



सीमाशुल्क आयुक्त का कार्यालय, एनएस-II
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
केंद्रीकृत निर्यात आकलन कक्ष, जवाहरलाल नेहरू सीमाशुल्क भवन
CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU CUSTOM HOUSE,
न्हावा शेवा, तालुका -उरण, जिला -रायगड, महाराष्ट्र- 400707
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707

F. No. CUS/ASS/MISC/1156/2024-CEAC

Date:- 06.11.2024

SCN No.:- 1355/2024-25/ADC/CEAC/NS-II/CAC/JNCH

DIN:- 20241178NT000000E8BB

Subject: - Show Cause Notice issued under section 124 of the Customs Act, 1962 w.r.t. unauthorized export of firecrackers by M/s. Rohit Enterprises (GUWPB9797R)

BRIEF FACTS OF THE CASE

A specific intelligence indicated that mis-declared export goods i.e., Fire crackers in place of Paper Pop Small (Decorative Items) (here-in-after referred to as 'impugned goods') covered under Shipping Bill No. 4769787 dated 19.10.2023 (here-in-after referred to as 'the SB') filed by Customs Broker M/s. Sadguru Logistics Private Limited (11/1890, AAICS5382CCH002) (here-in-after referred to as 'the CB') on behalf of exporter M/s. Rohit Enterprises (IEC-GUWPB9797R) (here-in-after referred to as 'the Exporter'), is being attempted to be allowed Back to town (BTT) even after identification of mis-declared goods at CFS Speedy Multimodes Limited, JNCH without adjudicating the case of mis-declaration under the relevant provisions of the Customs Act, 1962.

2. Acting on the said intelligence, on November 7th, 2023 at around 1830 Hrs, the Central Intelligence Unit, JNCH, Nhava Sheva had intercepted the impugned consignment in respect of an exporter M/s. Rohit Enterprises, covered under the Shipping Bill No.4769787 dated 19.10.2023 (RUD-1) presented by the Customs Broker (CB) M/s. Sadguru Logistics Private Limited, and was kept on hold vide Hold No.-460 dated 07.11.2023 (RUD-2) for detailed examination. The said consignment declared to contain "Small Paper Pop (Decorative Item) was examined on 07/08.11.2023 by CIU, JNCH revealed that there was an attempt to export the restricted goods as "Firecrackers" by mis-declaring them as Paper Pop Small (Decorative Items) in terms of description and quantity.

3. EXAMINATION:

The subject consignment was examined in detail by the officers of **CIU, JNCH, Nhava Sheva** under **Panchanama** dated **07/08.11.2023** (RUD-3) drawn at CFS M/s. Speedy Multimodes Limited in the presence of an authorised person of the CB firm and two independent Panchas and the extract of the same is found as under:

- The subject goods covered under the Shipping Bill No.4769787 dated 19.10.2023 were carted in Shed No: III, Location "13BC".
- A total of 1100 packages were declared in the said Shipping Bill whereas 702 packages were found during the examination by the CIU officers.

- (c) The goods were found to be as "firecrackers" concealed in Green Paper Pop whereas the goods were declared as "small Paper Pop (Decorative Articles)" under the CTH 95059090.
- (d) Out of the 702 packages, 545 packages were found to contain "Pollution free Eco-friendly Green POP" and remaining packages were found to contain assorted firecrackers.

4. INVESTIGATION:

4.1 VERIFICATION OF THE EXPORTER: The registered address of M/s. Rohit Enterprises (IEC--**GUWPB9797R**) Flat No.-404, 4th floor, Ekveera Manas apartment, Arun Krida Mandal, Majiwada, PADA NO 2, Pokhran Road No. 01, Thane West, Maharashtra-400 606 was found to be fake and untraceable upon verification by the officers of CIU, JNCH, against a search authorisation dated 09.11.2023 (RUD-4). **Further, M/s. Rohit Enterprises have also dishonoured all 03 summonses dated 08.11.2023, 25.01.2024 & 08.10.2024 issued to him.** It appears that exporter is non-existent proprietorship firm which was used to commit fraud export of prohibited firecrackers by way of gross mis-declaration, without proper authorisation and deviating the established compliances.

4.2 SEIZURE OF GOODS: As the goods, covered under the subject Shipping Bill filed by the exporter, on examination, prima facie appeared to be **mis-declared/undeclared** in terms of description vis a vis declaration made in the packing list accompanying the SB, the said goods imported vide the SB were found liable to be confiscated under Sections 113 of the Customs Act, 1962. The above-mentioned goods were seized vide **Seizure Memo No.24/2023-24 dated 08.11.2023 (RUD-5)** under Section 110 of the Customs Act, 1962.

4.3 RE-DETERMINATION OF VALUATION OF GOODS:

Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 is about rejection of the declared value of the export goods. Rule 8(iii) says that:

"The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include -

(a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.

(b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.

(c) the mis-declaration of goods in parameters such as description, quality, quantity, year of manufacture or production."

4.3(i) During the 100% examination, it was noticed that "the goods are found to be grossly mis-declared in term of description and quantity" which raised a strong suspicion over the declared value of the goods attempted to be exported vide Shipping

Bill No. 4769787 dated 19.10.2023, therefore, the declared value is found to be liable for rejection under Rule 8 of Customs Valuation Determination of Value of Export Goods) Rules, 2007.

4.3(ii) Rule 3(3) of Customs Valuation Determination of Value of Export Goods) Rules, 2007 states that "if the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6." Therefore, after rejection of value of the goods attempted to be exported under Rule 8, it is liable to be re-determined by sequentially proceeding from Rule 4 to 6.

4.3(iii) Rule 4 of CVR, 2007 states that, "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). As the goods attempted to be exported were unbranded firecrackers, it was difficult to find goods of like kind and quality for comparison to arrive at correct value of the goods to be exported. Thus, value of the goods could not be determined under Rule 4 of CVR, 2007.

4.3(iv) Rule 5 of the CVR 2007 states that 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.

In the instant case, the Exporter being merchant exporter had neither produced any cost of production details, manufacturing or processing of export details nor produced cost design or brand or an amount towards profit etc, to derive computed value of the goods. In absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of value of export goods) Rules, 2007. Hence value of the goods could not be determined under Rule 5 of CVR, 2007.

4.3(v) Hence value of the goods needs to be determined as per Rule 6 of CVR, 2007. Rule 6 of CVR says that:

"Rule (6) of CVR- Residual method. -

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

In view of the above, upon approval of the competent authority, value of the subject goods covered under the said Shipping Bill was re-determined in terms of Rule 6 of the CVR, 2007 **by the way of Market Survey**. A Market survey in respect of the

subject goods covered under the said Shipping Bill was conducted on 21.09.2024 in the presence of Independent Panchas, for fair and appropriate wholesale price of the goods, since the Exporter (IEC Holder) was found untraceable. Accordingly, the Re-determined value of the goods was worked out/ascertained after adding approximately 30% of the average price/value (to allow for transport charges, profit margin and other overhead expenses of the Exporter) to average value (i.e., Re-determined value = Average Value + 30% of Average Value). A comparative chart showing the declaration made by the exporter and the value so re-determined has been tabulated as follows: (RUD-6)

TABLE-I

Sr No.	Item Description	Re-determined CTH	Quantity	Average Value (INR)	Re-determined FOB Value (INR)
DECLARED AS					
1.	Paper Pop small (Decorative Articles)	95059090	1100 Pkgs	NA	24,26,680/-
FOUND AS					
1.	Eco friendly Green Pops (Undeclared)	36041000	545 Cartons (13080 Packets)	25,28,800/-	32,87,440/-
2.	Assorted Firecrackers (Undeclared)	36041000	157 Cartons	83,08,320/-	1,08,00,816/-
	Total				1,40,88,256/-

The exporter had declared the goods as “Paper Pop small (Decorative Articles) under CTH 95059090 valued at FOB price as Rupees-24,26,680/-, However, in view of preceding paras, the re-determined value of the subject goods covered under shipping bill 4769787 dated 19.10.2023 comes to Rs. 1,40,88,256/- as against the declared FOB value of Rs. 26,00,000/-. It appears that the Exporter had deflated the FOB value of the export goods to large extent.

4.4 INVESTIGATION IN RESPECT OF PAST EXPORTS:

During the investigation, Details of all exports done by the exporter were retrieved from ICES system, wherein it is observed that exporter M/s. “Rohit Enterprises” being proprietorship firm in the name of Mr. Rohit Anand Bora having PAN No.-GUWPB9797R at registered address - Flat No.-404, 4th floor, Ekveera Manas apartment, Arun Krida Mandal, Majiwada, PADA NO 2, Pokhran Road No. 01, Thane West, Maharashtra-400 606 had attempted to export the only impugned cargo declared as “ Small Paper Pop (Decorative Articles) from Nhava Sheva Port.

5. EXTENSION OF TIME LIMIT FOR ISSUANCE OF SHOW CAUSE:

The Commissioner of Customs(G), JNCH extended the time period for issuance of Show Cause Notice by another six months i.e., up to 07.11.2024 in term of the first proviso to Section 110(2) read with Section 124 of the Customs Act, 1962. Accordingly, the CIU vide its letter F. No. SG/MISC-142/2023-24/CIU JNCH/A-Cell dated

01.04.2024 had intimated to M/s. Rohit Enterprises about the extension of time limit for the issuance of Show Cause Notice by another six months i.e., up to 07.11.2024 under Section 110(2) of the Customs Act, 1962. (RUD-7)

6. **VERIFICATION OF NUMBER OF PACKAGES:** 100% examination of the impugned consignment under panchnama dated 07/08.11.2023 revealed that there were 702 packages were found against the 1100 packages declared in the Shipping Bill No. 4769787 dated 19.10.2023. Further, one more panchnama was drawn on 01.12.2023 to ascertain the reason for shortage of packages in the shipment, wherein again 702 packages were found attempted to be export. However, a tally sheet dated 20.10.2023 provided by CFS management has also revealed the carting of 700 packages made against the gate pass of 1100 packages. A letter dated 05.01.2024 has been issued to the manager, Export/CFS Speedy Multimodes Pvt Limited seeking the clarification in discrepancy noticed with respect to missing packages. Shri Bhimsen P Joshi vide his statement dated 09.01.2024 clarified that export shed staff updates the details in the system and carting register as per checklist provided by CHA/Exporter. Then, CFS surveyor takes the physical count of the packages unloaded from the vehicle and issue tally sheet mentioning the number of packages, exporter's name, location of the goods in shed and shipping bill number etc. Shri Aditya Mhatre being surveyor was called to address the discrepancy in number of packages. Moreover, CCTV footages of the concerned shed from 19.10.2023 to 08.11.2023 was also secured, which yielded nothing incriminating and fruitful in ascertaining the missing packages. Further, a weighing slip dated 20.10.2023 (RUD-8) for the vehicle No.- MH 43BP 7178 carrying cargo in container No. MEDU-8288600 produced by M/s. Pankaj Roadlines was scrutinised with packing list cum invoice dated 18.10.2023 in term of weight, wherein it is found that there was 14770 kg net weight found in weighment slip against the 23530 kg Net weight mentioned in Packing list cum invoice. Therefore, in view of the above, it appears that a lesser number of packages would have been carted at shed/CFS, However the CFS management could not provide any satisfactory reply in this regard.

