills as specified in Table-I should not be rejected and excess MEIS benefit amounting to Rs. **4,78,72,264/-** should not be demanded and recovered from them along with interest due thereupon under Section 28AAA of the Customs Act, 1962 for willful misstatement of value of the goods and thus export of the said goods be held not eligible for the benefits under the provisions of Chapter 3 of Foreign Trade policy 2015-20, Public Notice 02/2015-20 dated 01.04.2015 issued by DGFT and CBIC Notification 24/2015-Customs dated 08.04.2015;
- iii) the claimed Drawback benefit amounting to Rs. **2,90,735/-** in respect of the previous 60 Shipping Bills as specified in Table-I should not be rejected and excess Drawback amounting to Rs. **2,02,761/-** should not be demanded and recovered from them along with interest due thereupon under Section 75(2) and 75A (2) of the Customs Act, 1962;
- iv) the said impugned export goods, covered by the 60 Shipping Bills as detailed at Table-I which have already been exported in the past and are not available, found to be mis-declared in terms of value for claim of undue benefits of MEIS and drawback scheme, should not be held liable for confiscation under the provisions of Section 113 (i) and section 113(i)(a) of the Customs Act, 1962;
- v) Penalty under Section 114 (iii) of the Customs Act, 1962, should not be imposed upon M/s Efficiency Multitrading Pvt. Ltd., for their acts of omission and commission which rendered the impugned goods liable for confiscation;
- vi) Penalty under Section 114 (iii), 114AA and 114AB of the Customs Act, 1962, should not be imposed upon Shri Aditya Bhikaji Rathore, Director of M/s Efficiency Multitrading Pvt. Ltd., for their acts of omission and commission which rendered the impugned goods liable for confiscation and for making false declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts;
- vii) Penalty under Section 114 (iii), 114AA and 114AB of the Customs Act, 1962, should not be imposed upon Shri Nilesh Katwal, Director of M/s Efficiency Multitrading Pvt. Ltd., for their acts of omission and commission which rendered the impugned goods liable for confiscation and for making false declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts;
- viii) Penalty under Section 114AA of the Customs Act, 1962, should not be imposed upon Shri Santosh Doshi, Director of M/s Masumi Overseas, for their acts of omission and commission for making false declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts;

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- ix) Penalty under Section 114AA of the Customs Act, 1962, should not be imposed upon Shri Jetal S. Dave Proprietor of M/s Parv Industries, for their acts of omission and commission for making false declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts;
- x) Penalty under Section 114 (iii), 114AA and 114AB of the Customs Act, 1962, should not be imposed upon CB firm M/s. P.B.N. Logistics (11/1942).

WRITTEN SUBMISSIONS OF THE NOTICEES

3. **Written Reply from the Noticee No. 5, i.e. Shri Santosh Doshi:** In response to the SCN dated 31.01.2023, the Noticee, Shri Santosh Doshi has submitted written replies vide letter dated 31.10.2023. The contentions of the exporter are re-produced herein below:

- (i) At the very outset, hearing in and service of the captioned Show Cause Notice to the undersigned is in absolute violation of principle of natural justice in as much as that one hand the undersigned has been called upon to show cause for misdeclaration in the export invoices of value of certain items exported by M/s Efficiency Multitrading Pvt. Ltd. supplied by M/s Parv Industries only because proprietor Mr. Jetalkumar Dave proprietor of M/s Parv Industries has allegedly stated in statement recorded on 23/04/2018 and submitted letter dated 04/05/2018 of the said Jetalkumar Dave proprietor of M/S. Parv Industries, inter alia, alleging that undersigned approached said Mr. Jetalkumar Dave and offered him for issuance of only invoices of the item-Cordage Cord/Rope for M/S. Efficiency Multitrading Pvt. Ltd. and payment made to M/S. Masumi Overseas Pvt. Ltd. Whereas, along with the captioned Show Cause Notice, the copies of the alleged statements of Mr. Jetalkumar Dave proprietor of M/S. Parv Industries allegedly recorded on 23/04/2018 and alleged letter dated 04/05/2018 of Mr. Jetalkumar Dave proprietor of M/S. Parv Industries has not been supplied rather failed to supply to the undersigned despite of repeated application dated 15/05/2023, 02/08/2023, 16/08/2023, 23/08/2023 and 11/09/2023. Moreover, the alleged statements as recorded at para No. 17.10 of the captioned show cause notice are not part of the Relied upon documents. Whereas, the entire case developed by your authority is on the basis of the alleged statements allegedly recorded on 23/05/2018 and letter dated 04/05/2018 submitted by said Mr. Jetalkumar Dave proprietor of M/S. Parv Industries. In furtherance, although the alleged bank statement of M/S. Parv Industries is relied and/or referred by your authority in para No. 17.10 but in the relied upon documents alleged bank statement is missing and not at all supplied by the prosecuting department of Customs SIIB (X), NS-II to the undersigned noticee/respondent. Therefore, the captioned show cause notice is issued illegally against the undersigned noticee/respondent, hence, this authority is humbly prayed to dismiss/reject the captioned show cause notice against the undersigned noticee/respondent.
- (ii) That, nevertheless, relying on the said sole statement allegedly recorded by Mr. Jetalkumar Dave proprietor of M/S. Parv Industries and the letter dated 04/05/2018 allegedly submitted by Mr. Jetalkumar Dave proprietor of M/S. Parv Industries, without any corroborating statement/evidences on record your authority at para No. 20.11 of the captioned show caused erroneously observed from the illegal and

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- incomplete investigation that the undersigned noticee/respondent has arranged fake invoices for Cordage cord/rope through M/S. Parv Industries and has mis-declared in terms of value for claim of undue benefits of MEIS and drawback scheme, arranged transport documents/LR and offered Rs. 19 lakh to Mr. Jetalkumar Dave for providing bills/invoices. Reached to the unlawful presumption that the undersigned noticee/respondent appears to be liable for penal action under section 114AA of the Customs Act, 1962 for making declaration. Therefore, the captioned show cause notice issued against the undersigned noticee/respondent, is liable to be dismissed/rejected against the undersigned noticee/respondent.
- (iii) That, your authority has raised bald/empty allegations without any substantiating documents being supplied and/or relied in the captioned show cause notice about involvement of the undersigned noticee/respondent in issuance of alleged invoices/bills from M/S/ Parv Industries, in the value declared in the invoices/bills and in availing any MEIS and drawback from any alleged invoices of M/S. Efficiency Multitrading Pvt. Ltd. Whereas, the true and correct fact is that the undersigned noticee/respondent is not at all involved in any way in issuance of alleged invoices/bills, in the value declared in the invoices/bills and not availed any MEIS and drawback from any alleged invoices. Moreover, the captioned show cause notice is relying, raising averments and asserting on the alleged invoices/bills issued by M/S. Parv Industries and export attempts by M/S. Efficiency Multitrading Pvt. Ltd., however, not a single piece of alleged invoices/bills from M/S. Parv Industries and export documents of M/S. Efficiency Multitrading Pvt. Ltd. are neither part of the relied upon documents in the captioned show cause notice nor the same have been supplied to the undersigned noticee/respondent. Thus, in absence of base/very alleged genesis of the captioned show cause notice is non-existing or ghost invoices/bills of M/S. Parv Industries and shipping documents of M/S. Efficiency Multitrading Pvt. Ltd. Therefore, the captioned show cause notice is issued illegally against the undersigned noticee/respondent, hence, this authority is humbly prayed to dismiss/reject the captioned show cause notice against the undersigned noticee/respondent.
- (iv) That, further, at its apex of illegality, at para No. 21(viii) of the captioned show cause notice, your authority has called upon the undersigned noticee/respondent to show cause as to why not penalty under section 114AA of the Customs Act, 1962 be imposed for their acts of omission and commission for making false declaration and for intentional declaration of value with wilful mis-statement and suppression of facts. Whereas, no alleged declaration and/or wilful statement in respect of any transaction between M/S Parv Industries and M/s. Efficiency Multitrading Pvt. Ltd. has been made by the undersigned noticee/respondent. The prosecuting department has also not annexed any substantiating documents while raising any such allegation against the undersigned noticee/respondent. Therefore, the captioned show cause notice issued against the undersigned noticee/respondent ought to be dismissed/rejected against the undersigned noticee/respondent at the very outset.
- (v) Without prejudice to the aforesaid, the undersigned noticee/respondent shall now be dealing with the relevant paragraphs of the captioned show cause notice concerning



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

the undersigned noticee/respondent and its pre-liminary reply to the said paragraphs is as follows;

- (vi) The undersigned noticee/respondent must not be deemed to have admitted and/or accepted any allegations and/or aspersions and/or contentions raised against the undersigned noticee/respondent unless and/or otherwise the same is very specifically and explicitly admitted and/or accepted by the undersigned noticee/respondent hereinafter.
- (vii) The undersigned noticee/respondent deny each and every allegations and/or aspersions and/or contentions raised against the undersigned noticee/respondent at para No. 17.10, 17.12 and 20.11 of the captioned show cause notice because the same are false, incorrect, frivolous, colourful, baseless, raised on conjectures and surmises without any substantiating documentary evidence on the record and hence, the same are traversed in seriatim.
- (viii) That, as regard para 17.10 of the captioned show cause notice, the undersigned noticee/respondent deny entire set of averments, contentions, allegations and aspersions in the said paragraph as the same are false, frivolous, bogus, sham, incorrect, baseless and fraudulent because the undersigned noticee/respondent is not at all aware about any such alleged letters dated 24/01/2018, 09/03/2018 and letter 07/05/2018 about verification of address of M/S. Parv Industries as the same is not part of the relied upon documents along with the captioned show cause notice and the same had never been supplied and/or served to the undersigned noticee/respondent until this moment of filing of this pre-liminary reply, objections and representations. Because, the undersigned noticee/respondent is not aware any such alleged statement dated 23/04/2018 allegedly deposed by Mr. Jetalkumar Dave proprietor of M/S. Parv Industries as the same is not part of the relied upon documents along with the captioned show cause notice and the same had never been supplied and/or served to the undersigned noticee/respondent until this moment of filing of this preliminary reply, objections and representations, therefore, the only preliminary reply is that the alleged contents of alleged statement dated 23/04/2018 is false, bogus, frivolous and fraudulent thus, the undersigned noticee/respondent deny the same in absolute. Because, the undersigned noticee/respondent is not aware whether the said Mr. Jetalkumar Dave proprietor of M/S. Parv Industries had ever provided Blank Bill books to M/S. Efficiency Multitrading Pvt. Ltd., never supplied any goods, never manufactured Cordage Cord/Rope, not having any manufacturing facility and M/S. Efficiency Multitrading Pvt. Ltd. prepared bills and signed the bills as the same is not part of the relied upon documents along with the captioned show cause notice and the same had never been supplied and/or served to the undersigned noticee/respondent until this moment of filing of this pre-liminary reply, objections and representations. The undersigned noticee/respondent is also not aware about any alleged transport documents/LRs arranged by M/S. Efficiency Multitrading Pvt. Ltd. as the same is not part of the relied upon documents along with the captioned show cause notice and the same had never been supplied and/or served to the undersigned noticee/respondent until this moment of filing of this pre-liminary reply, objections and representations. The undersigned noticee/respondent vehemently deny that the undersigned noticee/respondent approached and contacted Mr. Jetalkumar Dave proprietor of M/S.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

