

 <p>सत्यमेव जयते</p>	<p>भारत सरकार / Government of India वित्तमंत्रालय / Ministry of Finance आयुक्त सीमाशुल्क एन.एस.-II कार्यालय Office of Commissioner of Customs NS-II जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा, जिला- रायगढ़, महाराष्ट्र - 400 707 Jawaharlal Nehru Custom House, Nhava Sheva, Dist- Raigad, Maharashtra - 400 707.</p>	
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F.No. CUS/ASS/MISC/934/2024-CEAC
F.No. CUS/SIIB/ALT/427/2024-SIIB(E)

Date of SCN: 13 .02.2026
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SCN NO.: 2015/2025-26/AD/CEAC/NS-II/CAC/JNCH
DIN NO.: 20260278NT0000000DE0F

Show Cause Notice issued under section 124 of the Customs Act, 1962.

On the basis of Specific Intelligence, regarding Export of suspicious consignment of M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) covered under Shipping Bill No. 2562972 dated 20.07.2024 (hereinafter referred to as "Shipping Bill") **(RUD-I)** filed through their Customs Broker M/s. Indo- Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) at JWR CFS, the goods covered in the Shipping Bill No. 2562972 dated 20.07.2024 were declared as "COTTON GREY FABRICS", were put on hold vide Hold No. 46/2024-25 SIIB(X) dated 29.07.2024 issued vide even No. for Examination of the same as the supply chain of the Exporter appeared to be fake/manipulated and the declared value of the goods appeared to be very highly overvalued and mis-declared to avail illegitimate claim of drawback and other Export incentives. Hence the case was taken up by this unit for detailed investigation.

2. M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) having its office at OFFICE NO. 502 FLOOR 5 ALIS CHAMBERS, SAHAR CARGO ROAD, Andheri East, MUMBAI, MUMBAI SUBURBAN, MAHARASHTRA, 400069 has filed the following Shipping Bill for Export of following items destined to UAE. The details are as under;

TABLE-I

SB No./ Date	Description	Quantity (PCS)	FOB (INR)	DBK (INR)	RoDTEP (INR)	RoDTEP (INR)	IGST
2562972 dated 20.07.2024	Cotton Grey Fabrics	38218	₹ 47,09,336.61	₹ 1,03,816.20	₹ 0.00	₹ 1,29,941.20	LUT
TOTAL		38218	₹ 47,09,336.61	₹ 1,03,816.20	₹ 0.00	₹ 1,29,941.20	LUT

3. Consequently, the subject goods pertaining to Shipping Bill No. 2562972 dated 20.07.2024 were examined 100% vide Panchanama dated 29.07.2024 **(RUD-II)** in the presence of two independent Panchas, Representatives of Customs Broker and Exporter. During the Examination,

the subject goods were found as declared in the said Shipping Bill, their corresponding Invoices and Packing Lists w.r.t. declared quantity and description. However, it appeared that the valuation of the goods covered in above said Shipping Bill is overvalued. Representative Sealed Samples (RSS) of the goods from the Shipping Bill was drawn for the purpose of further investigation.

4. Further, letter dated 01.08.2024 was forwarded to DYCC, JNCH along with RSS for testing in order to determine exact characteristics, nature and composition of the subject goods. DYCC tested the RSS and forwarded the test Reports vide DYCC Reports No. 612/SIIB(X) dated 28.08.2024 (**RUD-III**). The details of test report are as under:

Item No	Item Description	RITC	DYCC Test Report
1	Cotton GREY Fabrics	52081190	Report:- The sample as received is in the form of a cuffpiece of white knitted fabric. It is composed of polyester filament yarns along with spandex yarn. Percentage composition = Polyester = 92.3 % Spandex = Balance GSM = 171.9

As per the DYCC Test Report, the sample is a cuff piece of white knitted fabric composed predominantly of polyester yarns (92.3%) with the balance being spandex. The GSM of the fabric is recorded at 171.9. The absence of cotton content renders classification under Chapter 52 (specifically HS Code 5208 11 90) inapplicable. Therefore, in line with established trade practices such fabric is appropriately classifiable under HS Code 5513 11 10 (Woven fabrics of synthetic staple fibers, containing 85% or more by weight of such fibers, unbleached or bleached). The presence of spandex, an elastomeric filament, does not influence the essential character for tariff classification as only 6.7% spandex is present.