7. **SUSPENSION OF CUSTOMS BROKER LICENSE:** During the course of investigation, it is revealed that Customs Broker M/s. Sadguru Logistics Pvt. Ltd had failed to comply with the provisions of Section 10(d), 10 (c), 10(i), & 10(n) of Customs Broker licensing Regulations, 2018 and accordingly, his License bearing No(11/1890 AAICS5382CCH002) has been suspended vide Order No. 07/2024 vide F. No. GEN/CBACTN/2/2024-CBS Dated 11.06.2024 issued by the Pr. Commissioner of Customs, General Commissionerate, Chennai under Regulation 16(1) of Customs Broker Licensing Regulations, 2018. (RUD-9)

8. **WHETHER GOODS ARE RESTRICTED OR PROHIBITED:** As per Foreign Trade Policy, 2023 and Handbook Procedure 2023, the exports of Firecrackers are restricted. However, the following provisions may please be referred to identify the exact nature of goods:

Section 2(33) of the Customs Act, 1962:

"Prohibited goods" means (i) any goods the import or export of which is subject to any prohibition under this Act or (ii) any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;"

Further, in this regard, a case law **"OM PRAKASH BHATIA VERSUS COMMISSIONER OF CUSTOMS, DELHI 4060 of 200, Supreme Court, dated: - 7-7-2003"** para (9) may also be referred as hereunder.

"it can be stated that (i) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) **this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods.** This would also be clear from Section 11 of Customs Act, 1962 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods. This is also made clear by this Court in *Shekih Mohd. Omer v. Collector of Customs, Calcutta and Others* [(1970) 2 SCC 728] wherein it was contended that the expression 'prohibition' used in Section 111(d) must be considered as a total prohibition and that the expression does not bring within its fold the restrictions imposed by clause (3) of the Import Control Order, 1955. The Court negated the said contention and held thus :- '...What clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable to be confiscated. **"Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition.** The expression "any prohibition" in Section 111(d) of the Customs Act, 1962 includes restrictions. Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. **"Any prohibition" means every prohibition.** In other words all types of prohibitions. **Restriction is one type of prohibition.**

In view of the above, whenever the conditions of export or import are not complied with the provisions, this will render the goods as prohibited goods. In this case also as discussed above conditions of export as stipulated by Section 50(2) of the Customs Act, 1962, read with Rule 11 of the Foreign Trade (Regulations), 1993 and Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992 and Explosive Rules, 2008 have not been complied with. The Exporter has concealed the truth of contents in the Shipping Bills in spite of mandatory provisions being in force. Thus, they mis-declared

the correct and complete description of the goods. Therefore, the aforesaid act has rendered the impugned goods as prohibited goods and render the goods liable to be confiscated under section 113(d), (e)&(h(1)) of the Customs Act, 1962.

9. STATEMENTS OF CONCERNED PERSONS:

During the investigation, Statements of the various persons were recorded under Section 108 of the Customs Act, 1962 and the cruxes of the same are reproduced as under.

9.1 Mr. Ulhas Ramdas Gate, Export Manager M/s. Sadguru Logistics Pvt. Ltd. (CHA- No. 11/1803)

Statement of Mr. Ulhas Ramdas Gate, authorised representative of M/s. Sadguru Logistics Pvt. Ltd. was recorded under section 108 of the Customs Act, 1962 on 08.11.2023, (RUD-10) wherein, he inter-alia stated that:

- (a) the said Shipping was filed on his direction by his staff.
- (b) He came in contact with the exporter through One Shri Faizaan Surti, a forwarding agent.
- (c) The requisite documents for filing of shipping bill No. 4769787 dated 19.10.2023 were provided by Shri Faizaan Surti.
- (d) He admitted that during the course of examination, various types of firecrackers were found in the packages instead of declared Paper Pop Small (Decorative Articles).
- (e) As instructed by Beneficiary Exporter Mr. Rehaan Shaikh, he alongwith Mr. Faizaan Surti and Mr. Rehaan Shaikh had visited AC/Docks at Hind CFS on 06.11.2023 to meet Shri Surendra Jharwal Meena for allowing back to town of the cargo instead of making a SIIB(X) case.

Another statement of Mr Ulhas Ramdas Gate was recorded under section 108 of the Customs Act, 1962 on 10.11.2023, (RUD-11) wherein he inter-alia stated that:

- (a) I alongwith forwarder Mr. Faizaan Mohd Surti and Rehaan Shaikh visited CFS Speedy on 06.11.2023 to meet the officer to get the BTT approval.
- (b) I alongwith forwarder Mr. Faizaan Mohd Surti and Rehaan Shaikh visited AC docks on 07.11.2023 to get the BTT approval.

9.2 Mr. FAIZAAN MOHAMMAD ASLAM SURTI

Statement of Mr. Shri Faizan Mohd. Aslam Surti was recorded under section 108 of the Customs Act, 1962 on dated 08.11.2023, (RUD-12) wherein, he inter-alia stated that:

- (a) He being a forwarder took the export job for clearance from Mr. Sahil Shekh and forwarded to one of his known Customs Broker Shri Ulhas Ramdas Gate.
- (b) He tried his best to meet AC/Docks along with Ulhas Gate and Rehaan Shaikh to get the approval for BTT despite knowing about mis-declaration noticed during the course of examination.

Another Statement of Shri Faizan Mohd. Aslam Surti was recorded under section 108 of the Customs Act, 1962 on 10.11.2023, (RUD-13) wherein he inter-alia stated that:

- (a) I alongwith Shri Srinivas Raju Rao, the representative of the IEC holder M/s. Rohit Enterprises met Customs Officer and requested him to allow for back to town of the cargo. We tried to negotiate with the officer and subsequently when the negotiation failed, I was informed by Sahil Shaikh that Shri Rehaan Shaikh, the actual owner of the goods will personally go and meet the officer.
- (b) He was indulged in negotiation with AC/Docks to get the Back to town of the said cargo and also helped Shri Rehaan Shaikh in back to town work.

Another Statement of Shri Faizan Mohammad Aslam Surti recorded U/s 108 of the Customs Act, 1962 on 11.06.2024, (RUD-14) wherein he inter-alia stated that:

- (a) On being asked about the role of Rehaan Shaikh I would like to state that I knew Rehaan Shaikh through Sahil Shekh. Mr. Sahil Shekh informed me that the owner on the goods is coming to meet AC/Docks for BTT. Mr. Rehaan Shaikh, Mr. Ulhas Ramdas Gate (CB) and I met AC/Docks on 06.11.2024 and Mr. Rehaan Shaikh discussed with the AC/Docks regarding the BTT of mis-declared goods covered under the Shipping Bill No. 4769787 dated 19.10.2023.
- (b) On being asked about the role of Sahil Shekh I would like to state that Mr. Sahil Shekh called me and asked me for clearance of the goods (Pop ups) for export purpose and informed me that it is clean document. Mr. Sahil Shekh sent me the goods and relevant documents required for the export of the goods covered under said shipping bill. When I got to that the goods are pop ups then I informed the same to CB, M/s Sadguru Logistics and replied it is fine. On the examination day when I got to know that goods are found Firecrackers instead Pop Ups. I informed the Sahil Shekh and sent him photos of the same.
- (c) On being asked about the role of Haroon Shaikh I would like to state I don't know the Mr. Haroon Shaikh personally. I heard the name of the Haroon Shaikh from Sahil Shekh. Mr. Sahil Shekh informed me that he met Mr. Rehaan Shaikh through Mr. Haroon Shaikh.
- (d) On being asked about number of packages carted in CFS Speedy on 20.10.2023 against Shipping Bill No. 4769787 dated 19.10.2023 I would like state that I got the invoice of 1100 packages which I forwarded to CB, M/s Sadguru Logistics. At the time of CIU examination I got to know about the actual number of packages i.e., 702 packages. I don't know anything else about the actual packages carted on 20.10.2023 at CFS Speedy Multimode.

9.3 Mr. SAHIL NAZIR SHEKH

Statement of Mr. Sahil Nazir Shekh was recorded under section 108 of the Customs Act, 1962 on dated 10.11.2023, (RUD-15) wherein, he inter-alia stated that:



- (a) The He being a forwarding agent had received the said consignment of small paper Pop (Decorative Articles) from Mr. Rehaan Shaikh, and forwarded the same to Mr. Faizan Mohd. Aslam Surti on 18.10.2023.
- (b) Rehaan Shaikh is the financier and actual owner of the mis-declared goods covered under Shipping Bill No. 4769787 dated 19.10.2023. Rehaan Shaikh had procured the export order from Dubai.
- (c) Said IEC belongs to Rohit Bora, resident of Majiwada, Thane and Rehaan had taken the said IEC on rental basis from Rohit, as Rohit is a very close friend of Srinivas and I had insisted Srinivas to arrange an IEC for export purpose to Rehaan Shaikh.
- (d) Mr. Faizaan Mohd. Surti was aware of the firecrackers carted in the CFS prior to filing of said Shipping Bill No.4769787 dated 19.10.2023.
- (e) He was the authorised representative of Mr. Rehaan Shaikh to handle this particular cargo declared as Small Paper Pop (Decorative Articles) and accordingly, he had indulged to get the back to town of the cargo.