Parv Industries, deny that the undersigned noticee/respondent said Mr. Jetalkumar Dave about Efficiency Multitrading Pvt. Ltd. needs invoices/bills in respect of product Cordage Cord/ Rope that were supposed to be exported, deny that the undersigned noticee/respondent offered Mr. Jetalkumar Dave Rs. 19 lakh for providing invoices from his firm, deny that said Mr. Jetalkumar Dave accepted the offer, Rs.22,07,25,000/- was received from M/s. Efficiency Multitrading Pvt. Ltd. and deny that Mr. Jetalkumar Dave transferred the amount of accounts of different persons/companies on the direction of the undersigned noticee/respondent as because the same is false, incorrect, concocted, baseless, bogus, frivolous and fraudulent in as much as that the undersigned noticee/respondent never approached and/or contacted to Mr. Jetalkumar Dave proprietor of M/S. Parv Industries or anyone else at all regarding alleged transactions between M/S. Efficiency Multitrading Pvt. Ltd. and M/S. Parv Industries, the undersigned noticee/respondent never offered anything of such alleged sort about concocted story of arranging invoices/bills for M/S. Efficiency Multitrading Pvt. Ltd., the undersigned noticee/respondent never offered Rs. 19 lakh to said Mr. Jetalkumar Dave for alleged transactions, not aware about any transaction of money between M/S. Efficiency Multitrading Pvt. Ltd. and M/S. Parv Industries and also the undersigned noticee/respondent never directed to Mr. Jetalkumar Dave proprietor of M/S. Parv Industries to transfer any alleged amount to accounts of different persons/companies as the entire story brought-up by the prosecuting department and said Mr. Jetalkumar Dave is absolutely concocted and fabricated to engulf the undersigned noticee/respondent in entire alleged transactions/gambit of fraud and forgery only with an ulterior motive to mislead your authority dislodge recovery process initiated by company of the undersigned noticee/respondent against M/S. Parv Industries under a business of supply of diamonds, the nature and type of transactions, goods transacted between the company of the undersigned noticee/respondent and M/S. Parv Industries was altogether different and said Mr. Jetalkumar Dave has succeeded so far in misleading your authority in participation of prosecuting authority, therefore, the undersigned noticee/respondent call upon the prosecuting department and said Mr. Jetalkumar Dave to strict thereof but copy of the alleged statement dated 23/04/2018 of Mr. Jetalkumar Dave is not part of the relied upon documents along with the captioned show cause notice and the same had never been supplied and/or served to the undersigned noticee/respondent until this moment of filing of this preliminary reply, objections and representations despite of repeated demands of the undersigned noticee/respondent. Copies of the invoices evidencing supply of diamonds to M/S. Parv Industries and ledger of the account is annexed hereto as Annexure-RI 7-2 Colly. Moreover, the alleged statement dated 23/04/2018 of Mr. Jetalkumar Dave can never be treated as proved because the undersigned noticee/respondent has never been afforded an opportunity to cross-examine said Mr. Jetalkumar Dave and officer that has allegedly recorded alleged statement of Mr. Jetalkumar Dave. Till such occasion entire show cause notice issued against the company of the undersigned noticee/respondent and the undersigned noticee/respondent is illegal and non-est in law and hence, may please be rejected at the very outset. As regard allegations relating to alleged letter dated 04/05/2018 of Mr. Jetalkumar Dave proprietor of M/S. Parv Industries and alleged statement of bank

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

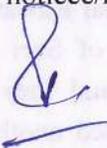
account allegedly reflecting transfer of amount to company of the undersigned noticee/respondent are denied at the very outset as the alleged letter dated 04/05/2018 and statement of bank account are not part of the relied upon documents along with the captioned show cause notice and the same had never been supplied and/or served to the undersigned noticee/respondent until this moment of filing of this pre-liminary reply, objections and representations despite of repeated demands of the undersigned noticee/respondent. Nevertheless, the ledger annexed hereto as Annexure-R/7-2 colly reflects abundantly that the amount transferred by M/S. Prav Industries to the company of the undersigned noticee/respondent is nothing but sale consideration towards supply of diamond paid by M/S. Parv Industries to the company of the undersigned noticee/respondent.

- (ix) As regard para No. 17.12 of the captioned show cause notice the undersigned noticee/respondent deny entire contention because the alleged contention never transpired in as much as no alleged incident was ever recorded by the prosecuting department of SIIB(X) prior to the captioned show cause notice, moreover, nothing could have stopped prosecuting authority to send by registered or speed post the alleged summons dated 11/06/2018 and 04/10/2018 as required by law even otherwise no acknowledgement is on record in the form of the relied upon documents alleged having served to the undersigned noticee/respondent. Thus, no such alleged summons dated 11/06/2018 and 04/10/2018 were ever served to the undersigned noticee/respondent.
- (x) As regard para No. 20.11 of the captioned show cause notice the undersigned notice / respondent deny the entire contents because the undersigned notice / respondent never contacted Mr. Jetalkumar Dave proprietor of M/S. Parv Industries and arranged fake invoices, never mis-declared value of claim of undue benefits of MEIS and drawback scheme in as much as that the allegations and aspersions are solely based on alleged statement dated 23/04/2018 of said Jetalkumar Dave and that is not part of the record of case of captioned show cause notice as supplied to the undersigned noticee/respondent and no opportunity has been afforded to the undersigned noticee/respondent to cross-examine said Jetalkumar Dave after supply of alleged statement dated 23/04/2018. As per statement of UCO bank account of M/S. Efficiency Multitrading Pvt. Ltd. clearly reflects that the Efficiency Multitrading Pvt. Ltd. has transferred the drawback amount received from the Customs department to one M/S. Global Impex and not to the undersigned noticee/respondent or his company M/S. Masumi Overseas Pvt. Ltd. this glaring contradiction on the face of record abundantly establishes that the prosecuting department of SIIB(X) is illegally dragging the name of the undersigned noticee/respondent and name of his company into alleged transactions between M/S. Prav Industries and M/S. Efficiency Multitrading Pvt. Ltd. and also in any sort of exports of M/S. Efficiency Multitrading Pvt. Ltd. with alleged availment of MEIS and drawback. Another glaring contradiction on the face of record that skipped the attention of your authority is that at Table-A at page No. 4 and 5 of the captioned show cause notice it is crystal clear and evident that, it is M/S. Efficiency Multitrading Pvt. Ltd. that availed MEIS from the Directorate General of Foreign Trade and not by the company of the undersigned noticee/respondent as alleged or otherwise. Thus, it became just, proper and sufficient

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
 SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

to call upon the prosecuting officer from the department of SIIB(X) to strict proof thereof by way of rigours of cross-examination of the said officer to extract the real truth behind the baseless allegations and aspersions raised against the undersigned noticee/respondent and his company. There is no piece of evidence apart from the alleged statement dated 23/04/2018 that could establish that the undersigned noticee/respondent arranged fake invoices/bills for M/S. Efficiency Multitrading Pvt. Ltd. and it is high level of contradiction on the face of record in as much as at para 17.10 of the captioned show cause notice, your authority writes in the following words "he only provided Blank Bill books to M/S. Efficiency Multitrading Pvt. Ltd. that bills were prepared and signed by M/S. Efficiency Multitrading Pvt. Ltd. that the transport documents/LR were also arranged by them;" , however, at para 20.11 of the captioned show cause notice, your authority writes in the following words-" Shri Santosh Doshi, Director of M/S. Masumi Overseas contacted Shri Jeta/ S. Dave Proprietor of M/S. Parv Industries and arranged fake invoices through M/S, Parv Industries and has mis-declared in terms of value for claim of undue benefits of MEIS and drawback scheme." Then, at para No. 20.9 the captioned show cause notice recites as follows-" Directors of M/S. Efficiency Multitrading Pvt. Ltd. i.e., "Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal have mis declared the value of the exported goods with an intention to avail MEIS and drawback benefits not due on the said exported goods". Similarly, at para No. 20.10, the captioned show cause notice recites as follows-"As directors of M/s. Efficiency Multitrading Pvt. Ltd. i.e., Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal have mis-declared the value of the exported goods with an intention to avail undue MEIS fraudulently". Hence, from the foregoing narrations of excerpts it is clear that the prosecuting officer has attempted to mislead your authority and persuaded your authority to issue the captioned show cause notice against the undersigned noticee/respondent and his company M/S. Masumi Overseas Pvt. Ltd. without any substantiating evidence to support the allegations and aspersions raised therein. Thus, entire allegations and aspersions are baseless, frivolous and bogus, therefore, the undersigned noticee/respondent is not liable for any alleged penalty under section 114AA of the Customs Act, 1962. The prosecuting officer of SIIB (X) has suppressed and concealed a vital fact and truth that neither the directors of said M/S. Efficiency Multitrading Pvt. Ltd. and directors of said M/S. Masumi Overseas Pvt. Ltd. had or has even in present any relation, connection and/or business between the said two companies and not even single penny transaction took place between the said two companies M/S. Efficiency Multitrading Pvt. Ltd. and M/S. Masumi Overseas Pvt. Ltd. at any relevant point of time. The amount transferred from M/S. Parv Industries to M/S. Masumi Overseas Pvt. Ltd. is towards the sale consideration of consignments of diamonds supplied to M/S. Parv Industries as more particularly described in Annexure-R/7-2 Colly.

- (xi) As regard para No. 20.12 of the captioned show cause notice, allegation and aspersions and/or contentions at first sentence is denied because neither the invoices/bills were supplied by M/S. Parv Industries through the undersigned noticee/respondent to M/S. Efficiency Multitrading Pvt. Ltd. nor for any due benefits of Rs. 19 lakh and had not knowingly and intentionally supported to make false/fake invoices of his firm because the undersigned noticee/respondent even do know the



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

said two directors Aditya Bhikaji Rathore and/or Nilesh Katwal of M/S. Efficiency Multitrading Pvt. Ltd., had no business with M/S. Efficiency Multitrading Pvt. Ltd. and business with M/S. Parv Industries is in respect of diamonds supply and not for alleged goods. Mr. Jetalkumar Dave concocted the story to mislead and dispute the recovery proceedings initiated M/S. Parv Industries by company of the undersigned noticee/respondent.

- (xii) That, as regard para No. 21(viii) of the captioned show cause notice, the undersigned noticee/respondent deny the entire contents because the same is false, frivolous and bogus in as much as no act and/or action of the undersigned noticee/respondent or his said company is involved in the alleged transaction of the goods Cordage Cord/Rope as more particularly explained hereinabove, therefore, for sake of brevity and convenience the undersigned noticee/respondent repeat and reiterate whatever has been stated herein above as if the same is set out herein and reproduced. The undersigned noticee/respondent submit that the undersigned noticee/respondent has not omitted any act in the alleged transactions of export of Cordage Cord/Rope. The undersigned noticee/respondent has not at all acted for making any false declarations and not for any intentional mis declaration of value with willful mis-statement and not involved in any suppression of facts. Therefore, penalty under section 114AA of the Customs Act, 1962 can never be imposed, hence, it is most humbly prayed that your authority may be please to reject and/or dismiss the captioned show cause notice issued against the undersigned noticee/respondent and his company M/s. Masumi Overseas Pvt. Ltd.
- (xiii) Shri Santosh Doshi also requested to provide various documents and RUDs which are the basis of the said Show Cause Notice.

RECORD OF PERSONAL HEARING:

4. Personal hearing was scheduled by the erstwhile Adjudicating authority on 23.05.2023, 06.07.2023, & 16.08.2023. Shri Santosh Doshi replied to personal hearing fixed on 16.08.2023 and stated that he has not received the Show Cause Notice and requested to provide copy of the same. The Show Cause Notice along with RUDs was provided to authorised representative of Shri Santosh Doshi and another personal hearing was fixed on 12.09.2023.

5. Another personal hearing was granted by erstwhile adjudicating authority on 31.10.2023. Shri Sanjeev Kumar Rawat, advocate and Shri Prashant Mahatre, assistant of the Noticee, appeared on behalf of Shri Santosh Doshi. They submitted that they have not received certain documents and they were allowed to inspect the documents and take photocopies. They were granted another inspection on 06.11.2023 and they inspected the documents mentioned by them in order to keep the record straight. Inspection of the documents was done by the representative of Shri Santosh Doshi on 06.11.2023. Next personal hearing was granted on 14.12.2023 by the erstwhile adjudicating authority, however, the Advocate of the Noticee, Shri Santosh Doshi sought adjournment.

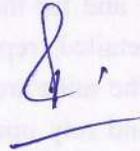
F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

6. M/s. P.B.N. Logistics replied to the personal hearing fixed by the then adjudicating authority on 31.10.2023 through his advocate, Shri Devraj Kansara. Personal hearing by the undersigned was granted on 06.11.2025 & 25.11.2025. Shri R.N Bandyopadhyay attended the personal hearing on 25.11.2025 on behalf of Noticee, M/s. P.B.N. Logistics. He submitted that the partnership of the firm has been changed, hence the copy of Show Cause Notice is not available. He requested to provide a copy of the Show Cause Notice and sought another date of personal hearing. Other Noticees did not attend the personal hearing.

6.1. Next Personal hearing by the undersigned was granted on 26.12.2025. Shri Santosh Doshi sought adjournment on health ground and sought personal hearing on or after 11.01.2026.