Another statement of Shri Sahil Nazir Shekh, recorded under Section 108 of the Customs Act, 1962 on 11.06.2024, (RUD-16) wherein he inter-alia stated that:

- (a) On being asked about my role in the instant case I would like to state that Mr. Haroon Shaikh asked me that he has an export custom clearance job of Pop Ups and asked me whether I want to do it or not. I took the work. Once I agreed to do it, Mr. Rehaan Shaikh called me and provided me the relevant documents like Invoice, Packing List, and E-way bill and truck number etc. I forwarded all the documents to Mr. Faizan Mohammed Aslam Surti, Forwarding agent for the clearance work at Docks. After the examination of the said export shipment, it came to my notice through Mr. Faizan Mohammed Aslam Surti, that there were firecrackers in the export shipment. Then, Mr. Faizan Mohammed Aslam Surti called me and sent me the photographs of the firecrackers. After that, I forwarded the photographs of the firecrackers to Mr. Haroon Shaikh and Mr. Rehaan Shaikh.
- (b) Then, I met Mr. Haroon Shaikh and Mr. Rehaan Shaikh in Belapur. There we discussed to get the export shipment back via Back to Town for which Mr. Haroon Shaikh and Mr. Rehaan Shaikh met the Docks officer. I forwarded the mobile number of Mr. Faizan Mohammed Aslam Surti to Mr. Rehaan Shaikh to discuss with AC Docks to clear the export shipment via BTT. I get to know through Mr. Faizan Mohammed Aslam Surti that BTT was allowed for the payment of Rs. 9 Lakhs.
- (c) On being asked about the role of Mr. Haroon Shaikh, I would like to state that I Knew Mr. Haroon Shaikh professionally for the last one year. Mr. Haroon Shaikh asked me that he has an export custom clearance job of Pop Ups and asked me whether I want to do it or not and after that I agreed to clear the export consignment covered under the Shipping Bill No.479787 dated 19.10.2023.



- (d) On being asked about the role of Mr. Faizan Mohammad Aslam Surti, I would like to state that I know him personally for last 05 years. I would use to give him Freight and Forwarding Clearance work regularly. After, I agreed to clear the export shipment covered under the Shipping Bill No.479787 dated 19.10.2023 I called Mr. Faizan Mohammad Aslam Surti for the clearance of the said export cargo. After that Mr. Faizan Mohammad Aslam Surti forwarded the clearance work to CB, M/s. Sadguru Logistics.
- (e) On being asked about the export consignment covered under S/B No. 4769787 dated 19.10.2023, I would like to state that Mr. Haroon Shaikh, asked me that he has an export consignment clearance job of Pop Ups and asked me whether I want to do it or not. After being satisfied I confirmed that I would clear the same as the export goods as said by Mr. Haroon Shaikh is Pop Ups.
- (f) On being asked about number of packages carted in CFS Speedy on 20.10.2023 against Shipping Bill No.4769787 dated 19.10.2023 I would like to state that when CIU examined the said cargo, then only I get to know about the shortage of the cargo. I would like to state that I was not aware about shortage of packages.
- (g) On being asked the arrangement of supply of the cargo to CFS like to state that cargo was arranged in CFS by Mr. Rehaan Shaikh. Rehaan shaikh shared me the vehicle number in which cargo was transported from Vadodara to Speedy CFS.
- (h) On being asked about my interest in clearance of this cargo, I want to state that Mr. Haroon Shaikh has asked me to pay the money once cargo is cleared in export. However, I have not been given any money in advance.
- (i) On being asked about my role in this matter once cargo was hold by customs, I would like to say that I immediately informed to Haroon Shaikh and shared him photographs also. after that I had nothing done in this matter and became aside.

9.4 Mr. Shriniwas Raju Rao

Statement of Mr. Shriniwas Raju Rao was recorded under section 108 of the Customs Act, 1962 on dated 10.11.2023, (RUD-17) wherein, he inter-alia stated that:

- (a) Mr. Sahil Shaikh approached me for arrangement of one IEC on rent for export of said shipment covered under Shipping Bill No.4769787 dated 19.10.2023.
- (b) Mr. Sahil Shaikh informed me on 27.10.2023 that the mis declared goods ie. Firecrackers are found in shipment and accordingly, I had visited the speedy CFS alongwith Mr. Sahil Nazir Shaikh on 28.10.2023 where he met with Mr. Faizaan MoHD. Alam Surti who was already present there.
- (c) I humbly requested to the officer to allow the back to town of the cargo. I offered Rs. 5,00,000/- to officer for allowing the Back to town of the goods but the officer denied, then I along with Faizaan left and met with Sahil Shaikh and informed him about incident.

(9.5) MR. REHAAN IQBAL SHAIKH

Statement of Mr. Rehaan Shaikh was recorded under section 108 of the Customs Act, 1962 on dated 18.01.2024, (RUD-18), wherein, he inter-alia stated that:

- (a) that Mr. Haroon Shaikh has assigned him for the operations work such as transportation and taking update from Mr. Sahil Shekh on day-to-day active basis; that he has communicated with and arranged the transporter Mr. Vikas Bangar and helped him with e-way bill after communicating with Sahil for bringing the said consignment declared as 'small paper pop (decorative articles)' from Vadodara to Speedy CFS, Uran; that Mr. Haroon Shaikh told him to speak to Mr. Sahil Shekh and update him i.e., Mr. Haroon Shaikh about the Customs clearance; that after the customs examination, Mr. Haroon Shaikh sent him screenshot informing about the fire cracker in the above said consignment; that he, then, called Mr. Haroon Shaikh to get more clarification and he told me that he will speak to Mr. Sahil Shekh about the clearance of the consignment.
- (b) that he is not aware about the Exporter and he is not the Exporter of the goods covered under the said Shipping Bill; that he went there once just to see the cargo. Right now, he could not recollect the exact date;
- (c) that Sahil Shekh shared him phone number of Faizan to speak to the AC/Docks for the consignment covered under the above said Shipping Bill;
- (d) that he was not aware about shortage of packages and came to know about the same on 08.11.2023 through Ulhas Ramdas Gate and Faizan.

Another statement of Mr. Rehaan Shaikh was recorded under Section 108 of the Customs Act, 1962 on 11.06.2024 (RUD-19) wherein, he, inter-alia stated:

- (a) that I was given the exports document by Mr. Rahman Shaikh and he told me to get in touch with Mr. Haroon Shaikh. Mr. Haroon Shaikh told me to get in touch with Mr. Sahil Shekh for the clearance of the said cargo for export and told me to look after the transportation job. Thereafter, I spoke to Mr. Sahil Shekh and provided the necessary document like invoice, packing list, E-way bill for the export of pop up cracker. I arranged transporter (Mr. Vikas Banger, Mobile No. 9858401717) for the goods from Rubi Fireworks, Vadodara to CFS Speedy Multimodes. After examination of the goods on 26.10.2023, I got to know that firecracker were found in the consignment instead of declared Pop Pops through Mr. Haroon Shaikh. Further, I met AC/Docks on 06.11.2024 for the BTT with help of Faizan Mohammed Aslam Surti and Ulhas Ramdas Gate.
- (b) that as far as I know Mr. Haroon Shaikh made payment for the transportation of the goods from Vadodara to CFS, Speedy Multimodes.
- (c) that Mr. Rahman Shaikh made payment for the said goods and told me to take supply from the Rubi fireworks, Vadodara.

- (d) that I have 01 bank account in HDFC Bank (Account No. 50100020228150) and another account No. in name of Ardent Logistics in ICICI Bank. Details of the ICICI bank I will provide in 2 days.
- (e) that Mr. Haroon Shaikh told to get in touch with Mr. Sahil Shekh for custom clearance and told me to look after the transportation job. Further, as far as I know there was active involvement of Mr. Haroon Shaikh in the instant case.
- (f) that I got the money for getting back to town from my brother Mr. Rehman Iqbal Shaikh who is the actual importer of this cargo in Dubai.

Another statement of Mr. Rehaan Shaikh was recorded under Section 108 of the Customs Act, 1962 on 28.08.2024 (RUD-20) wherein, he, inter-alia stated:

- (a) On being asked about container booking for the export of the said consignment, I would like to state that the booking was done from Dubai by Mr. Rehman Shaikh. Further communication like container release from shipping line for loading of cargo and offloading the container after cancelation of export, with shipping line regarding container in India was done by me.
- (b) On being asked about payment of container booking, I would like to state that the payment for the container booking was made through my saving account No. 50100020228150 (HDFC BANK). I submitting duly signed copy of the statement of account No. 50100020228150.
- (c) On being asked about the whereabouts of Mr. Rehman Shaikh S/o Iqbal Shaikh, I would like state that he lives in Dubai from 2019 but I don't know the address of his Dubai residence. His Indian residence address is- 01, Mascot Apartment, Ground Floor, Veronica Road, Opposite KCA Hostel, Bandra West, Mumbai - 400050. His Mobile No. +971508136590. I don't have his mail id too.

9.6 MR. HAROON SHARAPUDDIN SHAIKH

Statement of Mr. Haroon Sharapuddin Shaikh was recorded under Section 108 of the Customs Act, 1962 on 06.05.2024 (RUD-21) wherein, he, inter-alia stated:

- (a) that he does both Freight Forwarding & Customs clearance work. He is working in CHA firm M/s Aspire Logistics Pvt Ltd as a branch manager. He doesn't have any Customs Pass. Further, he wants to state that he is director of M/s. S K Freight Lines Private Limited, M/s. Al Arqa Freight LLC, Dubai and M/s. Star Board Logistics LLC, USA.
- (b) that Mr. Rehman Iqbal Shaikh, who lives in Dubai, gave him the work to export small paper Pops to Dubai. He enquired about the required documents for such export. Rehman Shaikh said that he doesn't have the same and he declined the work and introduced him to contact Mr. Sahil Shaikh for the above said export and Customs Clearance. The other works like transportation, container booking, CHA follow up etc. was assigned to Rehaan Shaikh by his elder brother Mr. Rehman Iqbal Shaikh. After

examination at Speedy CFS, it was found to contain firecrackers instead of declared small paper Pops. This discovery led to verbal fight between Rehaan Shaikh and Sahil Shaikh because of the misinformation given to latter by Rehman Shaikh. After this, Rehman Shaikh asked me to mediate the situation between the two and get the matter resolved as soon as possible.

- (c) that on 5th of November 2023, Mr. Rehaan Shaikh, Mr Sahil Shaikh & himself was at Sahil's office having address Worldwide logistics Private Limited, 3rd floor, Sephora Shelton, CBD Belapur, Navi Mumbai for discussing whether Back to Town (BTT) can happen of the said cargo after requesting to the AC/Docks. Sahil informed that file regarding mis-declaration found in the said consignment was handed over to AC/Docks for further action. It was decided that Sahil Shaikh will meet the concerned officers regarding the same and try to resolve the issue.
- (d) On 6th of November 2023, Mr. Rehaan Shaikh, and himself was at Sahil's office. We all were informed by Sahil Shaikh, that the officers posted at Docks, JNCH are demanding a sum of Rs. 25 Lacs for BTT. Mr. Rehman Shaikh instructed his brother Mr. Rehaan Shaikh to go and directly meet with the officers and work out a more favorable deal. Later, Rehaan Shaikh informed me that he met Customs officer and officer agreed for BTT in lieu of Rs. 9 Lakh. After CIU intervention on 07.11.2024 Mr. Rehaan Shaikh fled to Bhopal.
- (e) that he would like to state that as per his knowledge Mr. Rehaan Shaikh is the actual beneficiary. IEC was provided by Mr. Sahil Shaikh to Rehaan Shaikh. Further, he would like to state that the importer of the above said goods was Mr. Rehman Shaikh who live in Dubai.
- (f) that he doesn't know the person named Shri Faizan Mohammad Aslam Surti. he would like to state that he doesn't know the person named Ulhas Ramdas Gate.
- (g) he would like to state that I was not aware about shortage of packages.

Another statement of Shri. Haroon S. Shaikh was recorded under Section 108 of the Customs Act, 1962 on 30.05.2024 (RUD-22) wherein, he, inter-alia stated:

- (a) that I have not concealed anything in this case and also assure you that I have nothing to do with this case and assure you my best in support of investigation in this case as and when required.
- (b) that I did not assign any work to Mr. Rehaan Shaikh in connection of this export. I only introduced Mr. Sahil Shaikh to Mr. Rehaan Shaikh.
- (c) that I used to go in CFS Speedy Multimodes for my business purpose and as a routine I met with Docks officer in CFS Speedy Multimodes but I did not talk anything with the officers in this matter.



- (d) that since I have nothing to do with said export why I should ask to Mr. Rehaan Shaikh for negotiation.
- (e) that on the day of examination I met to Mr. Sahil Shaikh and he shown me the photographs of Firecracker found during the examination in his phone. Then, I called to Mr. Rehaman Shaikh that this is what and did the wrong. In reply, Mr. Rehaman Shaikh took it light and shown his ignorance. I have not been shared any photograph by Sahil Shaikh on my phone. I am producing my mobile phone to check if did so.

Another statement of Mr. Haroon Shaikh was recorded under Section 108 of the Customs Act, 1962 on **12.06.2024 (RUD-23)** wherein, he, inter-alia stated:

- (a) On being asked about my role in the instant case, I would like to state that Mr. Rehman Shaikh who lives in Dubai and Brother of Mr. Rehaan Shaikh asked me to export the pop pops to Dubai. I researched about the compliance for the export of Pop Pops and found that it requires some compliances like Pollution board clearance, permission from DGFT etc. Mr. Rehman Shaikh doesn't have the same to export the Pop Pops. Then I denied to do the same and on continuous insistence from Mr. Rehman Shaikh, I gave him the contact of Mr. Sahil Shaikh who was ready to do the export of the Pop POPS. Accordingly, they both met and finalized their task. Mr. Rehaan Shaikh asked me to help in arranging the transport too as I have logistic business. I made him available one transporter and he (Rehaan) coordinated to transporter for further movement of cargo. On 26.10.2023 I had come to know through Mr Sahil shaikh when he sent me photographs of cargo that the cargo I refereed for clearance is found to be firecracker instead of Pop Ups. I objected to Rehaan and Rehman both. Then Mr. Rehman Shaikh insisted me to meet the docks officer and get the BTT for the same. Then, I met the officer in Speedy CFS two times but I failed to get the BTT and I informed to Mr. Rehman Shaikh that officer is not ready to do negotiation. After that I was not involved in this case and Mr. Rehman Shaikh told his brother Mr. Rehaan Shaikh to go for negotiation with officers directly.
- (b) On being shown the statement dated 11.06.2024 of Mr. Rehaan Shaikh wherein he stated that the payment of transport was made by me, I would like to state that Mr. Rehaan Shaikh used my name to get the transportation in the instant case. I paid the transportation charges because my reputation in market was at stake as the transporter is vendor of my office and he was asking for the payment again and again as Mr. Rehaan Shaikh did not pay him the transportation charges for the transportation of Firecracker from Vadodara to CFS Speedy.
- (c) On being asked about the payment made to supplier of the goods for the export against the Shipping Bill No. 4769787 dated 19.10.2023, I would like state that I don't have any knowledge about the payment made to supplier. I further state that this cargo actually belongs to Mr. Rehmaan Shaikh and Rehman wanted to get it export through my company but I denied, then he

took my assistance and I referred some other person in the market and His brother Mr. Rehaan shaikh was actually dealing with all the necessary arrangements in order to get the export the said cargo. I being good friend of Rehmaan assisted his brother Rehaan Shaikh in good faith whenever he asked me to support as he had worked in my company as manager.

Another statement of Shri Haroon Sharapuddin Shaikh recorded under Section 108 of the Customs Act, 1962 on 22.08.2024(**RUD-24**) wherein he inter-alia stated that:

- (a) I say that I run M/s. S K Freight Lines Pvt. Ltd having around 80 employees engaged in work of freight forwarding, customs clearance and transportation. I am a law-abiding citizen and complying with all taxation rules. I am a director of a firm named M/s S K Freight Lines Pvt. Ltd having GST Registration no- 27AAANCS2555A2ZE. This firm was established in the year 2009 and since then I am complying with all taxation's rules for accounts of this firm. I am hereby submitting the signed GST Registration, Audited balance sheet for last three financial years ie. 2023-24, 2022-23, 2021-22 and other relevant documents. I am also submitting some account statements of my above-mentioned bank accounts.
- (b) On being asked about the transaction of 30 lakhs debit from current account of M/s. S K Freight Lines Pvt. Ltd in ICICI and credit in my another Account No. 10052622063 (Saving Account) of IDFC First Bank on 07.08.2023, I would like to state that being good business reputation in the market and banking, bank officials asked me to maintain a balance in saving account for some time so that bank can achieve a target, I had made this transaction and same day this transaction was credited again in another bank account of M/s. S K Freight Lines Pvt. Ltd in IDFC Bank by cheque.
- (c) On being asked about the source of 30 lakhs in Account No. 015105019227, I would like to state that the said account is my business/current account for my firm M/s S. K. Freight Lines Private Limited in which I used to get payment for services I provide to my clients.
- (d) On being asked about the any payment done to shipping line or container booking, I would like state that as far as I know the payment towards shipping line or container booking was done by Mr. Rehaan Shaikh through his firm's (Ardent Logistics) account of ICICI bank having Account No. 040805004608.
- (e) On being asked about the firm in my name, I would like to state I am director of M/s S. K. Freight Line Private Limited and I have partnership in 2 firms named M/s Al Arqa Freight LLC, Dubai and M/s Starboard Worldwide LLC, Taxes, USA. I am submitting proof for the same.
- (f) On being asked about any investment or interest in export of firecrackers, I would like to state that neither I had invested any money nor I had any interest in export of firecrackers.

Statement of Mr. Mohd Yusuf Mohd siddiq Kapadwala recorded under Section 108 of the Customs Act, 1962 on 18.07.2024, (**RUD-25**) wherein he inter-alia stated that:

- (a) On being asked about the Export consignment under Shipping Bill N 4769787 dated 19.10.2023 I would like to state that I got the order to sell the firecrackers on phone from my brother Shri Mohammad Naeem having contact 9825166111 and residing at Wadi Swaminarayan Road, Opposite As-Siddik Complex, Wadi, Vadodara, Gujarat - 390017.
- (b) On being asked about the dispatch of the ordered goods (subject in question I would like to state that I was not present at the godown on that particular day due to my heart ailment however, on my instructions my staff available at the Godown had shifted the goods covered under the said consignment from my shop to the truck having vehicle no. MH-43BP 7178 on 18.10.2023 in support of the say I have produced the copy of tax invoice No. GST/TI-92 Dated 18.10.2023 having GSTIN No. 27GUWPB9797R1ZW (RUD-26) and put my signature on it as a proof produced by me.
- (c) On being shown the particular of the goods mentioned in tax invoice GST/TI-92 Dated 18.10.2023, I would like to say that I have received the order of assorted firecrackers and accordingly had dispatched the same and invoiced it as paper pop small.
- (d) On being asked about the quantity of goods sold I would like to state that total 1100 bundles packed in white gunny bags were loaded on the truck having vehicle no. MH-43 BP 7178 on 18.10.2023. I am submitting tax invoice for the same and did not bring today stock register maintaining inward and outward of the goods. I will send you at- supdtadmn-ciujnch@gov.in in two working days.
- (e) On being asked how you came in contact with M/s. Rohit Enterprises, I would like to state that I never came in contact with M/s. Rohit Enterprises. My brother (Mohammed Naeem) contacted me for the order and only he was in contact with M/s. Rohit Enterprises.
- (f) On being asked about how and when you received payment for the order covered under said consignment, I would like to state that I have not received any payment of my order till the date and when I asked to my brother regarding payment he repeatedly says when he receives the payment, he would give it to me.
- (g) On being asked about when you last contacted to your brother regarding payment, I would like to state that around 15-16 days ago I contacted my brother asking for my payment but he said that he himself had not received the payment yet.
- (h) On being asked about the license of business in firecrackers I would like to state that I got the license to store the firecrackers at my go-down situated at- Plot No. 29, Diwalipura village, Palaswada, Dabhoi Rd, Gujrat in 1995. I am hereby submitting the signed copy of license.
- (i) On being asked about from where you get firecrackers in your go-down I would like to state that we do not manufacture the firecrackers but purchase it from Sivakasi, Tamil Nadu, Raipur, Chhattisgarh and Delhi.

Statement of Mohammed Naeem Siddiquebhai Kapadwala recorded under section 108 of the Customs Act, 1962 on 02.08.2024(RUD-27), wherein he inter-alia stated that:

- (a) I Mohammed Naeem Siddiquebhai Kapadwala, Proprieter of M/s. Rambo Crackers situated behind Nya mandir court, opposite gate no. 5, laheripura, Vadodara, Gujrat.
- (b) On being asked about the reason to summon me, I would like to state I came to know through my younger brother Shri Mohammed Yusuf Mohdsiddiq Kapadwala on phone call in june 2024 that a case has been registered against the delivery which he has made on my request (order). I believed that you have called me in connection of that case only.
- (c) On being asked about the how you got the order of firecrackers I would like to state that I got the order of firecrackers from Shri Rehman Bhai on whats app call having mobile nos (+971508136590 & +971509738172) on around 15 october 2023. I don't remember the exact date and time as my phone in which all details were there has been stolen in Delhi in December 2024. I am submitting the copy of FIR lodged by me at Delhi (Online) and Vadodara police station for the same.
- (d) On being asked about the dispatch of the ordered goods (Firecrackers) subject in question I would like to state that after I got the order, I contacted my younger brother Shri Mohammed Yusuf Mohdsiddiq Kapadwala for the delivery as I am only retailer of firecrackers and I could not supply for such a large order while my brother is a whole-seller of firecrackers.
- (e) On being asked about how do you know Shri Rehman Bhai I would like to state that I met Shri Rehman Bhai in Makka and Madina in 2017 where I went to do umrah with my wife. Later, he contacted me in 2019 to provide fireworks for the function of marriage of his daughter at Bandra, Mumbai. I provided the order to him and I got the payment for the same after 10 days through one angadia in the Vadodara. After this I got only this order from Shri Rehman Bhai in which investigation is going on.
- (f) On being asked about how and when you received payment for the order covered under said consignment, I would like to state that I have not received the payment for the said order yet. I contacted Shri Rehman bhai repeatedly for the payment since November, 2023 but he was not picking up my call. I visited Azerbaijan (Baku) in January, 2024. While returning from Azerbaijan I went to Dubai where I called Shri Rehman Bhai from landline number of hotel Landmark Plaza, Nassar square, Dubai, where I stayed during my visit to Dubai. In response of that Shri Rehman Bhai told me to meet in the same hotel in the evening of that day. As told by him he came to meet me at the same hotel and promised me to either return my order to me or give payment for my order within next 15 days.
- (g) On being asked about how you came in contact with M/s. Rohit Enterprises I would like to state that I have never heard of any such name.