6.2. **Shri R.N Bandyopadhyay attended the personal hearing on 26.12.2015 on behalf of Noticee, M/s. P.B.N. Logistics. His detailed submission is reproduced below:**

- (i) That the Noticee submitted shipping bills including Invoice and packing list etc. as prescribed under Customs Act' 1962. The Custom Officer following the due procedure as prescribed under the Act had checked the goods and the documents. After appraisal, assessment, Examination, the proper officer allowed LEO for shipment of the goods and the impugn goods were exported. The Noticee had no responsibility about the over-valued goods; it is the responsibility of proper officer of Customs to examine the correctness of description and value of the goods.
- (ii) That the shipping bills were filed under MEIS and Drawback scheme. The proper officer considering all aspects, viz. the pattern of shipping bills, description, and value, allowed LEO. Therefore, under no stretch of imagination the Noticee was responsible for over-valuation of the goods declared by the exporter. To avail the claim of MEIS and Drawback is the responsibility of exporter on post export basis. Therefore, the availment of export incentives on post exports condition was no way the responsibility of the Noticee, as CB, when the same was vested on the exporter.
- (iii) That the S-C-N h does not bring on record any positive, cogent, or collaborative evidence to establish that the Noticee knowingly involved themselves in clearance of the impugned goods. In absence of *mens rea* and active involvement, no liability can be fastened upon the CB, who merely performs ministerial and support function.
- (iv) The Shipping Bills were filed under MEIS and Drawback schemes and were cleared by Customs after due scrutiny. Availment of MEIS and Drawback benefits is entirely a post-export function of the exporter, handled by the concerned departments.
- (v) The Noticee filed the Shipping Bills along with invoices, packing lists, and other prescribed documents under the Customs Act, 1962. The proper officer of Customs assessed, appraised, and examined the goods and thereafter allowed LEO.
- (vi) The Noticee as Customs Broker filed the impugned Shipping Bills which were finally assessed and LEOs were allowed and also goods were exported. In the above circumstances SCN under section 124 of C.A'62 cannot be issued by the department, they had only option to contest the assessment order under section 129 (D) (2) of C.A'62.



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- (vii) Section 114 (iii) of C.A' 62 can be invoked when the goods are attempted to be exported improperly. In the instant case impugned goods were exported; those were not available for confiscation.
- (viii) The S-C-N issuing Authority alleged that M/s Efficiency Multitrading Pvt. Ltd. was a dummy company used for fraud and availing ineligible Drawback and MEIS. It may be fact, but how the Noticee could be ascertained that it was a dummy company, when the exporter provided all required documents as specified under Regulation 10(n) of CBLR, 2018 and also the Noticee verified those documents and found correct through proper channel.
- (ix) In view of the above discussion, it is humbly submitted that there is no merit in the subject S-C-N for exportation of goods and hence, the same is required to be withdrawn. Therefore, the question of penalty under section 114(ii), 114AB, 114AA of Customs Act, 1962 does not arise.
- (x) In view of our above submission most humbly it is prayed that: -
- No violation of CBLR, 2018 is made out against the Noticee;
 - No evidence exists to establish abetment or connivance;
 - The proposed penalties under **Sections 114(iii), 114AB and 114AA of the Customs Act, 1962** are wholly unsustainable.

7. Next personal hearing by the undersigned was granted on 13.01.2025 as requested by Noticee, Shri Santosh Doshi. However, he again sought adjournment of personal hearing and requested for personal hearing on 23.01.2026. **Shri Sudharkar Umakant Jha, advocate attended personal hearing on 23.01.2026, on behalf of Shri Santosh Doshi** wherein he submitted that his client is not concerned with, nor involved in the alleged export of M/s. Efficiency Multitrading Pvt. Ltd. and that the proposal for penal action against him is based on presumptions and uncorroborated third-party allegations. He further submitted that the allegations against Noticee No. 5 are primarily founded upon the statement of Shri Jetalkumar S. Dave, and therefore, in the interest of justice, he sought cross-examination of Shri Jetalkumar S. Dave and also requested for time till 28.01.2026 for submitting detailed submission. His detailed submissions are reproduced below:

I. PRELIMINARY SUBMISSION:

- Without prejudice and for the sake of brevity, the Noticee respectfully reiterate and rely upon his detailed replies and objections dated 30/10/2023 submitted on 31/10/2023, as if the same are specifically reproduced herein. The Noticee reserve his right to refer to and rely upon the said replies and objections during the course of adjudication proceedings, as and when necessary
- At the very outset, the Noticee shall not be deemed to have accepted or admitted any of the allegations, averments, contentions, inferences, or assumptions made in the captioned Show Cause Notice dated 31/01/2023, unless the same are specifically and unequivocally admitted herein. Any failure to specifically traverse any averment made in the SCN shall not be construed as admission thereof.
- The Noticee further reserve his right to submit additional replies, raise further objections, furnish relevant documents, or make supplementary submissions in the matter, including in response to any fresh material or evidence that may be produced

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

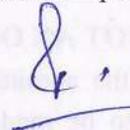
by the Department or the Adjudicating Authority during the course of the proceedings.

- Without prejudice to the preliminary submissions and the facts of the case as stated above, the reply on merits, which is without prejudice to one another, is as under:

II. OBJECTIONS AND REPLY ON MERIT:

THE IMPUGNED SCN LACKS JURISDICTION AND IS BARRED BY LIMITATION

- Without prejudice to all other submissions, At the outset, it is respectfully submitted that the impugned Show Cause Notice is without jurisdiction, ex facie time-barred, and liable to be dropped on the ground of limitation alone, even assuming (without admitting) that the allegations made therein are otherwise maintainable.
- The impugned Show Cause Notice pertains to Shipping Bills filed during the period from 06-01-2016 to 15-01-2016. It is an admitted position that the alleged acts forming the basis of the Notice relate entirely to this period.
- Under Section 28(1) of the Customs Act, 1962, the normal period of limitation for issuance of a Show Cause Notice is one year from the relevant date, which, in the case of exports, is the date of filing of the Shipping Bill. Accordingly, the normal limitation period in the present case expired on 14-01-2017.
- The extended period of limitation of five years under Section 28(4) can be invoked only in cases involving fraud, collusion, wilful misstatement or suppression of facts with intent to evade duty. Even assuming, without admitting, that the Department was entitled to invoke the extended period, the same would have expired on 14-01-2021, reckoned from the last Shipping Bill dated 15-01-2016.
- It is further submitted that the Hon'ble Supreme Court, in its suo motu proceedings relating to COVID-19, directed exclusion of the period from 15-03-2020 to 28-02-2022 while computing limitation. However, it is a settled principle that such exclusion does not revive a cause of action that had already become time-barred, but only suspends a limitation period that was still running as on 15-03-2020.
- In the present case, as on 15-03-2020, the extended limitation period under Section 28(4) was still alive, with approximately ten months remaining (i.e., from 15-03-2020 till 14-01-2021). By virtue of the Hon'ble Supreme Court's directions, this balance period stood suspended during the COVID exclusion window and recommenced from 01-03-2022.
- Accordingly, even after granting the Department the full benefit of exclusion of limitation as directed by the Hon'ble Supreme Court, the remaining balance period of approximately ten months expired by December 2022.
- The impugned Show Cause Notice, however, has been issued only on 31-01-2023, i.e., after the expiry of both the normal limitation period and the extended limitation period, even as enlarged by the Hon'ble Supreme Court's COVID-19 directions.
- It is therefore submitted that the impugned Show Cause Notice is hopelessly time-barred, and the authority issuing the same lacked jurisdiction to initiate proceedings after exhaustion of the maximum statutorily permissible period.



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- It is a settled position of law that limitation provisions go to the root of jurisdiction, and once the prescribed period expires, the authority loses the power to issue a Show Cause Notice. Such a defect is not curable and renders the proceedings void ab initio.
- In view of the above, and without prejudice to the other submissions on merits, evidence, and applicability of Section 114AA, it is respectfully submitted that the impugned Show Cause Notice is barred by limitation and liable to be quashed on this ground alone.

DEPARTMENT HAS NOT DISPUTED CORE FOUNDATIONAL FACTS

1. At the outset, it is respectfully submitted that the Department has neither disputed nor controverted the following foundational and admitted facts, which clearly emerge from the records of the case as well as the impugned Show Cause Notice itself:

- The exporter of the goods covered under the impugned Shipping Bills is M/s Efficiency Multitrading Pvt. Ltd., and not the Noticee. The identity of the exporter has never been questioned by the Department at any stage of the proceedings.
- All the Shipping Bills in question were admittedly filed by the exporter through a duly licensed Customs Broker, in accordance with the provisions of the Customs Act, 1962 and the Customs Broker Licensing Regulations. The Noticee had no role in the filing, processing or submission of the said Shipping Bills before the Customs authorities.
- The Noticee, Mr. Santosh Doshi, is not the holder of the Importer Exporter Code (IEC) under which the exports were undertaken, nor is he shown as an authorised signatory or representative of the IEC holder in any Customs document.
- The Noticee has neither filed, signed, verified nor authorised the filing of any Shipping Bill or Customs declaration in respect of the impugned exports, nor has any document submitted to Customs been attributed to him.
- It is an admitted position that no export incentive, including MEIS, drawback, or any other Customs benefit, has been availed, received, or claimed by the Noticee in relation to the impugned transactions.
- In the absence of any act on the part of the Noticee involving the making, signing, use, or causing to be made, signed or used any false or incorrect declaration or document in a transaction under the Customs Act, 1962, the *sine qua non* for invocation of Section 114AA is completely absent, rendering the very initiation of proceedings against the Noticee without jurisdiction, unsustainable in law, and liable to be dropped outright.

“FACILITATION” IS NOT AN OFFENCE UNDER SECTION 114AA

- Having regard to the admitted position that the Noticee has neither made, signed, used, nor caused to be made, signed or used any declaration or document in any transaction under the Customs Act, 1962, the Department’s attempt to justify the invocation of Section 114AA on the basis of alleged “facilitation” is wholly misconceived and untenable in law.
- It is submitted with respect that Section 114AA does not contemplate or penalise facilitation as an independent or deeming offence. The statutory scope of the provision is narrowly and expressly confined to cases involving the making, signing,

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

use, or causing to be made, signed or used, of a false or incorrect declaration or document in a transaction under the Customs Act.

- In the present case, and consistent with the undisputed factual position already placed on record, the Department has failed to identify or establish:
 - any Customs document made or prepared by the Noticee;
 - any declaration under the Customs Act signed, verified, or authorised by the Noticee; or
 - any document submitted to the Customs authorities by the Noticee, either directly or through any authorised agency
- In the absence of any such Customs-related act attributable to the Noticee, it is submitted that alleged facilitation in private or commercial dealings, even if assumed for the sake of argument, cannot be elevated to the status of a Customs offence, nor can it substitute the mandatory statutory ingredients required for invocation of Section 114AA.
- The Department's argument, if accepted, would amount to impermissibly expanding the scope of a penal provision beyond its express language, which is contrary to settled principles governing the interpretation of fiscal and penal statutes.

“CAUSE TO BE USED” ARGUMENT IS MISPLACED AND UNSUPPORTED

- Having failed to establish that the Noticee has made, signed, or used any declaration or document under the Customs Act, the Department has sought to salvage its case by placing reliance on the expression “cause to be used” occurring in Section 114AA.
- It is submitted that the expression “cause to be used” cannot be read in isolation or expansively, but must be strictly construed in harmony with the other statutory verbs, “makes, signs, or uses”, and necessarily postulates the existence of direct nexus, authority, and effective control over the making, signing, or use of Customs declarations or documents.
- In the present case, consistent with the undisputed factual position already on record, the Department has not produced any material to show that the Noticee:
 - instructed or directed the filing of any Shipping Bill;
 - authorised the Customs Broker to make any declaration on his behalf; or
 - exercised any control, supervision, or dominion over the preparation, filing, or content of Customs documents.
- On the contrary, it is an admitted position that the exporter and the licensed Customs Broker are independent legal entities, operating in their own statutory capacity under the Customs Act, 1962 and the Customs Broker Licensing Regulations, and no evidence whatsoever has been adduced to demonstrate that the Noticee exercised any decisional or operational control over the Customs processes undertaken by them.
- In such circumstances, mere association, introduction, or alleged involvement in ancillary or commercial dealings cannot, in law, be equated with “causing” a false or incorrect declaration to be used before Customs, as contemplated under Section 114AA.
- The Department's interpretation, if accepted, would effectively render the carefully worded statutory requirement of “cause to be used” otiose and convert Section 114AA

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

into a provision of constructive or associative liability, which is impermissible in a penal statute and contrary to settled principles of strict construction.