- (h) On being asked about the license of business in firecrackers I would like to state that I got the license to sell the firecrackers at three locations situated at wadi, nyaymandir, and diwalipura Vadodara, Gujarat.
- (i) On being asked about any criminal case/proceedings of any agency is undergoing/has undergone in the past against you I would like to state that no case/proceedings of any agency is undergoing/has undergone in the past against us.

Statement of Shri Pankaj Natha Ghewade, owner of Pankaj Roadlines recorded under section 108 of the Customs Act, 1962 on 02.09.2024, (RUD-28) wherein he inter-alia stated that:

- (a) I, Shri Pankaj Natha Ghewade in case of M/s Rohit Enterprises in lieu of the Summons issued to give my voluntary statement in connection with the investigation of Export S/B No. 4769787 dated 19.10.2023 by M/s. Rohit Enterprises.
- (b) On being asked about my profession, I would like to state that I have a transport company M/s Pankaj Roadlines having address Akshar Business Park, Unit No. 3058, On 3rd Floor, Wing - R, Plot No. 3, Sector - 25, Vashi, Navi Mumbai - 400 703.
- (c) On being asked about M/s Rohit Enterprises, I would like state that one person named Mr. Rehaan Shaikh (Mob - 9769907678) contacted to my company for transportation of export cargo from Ruby Fireworks, Vadodara to CFS M/s Speedy Multimodes. He also provided me container release order issued from M/s Blue Marlin Container Lines Pvt. Ltd. I am submitting duly signed copy of screenshots of Whatsapp chat held with Mr. Rehaan Shaikh for above transportation booking. I do hereby also share a mail copy of the same chats held between Mr. Rehaan and my manager Mr. Vikash.
- (d) On being asked about mode of the booking, I would like state that the booking of the transportation of export cargo was done through phone call received from Mr. Rehaan Shaikh (Mob - 9769907678).
- (e) On being asked about the payment of the said booking, I would like to state that payment for the said booking received by cheque No.-57719 amount Rs. 60,000/- issued from the M/s Rohit Enterprises. (RUD-29)
- (f) On being asked about Mr. Haroon Shaikh or His firm M/s. S K Freight Lines involved in this booking, I would like to say that I being transporter take the transport business from many transport firms and freight lines. Further, I want to say that Mr. Rehaan has called my company giving the reference of M/s S K Freightlines and we confirmed the booking being the vendor of M/s S K Freightlines.
- (g) On being asked about the number of packages in the container, I would like to state that I don't know about the number of packages in the container as the container was sealed by the supplier after loading and the same was open by the exporter/CHA.

- (h) On being asked about the e-way bill of the transportation of the said cargo, I would like state that I don't have e-way bill of the same.

Statement of Shri. Bhimsen P. Joshi was recorded under Section 108 of the Customs Act, 1962 on 09.01.2024 (RUD-30) wherein, he, inter-alia stated:

- (a) that once the export cargo is ready for carting, surveyor enter the details of the cargo such as SB no., Exporter name, Quantity, CHA name, Vehicle number, Location, Area, remark number of packages etc as per checklist of Shipping bill in the carting register. After that, Surveyor takes physical count/tally of export goods while carting and issue a physical tally report. Further, while stuffing the goods, he has to ensure correctness of the goods and same has to be stuffed in designated container with proper tally/count. After that, shed assistant has to check the system records and system tally. On the basis of that, he put the receiving stamp on checklist of S/B. The role of Shed Supervisor is to provide labour, to update the details mentioned in the tally report in the systems and to issue the gate out challan for empty vehicle;
- (b) that first signature on the checklist as surveyor is of Shri Aditya Mhatre employee of Lucky Logistics Surveyor and second one as Shed Assistant is of Shri Kiran D Bhalekar;
- (c) that the cargo has been carted as per checklist of the Shipping bill no. 4769787 dated 19.10.2023. The surveyor taken count of the carted cargo. Accordingly, surveyor issued a tally report in hard copy wherein 700 packages were mentioned. Further, Shed Supervisor Shri Madhukar Kadu entered 1100 packages in the system tally as per the checklist of Shipping bill no. 4769787 dated 19.10.2023. The same was not brought to the notice of CFS about the short shipment of the cargo. The same noticed during CIU visit. Accordingly, CFS management issued an explanation email dated 25.11.2023 to M/s Lucky Logistics Surveyor in this regard;
- (d) that the details of the goods were entered in the carting register as per the Checklist of Shipping bill. Thereafter, Surveyor taken physical count of the goods and issued a tally report dated 20.10.2023 in hard copy wherein 700 packages were mentioned. As the same was not entered into the carting register till the CIU visit and the rectified figure of 700 packages was entered in the register on 08.11.2023. The lapses were noted by CFS and email was issued seeking an explanation from the surveyor on 25.11.2023;
- (e) that Shri Aditya Mhatre as a surveyor was on duty at the time of carting of the goods covered under shipping bill no. 4769787 dated 19.10.2023. Further, it is informed that Shri Aditya Mhatre has resigned and left the job from M/s Lucky Logistics Surveyor for the last one month.

Statement of Shri. Aditya Mhatre was recorded under Section 108 of the Customs Act, 1962 on 16.04.2024 (RUD-31) wherein, he, inter-alia stated:



- (a) that he was on duty in day shift (1st shift); he made 38 entries in the carting register on 21.10.2023 of gate pass generated on 20.10.2023; that he made entry in the carting register on the basis of gate pass wherein 1100 packages were mentioned and after around 10 days tally in charge (Shri. Pardeep Kadu) shown him a tally report and directed him to change it accordingly i.e., number of packages received from 1100 to 700 packages;
- (b) that tally report shown to him was not prepared by him. It was signed by a person named Rupesh (mobile no. 9821973438), who was on duty surveyor in 2nd shift on 20.10.2023; that the said signature is not his.

Statement of Shri. Rupesh Tukaram Mhatre was recorded under Section 108 of the Customs Act, 1962 on 06.05.2024 (RUD-32) wherein, he, inter-alia stated:

- (a) that he is a tally surveyor at export shed no. 3 in CFS M/s Speedy Multimodes Limited and he does count packages of the goods received for carting. After counting he prepare a tally report and give it to concerned Custom Broker.
- (b) that he was on duty in 2nd shift at export Shed no. 3. He prepared a tally report of 700 packages which were carted in the export Shed no. 3 on behalf of M/s Rohit Enterprises around 09:15 PM. In the tally report, He mentioned a remark stating that "as per gate pass 1100 packages but carting packages 700 and 400 packages sort."
- (c) that tally report shown to him was prepared on 20.10.2023 and signed by him.

10 **RELEVANT PROVISIONS OF LAW APPLICABLE IN THIS CASE: -**

- (i) **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.*
- (ii) **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 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.
- (iii) **Section 2(33) of the Customs Act, 1962**-**"Prohibited goods"** means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
- (iv) **Section 50(2) & (3) of the Customs Act, 1962:** *Entry of the goods for Exportation. -*

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

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

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

(v) **Section 113 of the Customs Act, 1962:** Confiscation of goods attempted to be improperly exported, etc-

The following goods shall be liable to confiscation:

- (d) Any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this act or any other law for the time being in force.
- (e) Any goods found concealed in a package which is brought within the limits of customs area for the purpose of exportation.
- [h(i)] Any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;

(vi) **Section 114 (i) of the Customs Act, 1962:- Penalty for attempt to export goods improperly, etc.**

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

- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for time being in force, to a penalty (not exceeding three times 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 119 of the Customs Act, 1962: - Confiscation of goods used for concealing smuggled goods-**

Any goods used for concealing smuggled goods shall also be liable to confiscation.

(ix) **Regulation No. 10 of CBLR, 2018: - Obligations of Customs Broker. —A Customs Broker shall:**

The relevant regulations of 10 of CBLR, 2018 are reproduced as under:

- (b) transact business in the Customs Station either personally or through an authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (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;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(f) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;

(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;

(x) **Section 2(d) of the Explosive Act, 1884**, the term "explosive" is defined as under:

(d) "**explosive**" means gunpowder, nitroglycerine, nitroglycol, gun-cotton, di-nitro-toluenetri-nitrotoluene, picric acid, di-nitor-phenol, tri-nitor-resorcinol (styphnic act), cyclo-trimethylenetrinitramine, penta-erythritol-tetranitrate, tetryl, nitroguanidine, lead azide, lead styphynate, fulminate of mercury or any other metal, diazo-di-nitor-phenol, coloured fires or any other substance whether a single chemical compound or a mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and includes fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as defined in this clause;

(xi) **Rule 4(3)(iv) of the Explosive Rules, 2008, Fireworks for export purpose.** — Firecrackers for the purpose of export may be manufactured with high sound level or product of such size and design as approved by the Chief Controller subject to following conditions:

(a) The manufacturer shall have a valid **export order** with him; and

(b) The sound level for these fire crackers shall conform to the sound level prescribed in the country to which these are intended to be exported.

(xii) **Rule 7 of the Explosive Rules, 2008**, which deals with control over manufacture, import, **export**, transport, possession for sale or use of explosives, provides that **no person** is allowed to manufacture, import, **export**, transport, possess for sale or use an explosive without **authorization or license** as per the provisions of the Explosive Rules, 2008.

(xiii) **Rule 10(2) of the Explosive Rules, 2008**, which deals with General restrictions on manufacture, import or **export** are as under:

(2) Restriction on import or export-

(a) **No person** shall import or **export** any explosive except under and in accordance with the conditions of **licence granted** under these rules.

(b) No explosive shall be imported or **exported** except at its ports notified by the Central Government.

(c) **No licence** shall be granted for import or **export** of any explosives unless-

(i) the explosive is an **authorised explosive**,

(ii) the explosive is certified to have passed such analysis of examination, if any, as the Commissioner of Customs in consultation with the Chief Controller, by order in writing, may require in order to determine its composition or condition.

(v) the **exporter** shall submit **Form AE-7** duly filled in and signed, indicating therein clearly the purpose and intent of export, the UN classification and UN Number, the Material Safety Data Sheet for the explosives Intended to be **exported**, means of transport, detailed address of importer.

Authorized explosive - authorised explosive means an explosive included in the list of authorised explosives referred to in rule 6 and published by the Central Government from time to time in the Official Gazette. The rule 6 provides that no person is allowed to manufacture, import, **export**, transport, possess, sell or use any explosive unless it has been declared as an authorised explosive, **by an order issued by the Chief Controller and published by the Central Government in the Official Gazette**;

(xiv) **Rule 15 of the explosive Rules, 2008** specifically prescribes as to how the package containing the explosive should be marked and the details required to be mentioned on the outer package.

(1) Marking on packages -

(i) The outer package shall be marked in conspicuous indelible character, by means of a stamping, embossing or painting with-

(a) the word -EXPLOSIVES; (b) the name of authorised explosive; (c) the number if any of the Class and the Division including sub-division to which it belongs; (d) the safety distance category of explosive; (e) the name of the manufacturer; (f) identification number of the package, (g) the net weight of explosives; (h) gross weight of the package; (i) date of manufacture and batch number; (j) UN Classification and UN Identification number (for export packages); (k) in case of plastic explosives, the words -marking agent added as per International Civil Aviation Organisation Resolution A 27-8 referred in sub-clause (iv) of clause (c) under sub-rule (2) of rule 10; and (l) a paper slip containing the above details shall be kept inside the package: Provided that in the case of safety fuse or fireworks, clauses (a) and (l) may be omitted and the words-safety fuse or -Fireworks shall be marked. (ii) In case of fireworks, the names of the items.

(ii) Every manufacturer shall on the box of each fire cracker shall mention details of its chemical content, sound level and that it satisfies requirements as laid down by the Chief Controller. Firecracker meant for export shall have a different colour packing from those intended to be sold in India and a clear print Indicating that they are not to be sold in India.

(xv) **Rules 46 of the Explosive Rules, 2008** contain special provisions for Import or Export of Explosives. The provisions of Rule are reproduced below-

46. Export of explosives. -

(1) Declaration by exporter or his agent-

(a) The exporter or his authorized agent shall give the conservator of the port not less than forty-eight hours' notice of his intention to bring explosives to port for export and shall not bring the explosives to any part of the port without prior permission in writing from the said officer.

(b) The exporter or his authorised agent shall produce before the conservator of a port- (i) licence granted under these rules for export of explosives in question; (ii) a certificate issued by the exporter to the effect that the explosives have been packed and marked in accordance with the UN regulations.

(c) The exporter or his authorised agent shall also submit to the Chief Controller, on export of each consignment and within twenty-one days from the date of actual export, copy of bill of lading and return in Form RE-10.

(xvi) 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 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)".

11. FINDINGS OF THE INVESTIGATION:

Investigation carried out in relation to export of goods covered under Shipping bill No. 4769787 dated 19.10.2023 filed by M/s. Sadguru Logistics Pvt. Ltd. (CB No. 11/1890) on behalf of M/s. Rohit Enterprises (IEC No.- GUWPB9797R) revealed that:

(i) There was an intentional attempt to take back to town (BTT) of mis-declared consignment in violation of Customs Act, 1962. Misdeclaration in gross is noticed during the examination of the goods covered under SB No. 4769787 dated 19.10.2023

(ii) total 1100 packages were declared in the shipping bill whereas 702 packages were found. Out of 702 packages, 545 packages contained "Eco friendly Green Pop" and remaining 157 packages contained "assorted firecrackers" were found instead of declared goods as "Small paper Pop (Decorative articles)" under CTH 95059090 in place of correct CTH 36041000.

(iii) Role of the exporter Mr. Rohit Anand Bora (M/s. Rohit Enterprises (IEC-GUWPB9797R):

(a) The exporter M/s. Rohit Enterprises had deliberately mis-declared and mis-classified the firecrackers as "Small paper pop (Decorative Articles)" found to be contained in 702 packages against the declared 1100 Packages covered under Shipping bill No. 4769787 dated 19.10.2023 classified under CTH 95059090 instead of correct CTH 36041000 and found to be redetermined at Rs. 1,40,88,256/- against the declared value at Rs. 24,26,680/- Thus, the exporter, M/s Rohit Enterprises had tried to suppress the true & correct description, quantity and fair value of the goods. The exporter should have declared complete and accurate information of the goods. By not declaring complete and accurate information, the said exporter has violated the conditions of exports. The exporter has not made the truthfully declaration in the shipping Bill no. 4769787 dated 19.10.2023. So, he appeared to have violated the conditions of section 50(2) of the Customs Act, 1962, and hence it appeared that there was a deliberate misstatement and suppression of facts regarding description, quantity and value of the impugned goods according to the Section 50(2) of the Customs Act, 1962, read with Rule 11 of the Foreign Trade (Regulations), 1993 and Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992.

(b) The Exporter, M/s. Rohit Enterprises had also failed to fulfil the requisite compliance with the restriction or prohibition relating to the goods covered under shipping bill No. 4769787 dated 19.10.2023 under the explosives rules, 2008, thereby, rendered the restricted goods (firecrackers & Eco-friendly Green Pop) covered under shipping bill No. 4769787 dated 19.10.2023 in to category of prohibition in accordance

of the law time being in force , thus, are liable for confiscation under **Section 113(d) and 113(h(i))** of the Customs Act, 1962 in view of the following facts:

(i) The export of firecrackers is restricted under **the Explosive Rules, 2008** which requires a valid export order and authorisation/license. However, in the instant case the exporter had attempted to export of firecrackers by mis-declaring them as **Paper Pop Small (Decorative Articles)** under CTH 95059090 to escape the authorisation required for export of explosive (Firecrackers) under correct CTH 36041000. Therefore, the exporter had attempted to export the firecrackers (explosives) without producing an **authorization or license** issued by chief controller of explosives as per the Rule 7 of the Explosive Rules, 2008.

(ii) Further, the exporter did not produce **form AE-7** wherein exporter should mention the purpose and intent of the export as per Rule 10. of the Explosive Rules, 2008.

(iii) Further, all the packages containing firecrackers were not marked on outer packages with required details viz. name, number , class, manufacturer, identification number, batch, net weight, chemical content, sound level, and UN Classification and UN Identification number etc. of the explosive. Moreover, Firecracker meant for export were not having different colour packing from those intended to be sold in India and a clear print Indicating that they are not to be sold in India, therefore the exporter had failed to comply with the provisions laid down under Rule 15 of the explosive Rules, 2008.

(iv) The exporter had not informed to the conservator of the port of his intention to bring the explosive to port prior to 48 of his arrival of cargo within the jurisdiction of port area and also had not produced the licence and certificate before the conservator of the port as per the Explosive Rules, 2008, thereby, the exporter had failed to comply with the provisions of the Rule 46(1)(b) of the Explosive Rules, 2008."

(iv) Role of The Custom Broker, M/s. Sadguru Logistics Private Limited (11/1890, AAICS5382CCH002):

The Customs Broker M/s. Sadguru Logistics Pvt. Ltd had knowingly suppressed the correct information of the goods while filing of the shipping bill and impugned goods were found to be grossly mis-declared when examined by the Docks officer at CFS M/s. Speedy Multimode Pvt in the presence of Shri Ulhas Ramdas Gate, representative of Custom Broker and subsequently, instead of providing the information to the Customs department , the Custom Broker in collusion with exporter and forwarding agent had consciously attempted to export firecrackers and had approached the Dock examiner and AC/Docks to get the approval for back to town of the said cargo despite knowing the mis-declaration noticed by the Docks officers and not fulfilling the requisite compliance like authorization or license under Explosive Rules, 2008. Shri Ulhas Ramdas Gate being authorised representative of M/s Sadguru Logistics Pvt. Ltd had also voluntarily admitted to accept Rs. 10,000/- from exporter to help him in getting approval for Back to Town of the shipment. Therefore, The Customs Broker M/s Sadguru Logistics Pvt. Ltd had failed to advise his client to comply with the provisions of the Customs Act, 1962 and the Explosive Rules, 2008 and also indulged in illicit practises to get the approval for Back to town of the said shipment. Thus, it appears that, the CB M/s. Sadguru Logistics Pvt. (AAICS5382CCH002) has failed to comply with

the provisions of sub-regulation 10(b), 10(d), 10(e), 10(i) & 10(n) of the Custom Broker Licensing Regulations, 2018.

Role of Mr. Rehaan Shaikh

On the basis of his statements dated 18.01.2024, 11.06.2024 & 28.08.2024 recorded under section 108 of the Customs Act, 1962, and other rely upon documents, it appears that :

- (a) In his statement dated 11.06.2024, Mr. Rehaan Shaikh had voluntarily admitted to receive the exports document from his brother Mr. Rahman Shaikh and shared the necessary document like invoice, packing list, E-way bill to Mr. Sahil Shaikh for the export of small Paper pop. Further, he had communicated with and arranged the transporter (M/s. Pankaj Roadlines) with the help of Mr. Haroon Shaikh to bring the said consignment from M/s. Ruby fireworks, Vadodara to Speedy CFS, Uran; that Mr. Panakj Natha Ghewade owner of M/s. Pankaj Roadlines in his statement dated 02.09.2024 had also voluntarily disclosed that Mr. Rehaan Shaikh had made the booking for transportation through his phone number 9769907678 and also provided the container release order to Pankaj Roadlines through his whatsapp number 9769907678 . He had admitted to receive the instruction from his elder brother Mr. Rehmaan Shaikh to take the supply of the cargo from Vadodara from Ruby Fireworks and acted there upon accordingly. Mr. Ulhas Ramdas Gate, representative of Customs Broker in his statements dated 08.11.2023 & 10.11.2023 had disclosed/admitted that on instructions of Mr. Rehaan Shaikh , he along-with Mr. Faizaan Mohd. Surti and Mr. Rehaan Shaikh had visited the AC/Docks on 06.11.2023 and 07.11.2023 and Docks Examiner on 06.11.2023 to get the approval for Back to Town of the said consignment. Further, Mr. Rehaan Shaikh himself had admitted in his statement dated 11.06.2024 that he had visited the AC/Docks on 06.11.2023 and 07.11.2023 to get the approval for the BTT with help of Faizan Mohammed Aslam Surti and Ulhas Ramdas Gate despite knowing that the cargo is found to be mis-declared and the said visits of Mr. Rehaan Shaikh being actual owner of the goods, have also been corroborated by Mr. Faizaan Mohd. Surti in his statements.
- (b) Further, Mr. Sahil Nazir Shaikh, in his statement dated 10.11.2023, had also disclosed that Rehaan Shaikh is the financier and actual owner of the mis-declared goods covered under Shipping Bill No. 4769787 dated 19.10.2023 and only Rehaan Shaikh had procured the export order from Dubai. That Mr. Rehaan Shaikh had taken the IEC from Mr. Rohit Anand Bora on rental basis. Further, Mr. Sahil Nazir Shaikh in his statement dated 11.06.2024 had disclosed that the cargo was arranged in CFS by Mr. Rehaan Shaikh and Rehaan shaikh shared with me the vehicle number in which cargo was transported from Vadodara to Speedy CFS.
- (c) Mr. Haroon Sharapuddin Shaikh in his statement dated 06.05.2024 had disclosed that Mr. Rehmaan shaikh had assigned the transportation, container booking etc. to his younger brother Mr. Rehaan Shaikh. Mr. Rehaan Shaikh was in close contact with Mr. Sahil Shaikh in arranging IEC and CHA. Mr. Rehaan