THIRD-PARTY STATEMENT CANNOT BE THE SOLE BASIS FOR PENALTY

- Having failed to establish that the Noticee has made, signed, used, or caused to be used any declaration or document under the Customs Act, the Department has sought to sustain the proceedings almost entirely on the statement of Shri Jetal S. Dave, treating the same as the fulcrum of its allegations.
- It is respectfully submitted that such reliance is legally impermissible, as:
 - the said statement is uncorroborated by any independent or contemporaneous documentary evidence;
 - no material evidence has been produced to support or substantiate the contents of the statement; and
 - the statement of the Noticee himself was never recorded, thereby denying him an opportunity to explain or rebut the allegations at the investigation stage.
- It is a settled position of law that penal liability under a mens rea-based provision such as Section 114AA cannot be fastened solely on the basis of an untested third-party statement, particularly where:
 - cross-examination of the maker of the statement has not been granted;
 - the statement is self-serving and made under circumstances suggesting personal benefit or hardship; and
 - no contemporaneous or corroborative evidence exists to lend credibility to such statement.
- It is further submitted that where the Department seeks to build its case or quantify liability on the basis of statements adverse to the Noticee, the right to cross-examination becomes an indispensable facet of natural justice. In the present case, the allegations in the SCN are entirely founded on statements of third party, whom were either not subjected to cross-examination or who have themselves admitted to financial distress or personal gain.
- Such statements cannot be relied upon without affording the Noticee an effective opportunity of cross-examination, as expressly mandated under Section 138B of the Customs Act, 1962, and as consistently upheld by the Hon'ble Supreme Court in *Andaman Timber Industries v. CCE [2015 (324) E.L.T. 641 (S.C.)]*.
- The Hon'ble Supreme Court, in the aforesaid judgment, has categorically held that denial of cross-examination where statements are relied upon as the basis of adjudication constitutes a serious flaw rendering the proceedings a nullity, as it amounts to a violation of the principles of natural justice. The Court further held that it is not for the adjudicating authority or appellate forum to speculate on the utility or outcome of cross-examination sought by the assessee. The relevant portion of the judgment is reproduced below:

"6. According to us, not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the statements and wanted to cross-examine, the Adjudicating Authority did not grant this opportunity to the assessee. It would be pertinent to note that in the impugned order passed by the Adjudicating Authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the Adjudicating Authority. As far as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the appellant themselves to explain as to why their ex-factory prices remain static. It was not for the Tribunal to have guesswork as to for what purposes the appellant wanted to cross-examine those dealers and what extraction the appellant wanted from them."

(Emphasis Supplied)

- The above legal position has been further elucidated by the Hon'ble Punjab & Haryana High Court in *Jindal Drugs Ltd. v. Union of India* [2016 (340) E.L.T. 67 (P&H)], wherein the Court laid down the mandatory procedure for reliance on statements, holding that:
 - a statement recorded during investigation cannot be relied upon straightaway;
 - such statement must first be admitted in evidence after examination of the maker before the adjudicating authority; and
 - only thereafter can the assessee be called upon to cross-examine the witness, unless the exceptional circumstances prescribed by statute are shown to exist.

The above view has been expressly affirmed by the Hon'ble Supreme Court in *Andaman Timber Industries (supra)*.

- Without prejudice to the above, it is further submitted that a majority of the statements relied upon by the Department have been retracted at the earliest available opportunity, thereby rendering such statements inherently unreliable and devoid of evidentiary value. It is a settled legal principle that contradictory and retracted statements, when unsupported by independent corroboration, cannot form the basis of adverse findings or penal action.
- The Hon'ble Supreme Court in *Vinod Solanki v. Union of India* [2009 (13) S.T.R. 337 (S.C.)] has categorically held that the initial burden to prove that a confession or statement was voluntary rests upon the Department, and that the person proceeded against is not required to prove coercion or inducement to the hilt. The Court further held that the adjudicating authority must examine the attending circumstances, timing, and manner of retraction before placing reliance on such statements.
- The above principle has been reaffirmed by the Hon'ble Supreme Court in *Commissioner of Customs (Imports), Mumbai v. Ganpati Overseas* [2023 (386) E.L.T. 802 (S.C.)], wherein it was held that statements recorded under duress or coercion cannot be relied upon, and that the adjudicating authority, while exercising quasi-judicial powers, is duty-bound to ensure that statements recorded under Section

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

108 of the Customs Act conform to minimum standards of fairness, voluntariness, and natural justice.

- In the present case, the Department has miserably failed to discharge its burden of establishing that the statements relied upon were voluntary, truthful, and corroborated by independent evidence. The statements are mutually contradictory, have been retracted, and stand unsupported by any contemporaneous documentary material.
- Consequently, the allegations sought to be fastened upon the Noticee solely on the basis of such uncorroborated and retracted statements are legally untenable, contrary to settled judicial principles, and liable to be rejected outright.

CONFESSION OR STATEMENT OF A CO-ACCUSED CANNOT BE TREATED AS SUBSTANTIVE EVIDENCE

- Without prejudice to the foregoing submissions, it is most respectfully submitted that the Department, has placed heavy and decisive reliance on the statements of alleged co-accused persons in the impugned Show Cause Notice. Such statements, by their very nature, cannot be treated as substantive evidence against the Noticee.
- It is a well-settled principle of law that the confession or statement of a co-accused cannot form the sole or substantive basis for fastening liability upon another person, unless the same is found to be voluntary and is corroborated by independent and credible evidence. This legal position has been authoritatively laid down by the Hon'ble Supreme Court in *Mohtesham Mohd. Ismail v. Spl. Director, Enforcement Directorate [2009 (13) S.T.R. 433 (S.C.)]*.
- In the aforesaid judgment, the Hon'ble Supreme Court has categorically held that:
 - the confession of a co-accused is not substantive evidence;
 - such confession can be used only for limited corroborative value, if the Court is otherwise inclined to accept independent evidence;
 - a confession, particularly when made before an authority, requires close and careful scrutiny; and
 - the Court must seek corroboration from independent sources, especially where the confession has been retracted.

The Hon'ble Court further reiterated that a retracted confession cannot be relied upon unless its voluntariness is clearly established and it is supported by independent evidence.

- In the present case, the Department has merely relied upon statements of alleged co-accused person, without adducing any independent, contemporaneous, or corroborative evidence to substantiate the allegations against the Noticee. Moreover, many of the statements relied upon, including those of key witnesses, were retracted at the earliest available opportunity, thereby further eroding their evidentiary worth.
- It is respectfully submitted that the allegations sought to be fastened upon the Noticee solely on the basis of statements or confessions of co-accused person, especially when such statements are retracted and uncorroborated, are legally unsustainable and liable to be rejected in toto.

ALLEGED FUND FLOW IS IRRELEVANT AND OUTSIDE THE SCOPE OF SECTION 114AA

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
 SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- Having failed to establish the essential statutory ingredients of Section 114AA of the Customs Act, 1962, and in the absence of any legally admissible evidence linking the Noticee with the making, signing, use, or causing to be used of any false Customs declaration or document, the Department has sought to rely upon allegations of alleged fund routing purportedly undertaken “on the direction of the Noticee” as an alternative basis to sustain the proceedings.
- Without prejudice to the Noticee’s categorical denial of such allegations, it is respectfully submitted that the Department has not produced any material whatsoever to demonstrate:
 - any banking instruction, mandate, authorisation, or directive issued by the Noticee;
 - any finding or evidence to show that the Noticee received, retained, or derived any Customs-related benefit;
 - any allegation that MEIS benefit, drawback, duty credit scrip, or any other export incentive accrued to or was utilised by the Noticee
- It is submitted that mere allegations of fund flow or routing, even if assumed for the sake of argument, do not attract the provisions of Section 114AA, as the said provision does not penalise financial transactions, commercial arrangements, or monetary movements per se.
- Section 114AA is a document-centric penal provision, which is attracted only where a person makes, signs, uses, or causes to be made, signed or used a false or incorrect declaration or document in a transaction under the Customs Act. In the absence of any such act attributable to the Noticee, alleged fund flow is wholly irrelevant to the invocation of the said provision.
- The Department’s attempt to rely upon alleged monetary transactions, without establishing any nexus with false Customs declarations or documents, therefore travels far beyond the scope, intent, and statutory limits of Section 114AA, and cannot be permitted to sustain penal proceedings against the Noticee.

ABSENCE OF DISTINCT CAUSE OF ACTION AGAINST THE NOTICEE

- In continuation of the foregoing submissions, it is respectfully submitted that the Department has completely failed to demonstrate how the very same financial transactions, which have already been examined, relied upon, and adjudicated in another proceedings (Show Cause Notice No. 1114/2019-20/SIIB (X) JNCH dated 27.12.2019), suddenly acquire a fresh, independent, or distinct character so as to attract the provisions of Section 114AA of the Customs Act, 1962 in the present Show Cause Notice.
- The Noticee is thus sought to be penalised not on the basis of any new Customs-related act, omission, or conduct, but merely because the same financial narrative has been repeated and re-packaged, without disclosure of any additional evidence, fresh transaction, or incremental role attributable to him.
- Such an approach
 - defeats the mandatory requirement of specificity and precision in penal proceedings;

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- dilutes the statutory safeguards and jurisdictional thresholds embedded in the Customs Act, 1962; and
- results in overlapping and duplicative penal exposure, in the absence of any new or independent jurisdictional facts.
- In the absence of a distinct cause of action, the present proceedings, insofar as they relate to the Noticee, are vitiated at their very inception and cannot be sustained in law.

SECTION 114AA CANNOT BE SUSTAINED ON RECYCLED ALLEGATIONS

- In light of the foregoing submissions demonstrating the absence of any distinct cause of action, it is respectfully submitted that Section 114AA of the Customs Act, 1962, being a strict and mens rea-based penal provision, cannot be invoked or sustained on the basis of recycled or re-used allegations.
- The invocation of Section 114AA necessarily requires:
 - clear identification of a false or incorrect declaration or document under the Customs Act;
 - clear attribution of the making, signing, use, or causing to be made, signed or used of such declaration or document; and
 - a clear and direct linkage between such act and the conscious and deliberate conduct of the Noticee.
- In the present case, the Department's continued reliance on already-used and previously examined financial transactions, without linking the same to any distinct or specific Customs declaration in the present proceedings, only serves to underscore the absence of substantive and legally admissible material against the Noticee.
- The repeated re-use of the same transactions across multiple proceedings cannot cure the fundamental jurisdictional defects, namely that:
 - the Noticee made no Customs declaration;
 - the Noticee signed or used no Customs document; and
 - the Noticee did not cause any false or incorrect declaration to be made or used before Customs.
- In the absence of these mandatory statutory ingredients, the attempt to sustain penalty proceedings against the Noticee under Section 114AA amounts to an impermissible expansion of a penal provision beyond its express language, and is therefore unsustainable in law.

EFFECT OF THE FOREGOING LEGAL AND FACTUAL DEFICIENCIES

- In view of the foregoing submissions, it is respectfully submitted that the present proceedings, insofar as they relate to the Noticee, are vitiated by fundamental and incurable defects, including:
 - duplication and re-use of the same factual foundation already examined and adjudicated in other proceedings;
 - absence of any independent or distinct cause of action attributable to the Noticee in the present Show Cause Notice; and



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- lack of any fresh, cogent, or incriminating material capable of satisfying the mandatory statutory ingredients of Section 114AA of the Customs Act, 1962.
- These deficiencies go to the very root of the matter and strike at the jurisdictional basis for initiating and sustaining penal proceedings against the Noticee. On this ground alone, and without prejudice to the other submissions advanced herein, the attempt to impose penalty upon the Noticee under Section 114AA is wholly unsustainable in law and liable to be dropped in entirety.

ABSENCE OF MENS REA - PENAL LIABILITY CANNOT BE PRESUMED

- In continuation of the foregoing submissions, it is respectfully submitted that the Department has completely failed to demonstrate the existence of mens rea on the part of the Noticee, which is an essential and non-negotiable requirement for invocation of Section 114AA of the Customs Act, 1962.
- In particular, the Department has not established:
 - any knowledge of alleged overvaluation on the part of the Noticee;
 - any intentional or conscious involvement of the Noticee in any Customs mis-declaration; or
 - any deliberate use, making, or causing to be used of false or incorrect Customs documents by the Noticee.
- The repeated use of vague and speculative expressions such as “appears to have”, “it seems”, or “it is inferred” in the impugned Show Cause Notice cannot substitute the strict standard of proof required to establish intent under a penal provision.
- It is a settled principle of law that penal provisions must be proved on the basis of clear, cogent, and affirmative evidence, and cannot be sustained on presumptions, conjectures, or inferential reasoning. In the absence of proof of conscious knowledge and intent, the very basis for imposing penalty under Section 114AA collapses.