Shaikh alongwith Faizan Mohammed Aslam Surti (forwarder) and Ulhas Ramdas Gate (Customs broker) had visited the Docks officer and AC Docks to get the approval for Back to town (BT) of the prohibited goods despite knowing the Prohibited goods cannot be allowed for back to town; that he further admitted that he got the money for getting back to town from his brother Mr. Rehman Iqbal Shaikh who is the actual importer of this cargo in Dubai. He had actively indulged in export of the prohibited goods ie. Firecrackers on the instructions of his elder brother Mr. Rehman Shaikh and Mr. Rehaan Shaikh is the actual beneficiary of the impugned cargo. Further statement of Mr. Haroon Sharapuddin Shaikh dated 12.06.2024 also reveals that Mr. Rehaan Shaikh had actively involved to arrange all the necessities required for the export of the impugned shipment.

- (d) Further, On the basis of a mail communication held with M/s Blue Marlin Shipping Line Pvt Ltd, it is established that Mr. Rehaan Shaikh through his firm's (Arden Logistics) account of ICICI bank having Account No. 040805004608 had made the payment for container booking. Mr. Rehaan Shaikh in his statement dated 28.08.2024 had also voluntarily accepted that the payment made against the container booking was made by his elder brother Mr. Rehman Shaikh at Dubai. Subsequent communications like container release from shipping line for loading of cargo and offloading the container after cancellation of export was made by him in India; that further, he voluntarily disclosed the payment made for the container booking was made by him through his saving bank account No. 50100020228150 (HDFC Bank). (RUD-33)
- (e) Further, in reasonable belief, that Mr. Rehaan Shaikh had knowingly, willingly and actively conspired and was involved in export of hazardous and prohibited fire-crackers in contraventions of Customs Act, 1962 & the Explosive Rule, 2008, the offence committed by Mr. Rehaan Shaikh falls in the category of non-bailable offences in terms of Section 104 of the Customs Act, 1962 read with CBIC Circular No. 13/2022-Customs dated 16.08.2022, an arrest was made against him on 03.09.2024 under the provisions of Section 132 and 135 of the Customs Act, 1962.

Therefore, it appears that, Mr. Rehaan Iqbal Shaikh, being the actual beneficiary of the said export shipment had actively and deliberately involved in outright smuggling of export of prohibited goods i.e., Firecrackers by way of misdeclaration, and without complying the necessary provisions laid down in the Explosive Rules, 2008 in order to export the goods covered under shipping bill no 4769787 dated 19.10.2023 which were seized under Section 110 of the Customs Act, 1962 being liable for confiscation under section 113 (d) & (h(i)) of the Customs Act, 1962. Thus, Mr. Rehaan Shaikh has committed a misconduct which have rendered himself liable to penalty under Section 114(i) and Section 114AA of the Customs Act, 1962.

Role of Mr. Faizaan Mohammad Aslam Surti

On the basis of his statements dated **08.11.2023, 10.11.2023 & 11.06.2024** recorded under section 108 of the Customs Act, 1962, and other rely upon documents, it appears that :

- (a) Mr. Faizaan Mohd. Asalm Surti in his statement dated 08.11.2023 had admitted that he had tried his best to meet AC/Docks along with Ulhas Gate and Rehaan Shaikh to get the approval for BTT despite knowing about mis-declaration noticed in the export shipment.
- (b) Further, Mr. Rehaan Shaikh had also admitted in his statement dated 11.06.2024 that he had visited the AC/Docks on 06.11.2023 and 07.11.2023 to get the approval for the BTT with help of Faizan Mohammed Aslam Surti and Ulhas Ramdas Gate despite knowing that the cargo is found to be mis-declared.
- (c) Further, the statements recorded on dated 08.11.2023 and 10.11.2023 of Mr. Ulhas Ramdas Gate, export manager of M/s. Sadguru Logistics Pvt Ltd. (Customs Broker) reveals that Mr. Faizaan Mohd. Asalm Surti being forwarder had assigned the export job to M/s. Sadguru Logistics Pvt Ltd. (Customs Broker), therefore Mr. Faizaan Mohd. Asalm Surti had arranged Customs clearance and actively indulged in negotiation with Customs officers to get the approval for BTT.
- (d) Statement of Mr. Sahil Nazir Shaekh dated 10.11.2023 reveals that Mr. Faizaan Mohd. Surti was aware of the firecrackers carted in the CFS prior to filing of said Shipping Bill No.4769787 dated 19.10.2023
- (e) Further, In reasonable belief, that Mr. Faizaan Mohd. Aslam Surti had knowingly, willingly and actively conspired and was involved in export of hazardous and prohibited fire-crackers in contraventions of Customs Act, 1962 & the Explosive Rule, 2008, the offence committed by Mr. Faizaan Mohd. Aslam Surti in the category of non- bailable offences in terms of Section 104 of the Customs Act, 1962 ibid read with CBIC Circular No. 13/2022-Customs dated 16.08.2022, an arrest was made against him on 03.09.2024 under the provisions of Section 132 and 135 of the Customs Act, 1962.

Therefore, it appears that, Mr. Faizaan Mohd Aslam Surti being forwarder had knowingly and intentionally involved in attempt to export of prohibited goods covered under Shipping Bill No. 4769787 dated 19.10.2023 and also tried his best efforts in getting the approval for Back to town despite knowing that the goods are mis-declared and liable to confiscation under Section 113 of the Customs Act, 1962. Thus, Mr. Faizaan Mohd Aslam Surti has committed misconduct which have rendered himself liable to penalty under Section 114(i) and Section 114AA of the Customs Act, 1962.

Role of Mr. Sahil Nazir Shaikh

On the basis of his statements dated **10.11.2023 & 11.06.2024** recorded under section 108 of the Customs Act, 1962, and other rely upon documents, it appears that:



- (a) Mr. Sahil Nazir Shaikh being forwarder received the job of export of goods covered under impugned SB No. 4769787 dated 19.10.2023 through Mr. Haroon Shaikh and further forwarded to Mr. Faizaan Mohd. Aslam Surti for Customs clearance and also arranged IEC of M/s. Rohit Enterprises with the help of one Mr. Raju Shriniwas Rao. It is pertinent to mention here that the IEC holder Mr. Rohit Anand Bora has found to be untraceable and fake so far. Further, Mr. Sahil Nazir Shekh in his statement dated 11.06.2024 had admitted to involve in conspiracy with Mr. Rehaan Shaikh, Mr. Haroon S. Shaikh, Mr. Faizaan Mohd. Aslam Surti in attempt to export the prohibited goods and getting the approval for back to town for the mis-declared goods which were seized under section 110 of the Customs Act, 1962 with reasonable belief that same are liable for confiscation under Section 113 of the Customs Act, 1962, thus, Mr. Sahil Nazir Shaikh has committed a misconduct which have rendered himself liable to penalty under Section 114(i) and Section 114AA of the Customs Act, 1962.

Role of Mr. Haroon Sharapuddin Shaikh

On the basis of his statements dated 06.05.2024, 30.05.2024, 12.06.2024 & 28.08.2024 recorded under section 108 of the Customs Act, 1962, and other rely upon documents, it appears that :

- (a) The statement of Mr. Haroon Sharapuddin Shaikh recorded on 12.06.2024 reveals that he had received a job of export of Small Paper Pop from one Mr. Rehmaan Shaikh based in Dubai and forwarded the same to Mr. Sahil Sekh for further arrangement of IEC and Customs clearance.
- (b) Investigation carried out in the matter reveals that Mr. Haroon Sharapuddin Shaikh was actively involved in arranging the transportation, forwarding agent and had also conspired with Mr. Rehaan Shaikh, Mr. Haroon S. Shaikh, Mr. Faizaan Mohd. Aslam Surti in getting the approval for BTT of the goods covered under SB No. 4769787 dated 19.10.2023.
- (c) Further, Mr. Sahil Nazir Shekh in his statement dated 11.06.2024 had disclosed that he alongwith Mr. Rehaan Shaikh, Mr. Haroon S. Shaikh, Mr. Faizaan Mohd. Aslam Surti had organised a meeting in his office at Belapur relating to attempt to export and getting the approval for back to town for the mis-declared goods covered under SB No. 4769787 dated 19.10.2023 which were further seized under section 110 of the Customs Act, 1962 with reasonable belief that same are prohibited goods in nature and liable to be confiscated under Section 113 of the Customs Act, 1962. Thus, Mr. Haroon S Shaikh has committed a misconduct which have rendered himself liable to penalty under Section 114(i) and Section 114AA of the Customs Act, 1962.

Role of Mr. Shriniwas Raju Rao

On the basis of his statements dated 10.11.2023 recorded under section 108 of the Customs Act, 1962, and other rely upon documents, it appears that :

- (a) Mr. Shriniwas Raju Rao in his statement dated 10.11.2023 had admitted arranging of IEC on rent for export of said shipment covered under Shipping Bill No.4769787 dated 19.10.2023 and also had visited the speedy CFS alongwith Mr. Sahil Nazir Shaikh on 28.10.2023 where he met officer to allow the back to town of the cargo and same fact is also corroborated by Mr. Sahil Nazir Sekh. Investigation in the instant matter reveals that IEC holder Mr. Rohit Anand Bora is a close friend of Mr. Raju Shriniwas Rao, had dishonoured all the 03 summonses issued to him and he has been found to be untraceable so far. It is pertinent to mention here that the IEC was arranged with the assistance of Mr. Raju Shriniwas Rao.