NO VICARIOUS OR ASSOCIATIVE LIABILITY UNDER THE CUSTOMS ACT

- In continuation of the foregoing submissions on the absence of mens rea, it is respectfully submitted that the Department’s arguments, in substance, seek to fasten vicarious or associative liability upon the Noticee, without establishing any direct Customs-related act on his part.
- It is a settled principle of law that penal statutes are required to be strictly construed, and that vicarious liability can be imposed only where the statute expressly provides for the same by way of a deeming fiction or specific legislative mandate.
- Section 114AA of the Customs Act, 1962 contains no provision creating vicarious or constructive liability, nor does it envisage penal consequences based merely on association, connection, or alleged facilitation, in the absence of the Noticee’s own act of making, signing, using, or causing to be made, signed or used any false or incorrect Customs declaration or document.
- In the absence of any such Customs-related act attributable to the Noticee, he cannot be penalised for the alleged acts, omissions, or conduct of the exporter, supplier, or any other third party, howsoever serious the allegations against them may be.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- Any attempt to impose penalty upon the Noticee on the basis of vicarious or associative liability would therefore amount to rewriting the statutory provision and expanding its scope beyond legislative intent, which is impermissible in law and fatal to the present proceedings.

ALLEGED NON-COOPERATION WITH INVESTIGATION CANNOT ATTRACT PENALTY UNDER SECTION 114AA

- The Department has alleged that the Noticee did not respond to summons, did not cooperate with the investigation, and did not present himself for recording of statement, and has sought to treat such alleged non-cooperation as a ground for imposing penalty under Section 114AA of the Customs Act, 1962.
- At the outset, it is respectfully submitted that such an approach is ex facie misconceived and contrary to the express statutory scheme of Section 114AA. The said provision penalises a person only for specific and clearly defined acts, namely where a person makes, signs, uses, or causes to be made, signed or used any false or incorrect declaration or document in a transaction under the Customs Act.
- Failure to respond to summons, alleged non-cooperation, or non-appearance for recording of statement is not an offence contemplated or punishable under Section 114AA. The provision does not create a residuary or omnibus penalty for procedural non-compliance during investigation.
- If at all the Legislature intended to penalise non-attendance or non-compliance with summons, the Customs Act contains specific and separate provisions dealing with such contingencies. Section 114AA cannot be expanded or distorted to penalise conduct which does not fall within its express statutory ingredients.
- This legal position stands fortified by the decision of the Hon'ble Tribunal in Sunil Aidasani @ Vicky v. Principal Commissioner of Customs (Import), New Delhi (Legal Robe No. 50144 of 2020), wherein it was categorically held that penalty under Section 114AA cannot be imposed merely on the ground of alleged non-cooperation with investigation or failure to appear pursuant to summons, and that the provision is attracted only when the specific acts enumerated therein are established by cogent evidence.
- The Tribunal in the aforesaid case clearly recognised that Section 114AA is not a penal substitute for alleged investigative inconvenience, nor can it be invoked to punish a person for procedural lapses when no false declaration, document, or Customs transaction attributable to the noticee is established.
- In the present case, it is an admitted position that:
 - the Noticee has not made, signed, or used any Customs declaration;
 - the Noticee has not caused any false declaration or document to be filed before Customs; and
 - no Customs document has been attributed to the Noticee.
- In such circumstances, the attempt to invoke Section 114AA solely on the basis of alleged non-attendance or non-cooperation with investigation is legally untenable, amounts to misapplication of a penal provision, and further underscores the absence of jurisdictional facts necessary to sustain the proceedings.

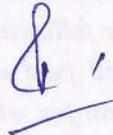
F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
 SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- The impugned allegation, therefore, not only fails to advance the Department's case, but rather reinforces the fundamental defect that the proceedings against the Noticee are not founded on any act contemplated by Section 114AA, and are liable to be dropped on this ground alone.

ADJUDICATION NOT MAINTAINABLE – VIOLATION OF “NEMO JUDEX IN CAUSA SUA”

- In further continuation of the foregoing submissions on violation of principles of natural justice, it is respectfully submitted that the present adjudication proceedings are not maintainable in law, as they suffer from a fundamental infirmity arising out of the violation of the settled maxim *nemo judex in causa sua*, i.e., no person can be a judge in his own cause.
- When the adjudicating authority is itself the issuer of the Show Cause Notice, the authority has, by the very act of issuance, already formed a prima facie opinion on facts and law, and therefore cannot thereafter be expected to function as an impartial and unbiased adjudicator.
- Continuation of adjudication by the same authority, which has framed the allegations, marshalled the evidence, and proposed penal consequences, defeats the foundational requirements of fairness, objectivity, and impartiality, which are the cornerstones of quasi-judicial proceedings.
- Such a course of action results in a situation where the authority effectively assumes the dual role of prosecutor and judge, which is impermissible in law and strikes at the very root of the adjudicatory process.
- On this ground alone, and without prejudice to the other submissions advanced herein, the present proceedings deserve to be discontinued, and the matter may be placed before a competent and independent authority, so that the principles of natural justice may meaningfully govern the adjudication of the captioned Show Cause Notice.
- It is further submitted that the Department's submissions, even taken at their highest, do not cure the fundamental legal and procedural defects in the impugned Show Cause Notice, do not establish the mandatory statutory ingredients of Section 114AA, and instead seek to stretch the provision beyond its plain and permissible meaning.
- The Noticee is thus sought to be penalised not for any act done by him before Customs, but for alleged acts or omissions of other parties, which, as already demonstrated, is impermissible in law and contrary to the settled scheme of the Customs Act, 1962.

III. In view of the detailed submissions made hereinabove, it is respectfully submitted that the proceedings initiated against the Noticee are vitiated on facts, law, jurisdiction, procedure, and principles of natural justice, and cannot be sustained even at the threshold. Cumulatively, the impugned proceedings represent a jurisdictionally flawed, procedurally unfair, and legally unsustainable attempt to fasten penal liability upon the Noticee for alleged acts of others, which is impermissible under the scheme of the Customs Act, 1962.



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

IV. In view of the foregoing facts and submissions, it is most respectfully prayed that this Hon'ble Authority may be pleased to:

- a. Hold that the Show Cause Notice, insofar as it relates to the Noticee, is not maintainable in law and is vitiated by violation of statutory provisions and principles of natural justice;
- b. Hold that Section 114AA of the Customs Act, 1962 is not attracted to the facts of the present case;
- c. Drop the proceedings and proposed penalty against the Noticee in entirety, as being without jurisdiction and unsustainable in law;
- d. Discontinue the present adjudication, or in the alternative, place the matter before a competent and independent authority, in conformity with the principles of natural justice;
- e. Grant such other and further reliefs as this Hon'ble Authority may deem fit and proper in the facts and circumstances of the case.

DISCUSSION AND FINDINGS:

7. I have carefully gone through the facts and evidences available on record in the case. In the instant case, even after sufficient period had been given for submission of written reply to the aforesaid SCN, no written submissions were made by Noticees, viz. (1) M/s. Efficiency Multitrading Pvt. Ltd. (Noticee No. 1); (2) Shri Adity Bhikaji Rathor (Noticee No. 2); (3) Shri Nilesh Katwal (Noticee No. 3); (4) Shri Jetal S. Dave (Noticee No. 6).

8. I find that Noticee Nos. 1,2,3 & 6 neither submitted any written reply to the SCN nor appeared for PH either before the then Adjudicating Authority or before the undersigned. I also find that these acts on the part of these Noticees amounts to non-cooperation and tantamounts to attempts to delay adjudication proceedings. I find that ample opportunities were granted to these 04 Noticees to file their written submission and appear for PH. Adjudication proceeding is time bound and cannot be kept pending indefinitely.

8.1. I find that the Noticees Nos. 1,2,3 & 6 did not participate in the present adjudication proceedings in spite of the servicing of letters for Personal Hearings in terms of Section 153 of Customs Act, 1962. Section 153 of the Customs Act, 1962 reads as under:

Section 153. Modes for service of notice, order, etc. (1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely: -

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

....

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

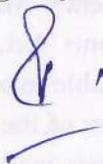
8.2. Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that PH letters were duly sent to the Noticees Nos. 1,2,3 & 6 at their known addresses (as mentioned in the SCNs) through Registered Post, but these Noticees did not honour the same and **has not responded at all to the said PH notices issued.** From the aforesaid facts, it is observed that sufficient opportunities have been given to these Noticees to file written reply to the SCN and to appear for PH before the then Adjudicating Authorities and the undersigned, but they chose not to join the adjudication proceedings. As the matter pertains to recovery of Government dues, so even in absence of these Noticees from adjudication proceedings, I am compelled to decide the matter in time bound and logical manner.

8.3. In this regard, it is pertinent to refer to the case of *M/s. Sumit Wool Processors V/s. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri.- Mumbai)]* wherein Hon'ble CESTAT, Mumbai has observed that natural justice not violated when opportunity of being heard given and notices sent to addresses given by the Noticee. If appellants fail to avail such opportunity, mistake lies on them - Principles of natural justice not violated.

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus, the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard" 2014 (312) E.L.T. 401 (Tri. - Mumbai)"

8.4. Considering the aforesaid scenario and the fact that the Noticee Nos. 1,2,3 & 6 have not participated in the present adjudication proceedings, I take up the subject SCN dated 27.12.2019 for discussion on the merit of the case. With regard to proceeding to decide the case following the Principle of Natural Justice, reliance is placed on the decision of the Hon'ble High Court of Allahabad in the case of *M/s. Modipon Ltd. V/s. CCE, Meerut [reported in 2002 (144) ELT 267 (All)]* effectively dealing with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below for reference:

"Natural justice- Hearing- Adjournment- Adjudication- Principle of audi alteram partem does not make it imperative for the authorities to compel physical presence of the party for hearing and go on adjourning proceedings so long as party does not appear before them- What is imperative for the authorities to afford the opportunity- If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice.



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

Natural justice - Hearing - Adjudication - Requirement of natural justice complied with if person concerned afforded an opportunity to present his case before the authority - Any order passed after taking into consideration points raised in such application not invalid merely on ground that no personal hearing had been afforded, all the more important in context of taxation and revenue matters. [1996 (2) SCC 98 relied on] [para 22]".

8.5. In view of the above, it is observed that sufficient opportunities have been given to the Noticees Nos. 1,2,3 & 6 but they chose not to join the adjudication proceedings. Having complied with the requirement of the Principles of Natural Justice and having granted adequate opportunities for personal hearing, the adjudication proceeding is a time bound matter and cannot be kept pending indefinitely. I, therefore, proceed with the adjudication of the case *ex-parte*, on the basis of available evidences on record, as far as Noticees Nos. 1,2,3 & 6 are concerned.

9. The issues for consideration before me are to decide are as follows:

- (i) Whether the declared FOB value of ₹96,03,77,750/- in respect of the 60 Shipping Bills filed by M/s. Efficiency Multitrading Pvt. is liable to be rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and value of the impugned export goods is liable to be re-determined at ₹29,32,480/- as per Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR), read with Section 14 of the Customs Act, 1962;
- (ii) Whether the MEIS benefit claimed amounting to ₹4,80,18,888/- against the 60 Shipping Bills is liable to be rejected, and the excess MEIS benefit of ₹4,78,72,264/- is liable to be recovered along with interest under Section 28AAA of the Customs Act, 1962;
- (iii) Whether the Drawback benefit claimed amounting to ₹2,90,735/- is liable to be rejected, and the excess Drawback amount of ₹2,02,761/- is liable to be recovered with interest under Sections 75(2) and 75A(2) of the Customs Act, 1962;
- (iv) Whether the export goods covered under the impugned 60 Shipping Bills, though already exported and not available, are liable to confiscation under Sections 113(i) and 113(i)(a) of the Customs Act, 1962 on account of mis-declaration of value and attempt to fraudulently claim export incentives;
- (v) Whether M/s. Efficiency Multitrading Pvt. Ltd. is liable to penalty under Section 114(iii) of the Customs Act, 1962 for the acts of omission and commission which rendered the goods liable to confiscation;
- (vi) Whether the Directors of the exporter, namely Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal, are personally liable to penalty under Sections 114(iii), 114AA and 114AB of the Customs Act, 1962 for deliberate mis-declaration, wilful misstatement and suppression of facts;
- (vii) Whether Shri Santosh Doshi, Director of M/s. Masumi Overseas, and Shri Jetal S. Dave, Proprietor of M/s. Parv Industries, are liable to penalty under Section 114AA of the Customs Act, 1962 for their acts of omission and commission for making false

declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts;

(viii) Whether the Customs Broker, M/s. P.B.N. Logistics (11/1942), is liable to penalty under Sections 114(iii) and 114AA and 114AB of the Customs Act, 1962.

10. Whether the declared FOB value of ₹96,03,77,750/- in respect of the 60 Shipping Bills filed by M/s. Efficiency Multitrading Pvt. is liable to be rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and value of the impugned export goods is liable to be re-determined at ₹29,32,480/- as per Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR), read with Section 14 of the Customs Act, 1962.

10.1. I find that the impugned SCN against the exporter M/s. Efficiency Multitrading Pvt. Ltd. (IEC 0315058226) is a fall out of the case against another exporter M/s Collabrative Inc. (IEC 1013009215) wherein the goods declared as 'High twisted string ropes', falling under CTH 56079090 attempted to be exported were interdicted. The investigation into the said case revealed that gross overvaluation with a view to avail excess drawback and MEIS incentives. It was noticed that this specific modus operandi was adopted by a large number of exporters, wherein they were exporting "rope", disguised in the name of different description under CTH 56079090 by grossly over-valuing the same for undue benefit of MEIS/drawback.

10.2. Pursuant to the said intelligence, the exports vide 60 shipping bills by the exporter M/s. Efficiency Multitrading Pvt. Ltd. were taken up for investigation where 46 Shipping Bills were filed for export of 'Cordage Cable' and 14 Shipping bills were filed for the export of 'High Twisted Cotton Ropes Hawser', both classified under tariff item 56079090 of the Customs Tariff. The declared goods appeared to be highly overvalued to claim illegitimate benefit of MEIS @ 5% of the FOB value and other export benefits under.

10.3. In the case of M/s. Collabrative Inc. (IEC 1013009215), it was noticed that the seized goods were declared as 'High twisted cotton ropes hawser' and 'High twisted string ropes', under tariff item 56079090 wherein the value of the goods pursuant to market enquiry was re-determined to Rs. 113/- per Kg for "High Twisted Cotton ropes hawser" as against the declared value of Rs. 34,732.46/- to Rs. 87/- per kg for "High Twisted String Ropes" as against the declared value of Rs. 44,281.25/- per kg.

10.4. Whereas in the case of the exporter M/s. Efficiency Multitrading Pvt. Ltd., I find that the declared value in respect of the goods exported under the impugned 60 shipping bills ranges from Rs.35,970/- per kg to Rs.40,339/- per kg. in case of Cordage Cord [tariff item 56079090] and Rs.35,425/- per kg in the case of High Twisted Cotton ropes hawser [tariff item 56079090]. I find that there is sufficient evidence on record to establish that the goods covered under the past 60 Shipping Bills filed by M/s. Efficiency Multitrading Pvt. Ltd. were grossly overvalued under CTH 56079090. The descriptions declared in the impugned Shipping Bills, namely "Cordage Cable" and "High Twisted Cotton Ropes Hawser", clearly indicate that the goods were essentially rope, a non-sensitive commodity. Investigation has revealed that the exporter adopted a consistent modus operandi of exporting rope of inferior

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

quality at exorbitantly inflated values with the deliberate intent to avail undue MEIS benefits. Thus, I find that there is justifiable circumstantial evidence to doubt the truth or accuracy of the value declared in relation to any export goods.

10.5. I find that the exports effected under the impugned Shipping Bills were in clear violation of the provisions of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) framework. The exporter, by filing Shipping Bills containing grossly inflated values, has failed to ensure the truthfulness and correctness of the declarations as mandated under Section 50(2) of the Customs Act, 1962. Further, such deliberate overvaluation and mis-declaration are in contravention of Rule 11 of the Foreign Trade (Regulation) Rules, which prohibits making false or misleading statements or declarations in connection with export of goods. The comparative contemporaneous data of like goods clearly demonstrates that the declared values were unrealistic and devoid of any genuine commercial basis. Accordingly, I hold that the impugned exports were improperly made, vitiated by mis-declaration of value, and thus in violation of the applicable provisions of law.

10.6. Since the goods had already been exported, their physical composition could not be verified; therefore, for valuation purposes, contemporaneous export data of goods of like kind and description exported at or about the same time was retrieved from the ICES 1.5 system for the relevant period 2015–16, being the period during which the impugned Shipping Bills were filed. I find that comparative analysis of such contemporaneous Shipping Bills, as detailed in Table-A, shows that other exporters exporting goods of similar description and classification under CTH 56079090 had declared values which appear commercially reasonable, whereas the values declared by M/s. Efficiency Multitrading Pvt. Ltd. are abnormally high and wholly disproportionate. I find that the exporter has intentionally mis-declared and inflated the value of a non-sensitive item, viz. rope, by disguising it under varied descriptions, thereby rendering the declared transaction value unacceptable and hence, liable for rejection as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. I, therefore, reject the declared transaction value in respect of the said export goods.

10.7. I find that the valuation of the impugned goods cannot be determined under provisions of Rule 3 of the said rules. Hence, the value is re-determined sequentially through Rule 4 to 6 of the said rules. Considering the value declared for goods of like kind and description during the relevant point in time retrieved from ICES 1.5 for the year 2015–16, the total market value of the goods covered under the impugned 60 shipping bills is re-determined under Rule 4 of the said rules. Adoption of such contemporaneous values for re-determination of the FOB value is legally justified and in conformity with the valuation provisions.

10.8. Further, the above valuation is also justified in the background of the fact that the genesis of this case lies in the seizure of goods declared as "*High Twisted Cotton Ropes Hawser*" and "*High Twisted String Ropes*" under CTH 56079090, attempted to be exported by M/s. Collaborative Inc. (IEC 1013009215), wherein the value of the goods pursuant to market enquiry was re-determined to Rs. 113/- per Kg for "*High Twisted Cotton ropes*"

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

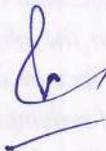
hawser' as against the declared value of Rs. 34,732.46/- to Rs. 87/- per kg for "High Twisted String Ropes" as against the declared value of Rs. 44,281.25/- per kg. The findings of the said market enquiry lend corroborative support to the conclusion that the values declared in the present case are grossly inflated and commercially unrealistic.

10.9. Therefore, the declared value for the goods covered under past 60 S/Bills is liable for rejection under Rule 8 and is required to be re-determined as per Rule 4 of the Customs Valuation (Determination of value of export goods), Rule, 2007, read with Section 14 of the Customs Act, 1962. The transaction value of the goods is re-determined under Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 for the said 60 past shipping bills is accordingly worked out to be ₹29,32,480/- as against declared FOB value of ₹96,03,77,750/-.

11. Whether the MEIS benefit claimed amounting to ₹4,80,18,888/- and Drawback benefit claimed amounting to ₹2,90,735/- against the 60 Shipping Bills is liable to be rejected, and the excess MEIS benefit of ₹4,78,72,264/- and the excess Drawback amount of ₹2,02,761/- is liable to be recovered along with interest under Section 28AAA of the Customs Act, 1962 and Sections 75(2) and 75A (2) of the Customs Act, 1962. Respectively.

11.1 I find that the total FOB value of the goods covered under past 60 Shipping Bills is re-determined at ₹29,32,480/-, under Rule 4 of Customs Valuation (Determination of value of export goods), Rule, 2007 as against declared FOB value of ₹96,03,77,750/-. I find that the MEIS benefit of ₹4,80,18,888 and drawback amount of ₹2,90,735, claimed under the said 60 Shipping Bills was computed on the basis of the inflated FOB value which has already been rejected and re-determined to ₹29,32,480/-. Since MEIS benefits and drawback are directly linked to the FOB value declared in the Shipping Bills, the excess claim arising out of overvaluation is not admissible. Thus, the exporter has clearly attempted to claim undue Drawback and MEIS benefit collectively amounting to ₹4,80,75,024/- (MEIS of ₹4,78,72,264/ + Drawback of ₹2,02,761/-). Therefore, excess Drawback of ₹2,02,761/- has been wrongly availed and is recoverable under Sections 75(2) and 75A(2) of the Customs Act, 1962 along with interest. Also, the MEIS benefit has been availed by the exporter by fraudulently mis-declaring the value of the goods under the impugned shipping bills. Therefore, the excess MEIS amount of ₹4,78,72,264 claimed, is liable to be demanded and recovered along with interest u/s. 28AAA of the Customs Act, 1962 read with Section 28AA of *ibid* read with Para 3.19 of Foreign Trade Policy 2015-20.

11.2 Further, while the determination of correct entitlement and detection of excess claim falls within the jurisdiction of Customs authorities, the cancellation or modification of the MEIS scrip, being an instrument issued under the Foreign Trade (Development and Regulation) Act, 1992, is within the domain of the Directorate General of Foreign Trade (DGFT). Accordingly, the excess MEIS benefit so determined be referred to the jurisdictional DGFT authority for appropriate action towards cancellation/modification of the scrip and recovery in accordance with law.



F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

12. Whether the export goods covered under the impugned 60 Shipping Bills, though already exported and not available, are liable to confiscation under Sections 113(i) and 113(i)(a) of the Customs Act, 1962 on account of mis-declaration of value and attempt to fraudulently claim export incentives.

12.1. I find that the exporter had violated the provisions of Rule 11 of the Foreign Trade (Regulations) Rules, 1993 in as much as they did not make a correct declaration of value of the goods. As the exporter had not made truthful declaration under the impugned 60 shipping bills, they have violated the conditions of Section 50 (2), of the Customs Act, 1962, read with Section 11 (1) of Foreign Trade (Development & Regulation) Act, 1992 and Rule 11 of Foreign Trade (Regulation) Rules, 1993. I find that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods on the part of the exporter with a mala-fide intention to claim undue export benefits not legitimately due to them. Therefore, I find that in terms of the above provisions, the said failure/omission on part of the exporter, M/s. Efficiency Multitrading Pvt. Ltd., in their attempt to make fraudulent export of the goods vide past 60 shipping bills has rendered the goods liable to confiscation u/s. 113 (i) and 113 (ia) of the Customs Act, 1962. In view of the facts above, I find and hold that subject goods pertaining to past consignments covered under the said 60 shipping bills, are liable to confiscation. However, though the same have been exported and are not physically available for confiscation, redemption fine is leviable in lieu of confiscation.

12.2. In this regard, I find that goods were exported in the past by resorting to deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods on the part of the exporter with a *mala-fide* intention to claim undue export benefits in form of Drawback and MEIS which were not legitimately due to them. Goods covered under the subject past 60 S/Bills were found to be exported, so same are not physically available. In this regard, I rely on case of *M/s. Visteon Automotive Systems India Limited V/s. CESTAT, Chennai reported in 2018 (9) G.S.T.L. 142 (Mad.)*. The Hon'ble High Court of Chennai has held that:

"availability of goods is not necessary for imposing redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

12.3. The above view of Hon'ble Madras High Court in case of *M/s. Visteon Automotive Systems India Ltd. reported in 2018 (9) G.S.T.L. 142 (Mad.)*, has been cited by Hon'ble Gujarat High Court in case of *M/s. Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.)*.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
 SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

12.4. Further, neither the decision of Hon'ble Madras High Court in case of *M/s. Visteon Automotive Systems India Ltd. reported in 2018 (9) G.S.T.L. 142 (Mad.)* nor the decision of Hon'ble Gujarat High Court in case of *M/s. Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.)* has been challenged by any of the parties and are in operation. Accordingly, I observe that the present case also merits imposition of Redemption Fine on the goods already exported in the past.