Therefore, it appears that Mr Shriniwas Raju Rao had intentionally and knowingly arranged a dummy IEC of M/s. Rohit Enterprises (GUWPB9797R) to export the prohibited goods ie. Firecrackers and further also made efforts in getting permission for BTT of the _mis-declared prohibited goods covered under SB No. 4769787 dated 19.10.2023 which were further seized under section 110 of the Customs Act, 1962 with reasonable belief that same are prohibited goods in nature and liable to be confiscated under Section 113 of the Customs Act, 1962. thus, Mr. Shriniwas Raju Rao has committed a misconduct which have rendered himself liable to penalty under Section 114(i) and Section 114AA of the Customs Act, 1962.

Role of Mr. Rehmaan Shaikh

Mr. Rehmaan Iqbal Shaikh has dishonoured all the 03 summonses issued to him. His younger brother Mr. Rehaan shaikh in his voluntary statement dated 11.06.2024 had disclosed that:

- (a) He had received all the document from his elder brother Mr. Rehmaan shaikh who is based in Dubai and an actual importer of the good covered under SB No. 4769787 dated 19.10.2023
- (b) He had received the money from his elder brother Mr. Rehmaan Shaikh to get the back town from Customs Officer.
- (c) That his brother Mr. Rehmaan Shaikh had made the payment against booking of the shipping line in Dubai.
- (d) Mr. Rahman Shaikh made payment for the said goods to supplier and told me to take supply from the Rubi fireworks, Vadodara

Further, statements of Mr. Haroon S Shaikh dated 30.05.2024 & 12.06.2024 recorded under section 108 of the Customs Act, 1962 reveals that:

- (a) Mr. Rehmaan Shaikh had contacted to Mr. Haroon S Shaikh for the export of goods covered under SB No. 4769787 dated 19.10.2023.
- (b) Mr. Rehmaan shaikh had discussed the back to town matter with Mr. Haroon S Shaikh to negotiate with Docks Officers.

Therefore, it appears that Mr. Rehmaan Shaikh being the actual beneficiary had conspired with his brother Mr. Rehaan Shaikh and another person Mr. Haroon S Shaikh to export the firecrackers by way of mis-declaring

them, thereby rendered the goods covered under SB No. 4769787 dated 19.10.2023 in prohibited goods which were further seized under section 110 of the Customs Act, 1962 with reasonable belief that same are liable to be confiscated under Section 113 of the Customs Act, 1962. Thus, Mr. Rehmaan Shaikh has committed a misconduct which have rendered himself liable to penalty under Section 114(i) and Section 114AA of the Customs Act, 1962.

CONCLUSION

12. In view of the above, may be concluded from the Investigation of CIU that;

“The goods covered under Shipping Bill No. 4769787 dated 19.10.2023 are liable for confiscation under sections 113(d), (e) & ((h)(i)) read with section 119 of the Customs Act, 1962.”

12(a) The exporter **M/s. Rohit Enterprises** (IEC-GUWPB9797R) for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered the exporter liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.

12(b) **Mr. Rohit Anand Bora**, Exporter (M/s. Rohit Anand Bora) for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.

12(c) The CB **M/s. Sadguru Logistics Pvt.** (11/1803, AAICS5382CCH002) has failed to comply with the provisions of sub-regulation 10(b), 10(d), 10(e), 10(i) & 10(n) of the **Custom Broker Licensing Regulations, 2018**, thereby, the Customs Broker M/s. Sadguru Logistics Pvt. Ltd. (CHA- No. 11/1803) is liable for penalty under **Regulation 18 of Custom Broker Licensing Regulations, 2018 and, Sections 114(i) & 114AA** of the Customs Act, 1962.

12(d) **Shri Ulhas Ramdas Gate**, being the Export manager of M/s. Sadguru Logistics Pvt., knowingly and intentionally made, signed and used the declarations for the purposes of seeking Customs clearance of the aforesaid mis-declared goods, which he knew or had reason to believe was false or incorrect. In view of the above, for his acts of omission and commission, **Shri. Ulhas Ramdas Gate**, has rendered himself liable to action/penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.

12(e) **Mr. Rehaan Iqbal Shaikh** for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962

Ans

- 12(f) **Mr. Rehmaan Iqbal Shaikh** for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.
- 12(g) **Mr. Faizaan Mohad. Aslam Surti** for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.
- 12(h) **Mr. Haroon S Sharapuddin Shaikh** for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.
- 12(i) **Mr. Sahil Nazir Shekh** for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.
- 12(j) **Mr. Shriniwas Raju** for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act has rendered him liable for penalty under **Sections 114(i) & 114AA** of the Customs Act, 1962.

13. Now therefore, the exporter **M/s. Rohit Enterprises (IEC- GUWPB9797R)** are hereby called upon to Show Cause to the Addl. Commissioner of Customs, CEAC, NS-II, JNCH, within 30 days of the receipt of this notice as to why,

i) the goods covered under Shipping Bill No. 4769787 dated 19.10.2023 should not be confiscated under Sections 113(d), (e) & ((h)(i)) read with section 119 of the Customs Act, 1962, and,

ii) for their act of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, declaring incorrect and false information in the transaction of any business for the purpose of this Act, penalty under Sections 114(i) & 114AA of the Customs Act, 1962, should not be imposed on M/s. Rohit Enterprises (IEC-GUWPB9797R).

14. Now therefore, the following persons namely, **Shri Rohit Anand Bora, Shri Ulhas Ramdas Gate, Mr. Rehaan Iqbal Shaikh, Mr. Rehmaan Iqbal Shaikh, Mr. Faizaan**

Mohad. Aslam Surti, Mr. Haroon S Sharapuddin Shaikh, Mr. Sahil Nazir Shekh, and Mr. Shriniwas Raju are hereby called upon to Show Cause to the Addl. Commissioner of Customs, CEAC, NS-II, JNCH, within 30 days of the receipt of this notice as to why, for their acts of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rule, 2008, penalty under Sections 114(i) & 114AA of the Customs Act, 1962, should not be imposed on them.

15. Now therefore, the CB M/s. **Sadguru Logistics Pvt.** (11/1803, AAICS5382CCH002), are hereby called upon to Show Cause to the Addl. Commissioner of Customs, CEAC, NS-II, JNCH, within 30 days of the receipt of this notice as to why, for failing to comply with the provisions of sub-regulation 10(b), 10(d), 10(e), 10(i) & 10(n) of the **Custom Broker Licensing Regulations, 2018**, for their acts of omission and commission, by way of knowingly and intentionally indulging into export of prohibited goods without required authorisation, Non-compliance with Explosives Rules, 2008, penalty under Sections 114(i) & 114AA of the Customs Act, 1962 should not be imposed on the CB M/s. Sadguru Logistics Pvt. (11/1803, AAICS5382CCH002),

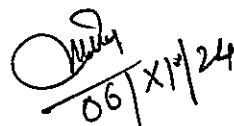
16. The Noticees are required to indicate specifically in their written reply as to whether they wish to be heard in person or through their representative by the Adjudicating authority.

17. If no reply is received within 30 days from the receipt of this show cause notice or if the noticees fail to appear before the adjudicating authority, whenever the case is posted for personal hearing, the case will be decided ex-parte without any further reference and on its merits.

18. This Show Cause Notice is issued without prejudice to any other action that may be taken in this regard under the Customs Act, 1962 and any other rules and regulations made there under or any other law for the time being in force.

21. The department reserves the right to issue corrigendum, supplement or amendment to this notice on the basis of further evidence found, if any.

Encl: List of RUD's: As per Annexure-"A"



(MALLINATH K. JEURE)
ADDITIONAL COMMISSIONER OF CUSTOMS,
CEAC, NS-II COMMISSIONERATE, JNCH

To,

1. **M/s. Rohit Enterprises** (IEC-GUWPB9797R), Email: rohitanandenterprises2023@gmail.com
2. **Mr. Rohit Anand Bora**, Email: rohitanandenterprises2023@gmail.com
3. **Shri Ulhas Ramdas Gate**, Mob: 9867069998, Email: ulhas.apcargo@gmail.com, Add: E-1/3, B-4, Sanjiani CHS, Near Manak Hospital, Sector-8, Nerul, Navi Mumbai, Nerul Node-III, Thane, Maharashtra – 400 706

4. Mr. Rehaan Iqbal Shaikh, Mob: 9769907678, Email: rehaansk@rediffmail.com, Add: House No. 1, First Floor, Room No.16, Waroda Road, Next to KCA Hostel Sayyed Wadi, Bandra (W), Mumbai Maharashtra - 400 050
5. Mr. Rehmaan Iqbal Shaikh,
6. Mr. Faizaan Mohad. Aslam Surti, Mob: 8655861868, Email: shipjacshippingnlogistics@gmail.com, Add: 151/4141 Prabhat CHS, Vallabh Baugh ex-Lane, Near Sunil Restaurant, New Pant Nagar, Ghatkopar East, Mumbai, Maharashtra - 400 075
7. Mr. Haroon S Sharapuddin Shaikh, Mob: 9819822900, Email: haroonshaikh121212@gmail.com, Add: 2904, Dosti Planet North, Ruby B Wing, Mumbai Pune Road, Thane, Maharashtra - 400 612
8. Mr. Sahil Nazir Shekh, Mob: 8291640981, Add: Flat No. 1201, D Wing, Panchnand Height, Plot No. 15/18, Near Union Bank, Sector 9, Taloja Phase 1, Taloja, Raigarh, Maharashtra - 410 208
9. Mr. Shrinivas Raju, Mob: 7977247394, Add: A/204, Singhad Society, Bellisis Road, Opp. Fish Market, Tulsiwadi, Mumbai, Maharashtra - 400 034
10. CB M/s. Sadguru Logistics Pvt. (11/1803, AAICS5382CCH002), Email: sadgurulogistics2013@gmail.com, Add: Office NO 111, Bhumi Mall, CBD Belapur, Plot NO 9 Sector 15, Navi Mumbai, Maharashtra 400614

Copy to:

1. The Deputy Commissioner of Customs, CIU, JNCH.
2. The Assistant Commissioner of Customs, CEAC, NS-II, JNCH.
3. The Assistant/ Deputy Commissioner of Customs, CB Section, NCH Mumbai
4. The Assistant/ Deputy Commissioner of Customs, CB Section, Chennai Customs
5. The Assistant Commissioner of Customs, NS-V, JNCH.
6. Master File


(MALLINATH K. JEURE)
ADDITIONAL COMMISSIONER OF CUSTOMS,
CEAC, NS-II COMMISSIONERATE, JNCH

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