12.5 In terms of Section 125 of the Customs Act, 1962 there is an option to pay fine in lieu of confiscation. Section 125 is reproduced below for the sake of brevity:

(1) *Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) *Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.*

12.6. As regards the objective of imposition of redemption fine, I would like to rely on the following observation of the Hon'ble Supreme Court in the case of *M/s. Navayuga Engineering Co. Ltd. versus Union of India & Anr:*

6. Section 125 of the Act: Alternatively, there is also the option of redemption of the confiscated goods under Section 125, the statute specifically empowers the owner of the goods to exercise an option of legitimising the importation by paying fine, duty and other charges. The procedure prescribed is simple; i) confiscation must be authorised, ii) those goods should not be prohibited goods, iii) the officer shall give an option to redeem the goods in lieu of fine, iv) the owner or the possessor must exercise the option and v) pay the fine vi) within 120 days. The purpose and object of Section 125 is to enable a transition from 'illegality' to 'compliance' of laws. It grants an opportunity to the owner or possessor of the confiscated goods to regularise the transaction by payment of fine. This provision is based on a public policy consideration that balances crime and punishment and achieves the twin objectives of enabling a citizen to remain on the right side of law by adopting a prescribed measure and amicable settlement of disputes through resolution.

12.7. It may be seen that in order to enable a transition from illegality to compliance of laws, it is essential to impose Redemption Fine on the goods already exported without which the illegality cannot be undone. Merely because the goods are not available does not mean that their illegality is regularised.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

13. Whether M/s. Efficiency Multitrading Pvt. Ltd. is liable to penalty under Section 114(iii) of the Customs Act, 1962 for acts of omission and commission which rendered the goods liable to confiscation.

13.1. I find that the evidence on record clearly establishes that M/s. Efficiency Multitrading Pvt. Ltd. had deliberately and knowingly mis-declared the value of the export goods by grossly inflating the FOB value of a non-sensitive commodity, viz. rope, declared under CTH 56079090, with the sole intent to fraudulently avail undue export incentives under the MEIS scheme and drawback. Though the exporter had several opportunities during investigation as well as during the present adjudication proceedings to submit documentary evidence to support their declared values, they have not put on record any such evidence. The pattern of repeated overvaluation across 60 Shipping Bills, the absence of any plausible commercial justification for such exorbitant values, and the comparison with contemporaneous exports of like-kind goods collectively demonstrate a clear mens rea on the part of the exporter. Such deliberate acts of mis-declaration and suppression of true value squarely attract the provisions of Sections 113(i) and 113(i)(a) of the Customs Act, 1962, thereby rendering the export goods liable to confiscation.

13.2 I further find that the exporter, by such acts and omissions, has consciously rendered the goods liable to confiscation and has attempted to obtain export incentives by fraudulent means. The fact that the goods have already been exported does not absolve the exporter of penal liability, as the offence relates to the act of mis-declaration at the time of export. In view of the established mis-declaration, fraudulent intent, and the magnitude and repetitive nature of overvaluation, I hold that M/s. Efficiency Multitrading Pvt. Ltd. is clearly liable to penalty under Section 114(iii) of the Customs Act, 1962, which provides for imposition of penalty on any person who, by any act or omission, renders export goods liable to confiscation.

13.3 While imposing penalty under section 114 (iii) of the Customs Act, 1962 on the Noticee as proposed in the SCN dated 31.01.2023, I rely upon following case laws:

- (i) *When material evidence establishes fraud against Revenue, white collar crimes committed under absolute secrecy shall not be exonerated as has been held by Apex Court judgment in the case of K.I.Pavunnyv. AC, Cochin - 1997 (90) E.L.T. 241 (S.C.) = 2002-TIOL-739-SC-CUS-LB. No adjudication is barred under Section 28 of the Customs Act, 1962 if Revenue is defrauded for the reason that enactments like Customs Act, 1962, and Customs Tariff Act, 1975 are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives. It is cardinal principle of law which is enshrined in Section 17 of Limitation Act that fraud nullifies everything for which plea of time bar is untenable following the ratio laid down by Apex Court in the case of CC. v. Candid Enterprises - 2001 (130) E.L.T. 404 (S.C.);*
- (ii) *Apex Court in the case of Gujarat Travancore Agency Vs. C.I.T reported in 1989 (42) ELT 350 (SC) held that creation of an offence by statute proceeds on the assumption*

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- that society suffers injury by the act or omission of the defaulter and that a deterrent must be imposed to discourage the repetition of the offence;*
- (iii) *In the case of SATISH MOHAN AGARWAL (PROP M/s CASINO ELECTRONICS) Vs CC (SEA-EXPORT) CHENNAI. Reported in 2016-TIOL-620-CESTAT-MAD, Tribunal held that Penal provisions are enacted to suppress the evil of defrauding Revenue which is an anti-social activity adversely affecting the public revenues, the earning of foreign exchange, the financial stability and the economy of the country. Such provisions should be construed in a manner which would suppress the mischief, promote their object, prevent their subtle evasion and foil their artful circumvention. It was also held that "It may be stated that Revenue need not prove its case with mathematical precision. Provision of section 112(a) brings an offender to its fold, who in relation to any goods commits or omits any act rendering that confiscable or abets to do so. Appellant not only committed the offence but also abetted the commitment thereof for which he is liable to penalty u/s 112(a) of the Customs Act, 1962";*

14. Whether the Directors of the exporter namely Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal, are personally liable to penalty under Sections 114(iii), 114AA and 114AB of the Customs Act, 1962 for deliberate mis-declaration, willful mis-statement and suppression of facts.

14.1. I find that the evidence on record establishes active and conscious involvement of the Directors of the exporter, namely Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal, in the deliberate mis-declaration and gross overvaluation of the export goods. The exports in question were effected over a sustained period through repeated filing of Shipping Bills with exorbitantly inflated values, without any commercial justification. Further, both the directors of the firm M/s. Efficiency Multitrading Pvt. Ltd. did not co-operate in the investigation and did not participate in the adjudication procedure. The failure to furnish credible documentary evidence in support of the declared values, and the structured modus operandi adopted to claim undue MEIS benefits and drawback, establish wilful misstatement and suppression of material facts attributable to the said Directors. By their acts and omissions, they have knowingly abetted and facilitated the export of the said goods which are liable to confiscation as discussed in earlier paras.

14.2. In view of the foregoing, I hold that the role of Shri Aditya Bhikaji Rathore and Shri Nilesh Katwal is not merely vicarious but is marked by **mens rea**, attracting personal liability under the provisions of the Customs Act, 1962. Accordingly, I find them liable to penalty under Section 114(iii) for rendering the goods liable to confiscation, under Section 114AA for knowingly making and using false and incorrect declarations and documents of export incentives through wilful mis-declaration and suppression of facts.

14.3 As regards the proposal for imposition of penalty under **Section 114AB**, I find that this section was inserted by Finance Act, 2019. Since the export of the offending goods under the impugned 60 shipping bills took place during the year 2016, I find that they are not liable for penalty under Section 114AB. In this regard, I rely on the Hon'ble Supreme court

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

judgement in case of **Collector of C. Ex., Ahmedabad Vs. Orient Fabrics Pvt. Ltd. 2003 (158) E.L.T. 545 (S.C.)**. Hon'ble Supreme Court observed that offences having regard to the provisions contained in Article 20 of the Constitution of India cannot be given a retrospective effect:

"20. The matter may be considered from another angle. The Parliament by reason of the Amending Act 32 of 1994 consciously brought in the expression 'offences and penalties' in sub-section (3) of Section 3 of the Act. The mischief rule, if applied, would clearly show that such amendment was brought with a view to remedy the defect contained in the unamended provisions of sub-section (3) of Section 3 of the Act. Offences having regard to the provisions contained in Article 20 of the Constitution of India cannot be given a retrospective effect. In that view of the matter too sub-section (3) of Section 3 of the Act as amended cannot be said to have any application at all."

15. Whether Shri Santosh Doshi, Director of M/s. Masumi Overseas, and Shri Jetal S. Dave, Proprietor of M/s. Parv Industries, are liable to penalty under Section 114AA of the Customs Act, 1962 for their acts of omission and commission for making false declarations and for intentional mis-declaration of value with willful mis-statement and suppression of facts:

15.1 Penalty on Shri Jetal S. Dave:

15.1.1. I find that the evidence on record clearly establishes that Shri Jetal S. Dave, Proprietor of M/s. Parv Industries, was not mere peripheral entity but had actively and knowingly participated in the fraudulent export scheme by facilitating the preparation and use of false and fabricated documents relating to the impugned exports. The investigation has brought out that he played a crucial role in providing invoices and other commercial documents which were used for gross overvaluation of the export goods, thereby enabling intentional mis-declaration of value with willful misstatement and suppression of material facts. His acts of omission and commission directly contributed to the mis-declaration in the Shipping Bills filed by the exporter and was instrumental in attempting to fraudulently avail undue MEIS benefits and drawback.

15.1.2. I find that the role of Shri Jetal S. Dave, Proprietor of M/s. Parv Industries, in the fraudulent export arrangement stands clearly established from his own voluntary statement dated 23.04.2018, recorded under Section 108 of the Customs Act, 1962 by the Deputy Commissioner (Preventive), Anand. In the said statement, Shri Jetal S. Dave has categorically admitted that he did not physically supply any goods to M/s. Efficiency Multitrading Pvt. Ltd. and that he merely provided blank bill books for the purpose of generation of invoices used in the export process. He further admitted that he was introduced to the exporter through Shri Santosh Doshi, who informed him of the requirement of invoices for export purposes and offered him a monetary consideration of ₹19 lakh for providing such invoices. Shri Jetal S. Dave has also admitted that an amount of ₹22,07,25,000/- was received in his SBI bank account, which was thereafter transferred to various persons and entities as per the directions received, thereby clearly establishing the existence of fake and circular billing arrangements

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

and artificial movement of funds without any underlying supply of goods. These admissions unequivocally demonstrate Shri Jetal S. Dave's conscious and active involvement in the creation and use of false documents and declarations for the purpose of export and conclusively establish his role in facilitating the fraudulent export transactions under consideration.

15.1.3. I find that the aforesaid acts conclusively establish that the noticee knowingly and intentionally made, used and caused to be used false and fabricated invoices and documents which formed the basis of mis-declaration of value in the export Shipping Bills. Such conduct squarely attracts the provisions of Section 114AA of the Customs Act, 1962, which provides for penalty on any person who knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration or document which is false or incorrect in any material particular. Accordingly, I hold Shri Jetal S. Dave liable to penalty under Section 114AA of the Customs Act, 1962.

15.2. Penalty on Shri Santosh Doshi:

15.2.1. I have carefully examined the submissions made by Shri Santosh Doshi, the allegations contained in the Show Cause Notice, and the material available on record. I find that it is an admitted and undisputed position that the exporter of the impugned goods was M/s. Efficiency Multitrading Pvt. Ltd. and that Shri Santosh Doshi was neither the IEC holder nor an authorised signatory to any Shipping Bill or Customs declaration. It is also not in dispute that Shri Santosh Doshi has neither filed, signed, verified nor authorised the filing of any Shipping Bill or declaration under the Customs Act, 1962, nor has any Customs document been attributed to him.

15.2.2. In the present case, there is nothing in the show cause notice to identify any specific Customs declaration or document made, signed, used, or caused to be used by Shri Santosh Doshi, Director of M/s Masumi Overseas. Further, there is no corroborating documentary evidence on record to link the transactions of M/s Parv Industries with M/s Masumi Overseas for the purpose of goods exported by M/s. Efficiency Multitrading Pvt. Ltd. in the instant SCN. Shri Santosh Doshi has produced invoices and the ledger of transactions with M/s Parv Industries to corroborate the payment by the latter to the former for some other goods supplied by him. Mere allegations of "facilitation", association, introduction, or involvement in ancillary commercial dealings, even if assumed, do not satisfy the ingredients of Section 114AA and cannot be elevated to a Customs offence in the absence of a direct nexus with the making or use of false Customs documents.

15.2.3. I further find merit in the submission that the reliance placed on the statement of Shri Jetal S. Dave, as the sole basis to implicate Shri Santosh Doshi under Section 114AA, is legally unsustainable. The said statement is not corroborated by any independent or contemporaneous documentary evidence establishing that Shri Santosh Doshi exercised control over the preparation, filing, or content of Customs declarations. It is a settled position of law that the statement of a co-noticee or third party, by itself, cannot be treated as substantive evidence for penal liability under a mens rea-based provision, particularly in the

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

absence of corroboration and the fact that the said third party himself has not co-operated in investigation and has not participated in adjudication process.

15.2.4. In view of the foregoing findings, I hold that there is nothing on record to establish the existence of mens rea or any conscious and deliberate act on the part of Shri Santosh Doshi involving the making, signing, use, or causing to be used of any false or incorrect declaration or document under the Customs Act, 1962. The attempt to fix liability upon him is based on inference, association, and allegations by an accused third party himself, which is not sustainable in law for a penal provision requiring strict construction.

15.2.5. In this regard, I rely on the following observation of the Hon'ble High Court in the case of **Commissioner of Customs Export vs. Ravindra Kumar** reported in (2026) 38 Centax 23 (Del.). The Hon'ble High Court held that:

37. As far as the penalty under section 114AA of the Act is concerned, this can be imposed only if the knowledge of the person is established and the misdeclaration was in respect of a document filed for the purposes of the Act. Therefore, we do not find that any penalty was imposable on section 114AA of the Act. The Commissioner was correct in not imposing penalty on him under this section."

15.2.6. Accordingly, I hold that the proposal to impose penalty upon Shri Santosh Doshi under Section 114AA of the Customs Act, 1962 is not sustainable in law or on facts, and the same is hereby dropped.

16. Whether the Customs Broker, M/s. P.B.N. Logistics (11/1942), is liable to penalty under Sections 114(iii), 114AB and 114AA of the Customs Act, 1962.

16.1. I find that Shri Rajesh Kumar Upadhyay, Manager of C.B. Firm M/s. P.B.N Logistics (11/1942) used to receive the documents for clearance from Shri Ramesh Singh on behalf of M/s. Efficiency Multitrading Pvt. Ltd., they did not complete the KYC verification of the exporter and also filed export documents for grossly overvalued goods and did not verify the *bona fides* of M/s. Efficiency Multitrading Pvt. Ltd. I find that CB has violated Regulations 11 (d), 11 (e) and 11 (m) of the CBLR, 2018 and also as a CB, he failed to advise the Exporter to comply with the provisions of the Customs Act, 1962.

16.2. I find that the Customs Broker, M/s. P.B.N. Logistics, failed to discharge its obligations under the Customs Broker Licensing Regulations, 2018, and acted in a manner which facilitated the exporter in effecting fraudulent exports through over-invoicing of the goods with the intent to avail undue Drawback and MEIS benefits. By such acts of omission and commission, including failure to exercise due diligence and failure to advise the client to comply with the provisions of the Customs Act, 1962, the Customs Broker enabled the exporter's attempt to export goods improperly. Consequently, the impugned goods, though already exported, are held liable to confiscation under Sections 113(i) and 113(ia) of the Customs Act, 1962. Accordingly, I hold that M/s. P.B.N. Logistics, through their acts of omission and commission in facilitating the improper export of goods covered under the past 60 Shipping Bills, has rendered itself liable to penalty under Section 114(iii) of the Customs

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

Act, 1962, for contravention of the provisions of the Customs Broker Licensing Regulations, 2013, as discussed hereinabove.

16.3. Further, on examination of the record, I find that the sole allegation against M/s. P.B.N. Logistics, the Customs Broker, is that they failed to adequately verify the credentials of the exporter and accepted the export work through Shri Ramesh Singh, purportedly acting on behalf of M/s. Efficiency Multitrading Pvt. Ltd. There is no material on record to establish that the Customs Broker had any knowledge, intention, or mens rea with respect to the alleged mis-declaration or over-valuation of the goods. It is also not alleged, nor proved, that M/s. P.B.N. Logistics made, signed, used, or caused to be made, signed, or used any false or incorrect declaration or document under the Customs Act, 1962. The Shipping Bills and related documents were filed on the basis of documents furnished by the exporter, and the alleged lapse, at best, relates to inadequate verification of the exporter's credentials. Such omission, in the absence of evidence of conscious knowledge or deliberate involvement, does not satisfy the ingredients of Section 114AA of the Customs Act, 1962. Accordingly, I hold that M/s. P.B.N. Logistics is not liable to penalty under Section 114AA of the Customs Act, 1962.

16.4 As regards the proposal for imposition of penalty under Section 114AB, I find that they are not liable for the said penalty as discussed in para 14.3 above.

17. In view of foregoing discussion above made in the light of the facts of investigation and relied upon documents, I pass following order:

ORDER

- (i) I reject the declared FOB value of **₹. 96,03,77,750/- (Rupees Ninety-Six Crore Three Lakh Seventy Seven Thousand Seven Hundred and Fifty Only)** of export goods covered under past 60 shipping bills, as detailed at Table-I under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and re-determine the value to **₹29,32,480/- (Rupees Twenty Nine Lakh Thirty Two Thousand Four Hundred and Eighty only)** as per Rule 4 of the said Rules *ibid*, read with Section 14 of the Customs Act, 1962.
- (ii) I reject the Drawback amount of **₹2,90,735/- (Rupees Two Lakh Ninety Thousand Seven Hundred and Thirty Five only)** already claimed for the past 60 shipping bills (as detailed in Table-I above) and disallow the same under provisions of Section 75 (2) of Customs Act, 1962, and rates prescribed in Drawback Schedule 2015-16 and order to recover the excess drawback of **₹2,02,761/- (Rupees Two Lakh Two Thousand Seven Hundred and Sixty One Only)** and interest thereon under Rule 16 of Customs and Central Excise Duties Drawback Rules, 1995 (as amended in 2006) read with section 75A (2) of the Customs Act, 1962.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- (iii) I reject the MEIS benefit of **₹4,80,18,888/- (Rupees Four Crore Eighty Lakh Eighteen Thousand Eight Hundred and Eighty Eight only)** claimed for the past 60 shipping bills (as detailed in Table-I above), and order to recover the excess MEIS of **₹4,78,72,264/- (Rupees Four Crore Seventy Eight Lakh Seventy Two Thousand Two Hundred and Sixty Four Only)** under Section 28AAA of the Customs Act, 1962 along with interest due thereon as per Section 28AA of the Act *ibid* read with Para 3.19 of Foreign Trade Policy 2015-20. Further, I order that Regional Authority, DGFT, Mumbai may take appropriate consequential action towards cancellation/modification of the scrip.
- (iv) I hold that the goods covered under 60 Shipping Bills (as detailed in Table-I above), which are not physically available, having total declared FOB Value of ₹.96,03,77,750/- which were found to be mis-declared in terms of value, are liable for confiscation under the provisions of Section 113 (i) and 113 (ia), read with Section 50 (2) of Customs Act, 1962, read with Rule 11 of the Foreign Trade (Regulations) Rules, 1993, Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992.
- (v) In respect of goods covered under 60 shipping bills having declared FOB Value of **₹96,03,77,750/- (Rupees Ninety Six Crore Three Lakh Seventy Seven Thousand Seven Hundred and Fifty only)** which are held liable for confiscation, I impose Redemption Fine of **₹9,50,00,000/- (Rupees Nine Crore Fifty Lakh only)** in lieu of confiscation, under section 125 (i) of the Customs Act, 1962, on M/s Efficiency Multitrading Pvt. Ltd. (IEC – 0315058226).
- (vi) I impose penalty of **₹4,80,00,000/- (Rupees Four Crore Eighty Lakh only)** under Section 114 (iii) of the Customs Act, 1962, upon M/s. Efficiency Multitrading Pvt. Ltd. for their acts of omission and commission which rendered the goods under the impugned 60 shipping bills liable to confiscation.
- (vii) I impose penalty of **₹2,40,00,000/- (Rupees Two Crore Forty Lakh only)** under Section 114 (iii) of the Customs Act, 1962, on Shri Aditya Bhikaji Rathore, Director of M/s Efficiency Multitrading Pvt. Ltd.
- (viii) I impose penalty of **₹2,40,00,000/- (Rupees Two Crore Forty Lakh only)** under Section 114AA of the Customs Act, 1962, on Shri Aditya Bhikaji Rathore, Director of M/s Efficiency Multitrading Pvt. Ltd.
- (ix) I impose penalty of **₹2,40,00,000/- (Rupees Two Crore Forty Lakh only)** under Section 114 (iii) of the Customs Act, 1962, on Shri Nilesh Katwal, Director of M/s Efficiency Multitrading Pvt. Ltd.
- (x) I impose penalty of **₹2,40,00,000/- (Rupees Two Crore Forty Lakh only)** under Section 114AA of the Customs Act, 1962, on Shri Nilesh Katwal, Director of M/s Efficiency Multitrading Pvt. Ltd.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

- (xi) I do not impose penalty on Shri Santosh Doshi, Director of M/s Masumi Overseas under Section 114AA of the Customs Act, 1962.
- (xii) I Impose penalty of **₹4,80,00,000/- (Rupees Four Crore Eighty Lakh only)** under Section 114AA of the Customs Act, 1962, on Shri Jetal S. Dave, Proprietor of M/s. Parv Industries.
- (xiii) I Impose penalty of **₹10,00,000/- (Rupees Ten Lakh only)** under Section 114 (iii) of the Customs Act, 1962, CB firm M/s. P.B.N Logistics (CB No. 11/1942).
- (xiv) I do not impose penalty under Section 114AA of the Customs Act, 1962, on CB firm M/s. P.B.N Logistics (CB No. 11/1942).
- (xv) I do not impose penalty under Section 114AB of the Customs Act, 1962 on any of the Noticees.


18/2/2021

Digitally signed by
GIRIDHAR GOPALKRISHNA PAI
Date: 18-02-2026 18:21:12
(Giridhar G. Pai)
Commissioner of Customs
Nhava Sheva-II, JNCH

To:

1. M/s. Efficiency Multitrading Pvt. Ltd. (IEC- 0315058226),
87, Premjivan Building, 3rd Floor, Office No. 12,
Kazi Shayed Street, Khand Bazar, Masjid Bandar- West, Mumbai- 400003.
2. Shri Aditya Bhikaji Rathod, Director of M/s. Multitrading Efficiecny Pvt. Ltd.
S/o Bhikhaji Rathod, Sai Sharan Complex 2-B, 4th Floor,
404, PD Marg, Ghuddev Gaon, Bhayander (East), Thane – 401105
- 2(a) Shri Aditya Bhikaji Rathod, Director of M/s. Multitrading Efficiecny Pvt. Ltd., No.3,
Ground Floor, Building No. 23, Bhandari Street, Cross Lane, 1st Kumbharwada,
Mumbai- 400004.
3. Shri Nilesh Katwal, Director of M/s. Multitrading Efficiecny Pvt. Ltd.,
S/o Hiralal Katwal, Flat No. 203, 2nd Floor, Nityanand CHS, S.V Road
Near Manav Kalyan Hospital, Dahisar (East), Mumbai-4000068.
4. M/s. P.B.N Logistics (11/1942)
2, Church Lane, 2nd Floor, Suit No. 201H(T), Kolkata.
- 4(a) M/s. P.B.N Logistics (11/1942)
Plot No. 232, T.P.S-III, R. B Mehta Marg, Jaya Apartment
Ghatkopar (East), Mumbai – 400077.
5. Shri Santosh Prakashchandra Doshi, Director, M/s. Masumi Overseas
Pvt Ltd, Unit No 203 & 204, 2nd Floor, Raghuvanshi Mansion,
Raghuvanshi Mills, S.B. Marg, Lower Parel, Mumbai - 400013.

F. No. S/10-Adj-295/2022-23/CC/NS-II/CAC/JNCH
SCN No. 2035/2022-23/Commr./CEAC/CAC/JNCH dated 31.01.2013

6. Shri Jetal S. Dave, Proprietor of M/s. Parv Industries
Plot No. 511, GIDC Estate, Phase-IV, Vithal Udyog Marg,
Anand, Gujrat – 388120.

Copy to:

1. The Chief Commissioner of Customs, Mumbai Customs Zone-II, JNCH, Nhava Sheva, Uran-400 707.
2. The Additional Director General of Foreign Trade, Mumbai Zonal Office, Directorate General of Foreign Trade, Nishtha Bhavan, 48, Vithaldas Thackersey Marg, Churchgate, Mumbai-20.
3. The Dy. Commissioner/Customs Broker Cell, New Custom House, S.B. Rd, Ballard Estate, Mumbai – 400 001.
4. The Dy. Commissioner of Customs, SIIB (X), JNCH, Nhava Sheva.
5. The Dy. Commissioner of Customs, CRRC, JNCH, Nhava Sheva.
6. The Superintendent, CHS, JNCH for display on Notice Board, JNCH.
7. Office Copy.