Hence, the RITC code, Drawback Code, and corresponding incentive rates have been revised as indicated in the table below.

Item No	Item Description	DECLARED				REDETERMINED			
		RITC	Drawback	Rate per Kg.	RODTEP RATE	RITC	Drawback	Rate per Kg.	RODTEP RATE
1	Cotton GREY Fabrics	52081190	520801B	2.5	4.3	55131110	551301B	2.3	2.4

5. Re-determination of Valuation

5.1 As per Rule 3(3) *ibid*, since the value of the impugned goods could not be determined under the Provisions of Sub Rule (1), the value was to be re- determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.2 As the Export goods were not standard goods, the Export data in Export Commodity Data Base (ECDB) could not be used for comparing

price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the subject goods were not identified specifically with any brand, mark, style and other specifications, the goods of like kind and quality Exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods cannot be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.3 The Exporter has neither produced any cost of production details, manufacturing or processing of Export details and correct transport 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 cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.4 As the Provisions of Rule 4 & 5 *ibid*, are not applicable in the instant case, the value of the goods is required to be determined under the Provisions of Rule 6 of the CVR 2007. Rule 6 of the said Rules reads as under:-

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”.

As per the Provisions of Rule 6 *ibid*, the assessable value of the goods is proposed to be re-determined under Rule 6 *ibid*, i.e. as per the Residual Method. Accordingly, Market Survey was conducted by the officers of SIIB (Export) on 31.07.2024.

Value of the goods was taken from 3 different shops/dealers and average of their prices was taken as Market value of the same. The details of the determination of the value is summarized in the Market Survey Report dated 31.07.2024.

6. To ascertain prevailing Market Value of the goods, the Market Enquiry of the goods covered under the subject Shipping Bill was required to be conducted, therefore the SIIB(X) had requested to the Exporter to represent them during the said Market Enquiry. The Market Enquiry was conducted on 31.07.2024 (**RUD-IV**) along with Authorized Representative of the Exporter. As per the Market Enquiry the value of the goods has been re-determined and accordingly the Export incentives have been re-determined. On the basis of Panchanama dated 29.07.2024

and Market Enquiry Report dated 31.07.2024, it is observed that the subject goods have been mis-declared in terms of valuation. The re-determined FOB value of the goods and corresponding Export incentives under the Shipping Bill would be as below:

Table II

Sl No	S/B no & Date	Description	Quantity (PCS)	Declared			Re-determined		
				FOB (INR)	Drawback (INR)	RODTEP	FOB	Drawback	RODTEP
1	2562972 dated 20.07.2024								
		Cotton GREY Fabrics	38218	₹ 47,09,336.61	₹ 1,03,816.20	₹ 1,29,941.20	₹ 29,53,106.69	₹ 45,815.60	₹ 70874.56

Table-III

Re-determined FOB (in Rs.)	Differential Drawback (in Rs.)	Differential RODTEP	Total excess Export benefits (in Rs.)
₹ 29,53,106.69	₹ 58,000.60	₹ 59,066.64	₹ 1,17,067.24

As can be seen from the Table above, based on the Report received by the DYCC, JNCH and Market Enquiry conducted on 31.07.2024, it appears that the goods declared by the Exporter in the Shipping Bill No. 2562972 dated 20.07.2024 have been mis-declared in terms of their RITC, Drawback & RoDTEP Sr. No. and valuation. The value of the goods has been re-determined based on the Market Enquiry Report dated 31.07.2024. The Export incentive such as drawback & RoDTEP are therefore to be re-determined with respect to the new re-determined FOB of the goods as mentioned in the Table above. Hence, the declared value i.e. Rs. 47,09,336.61 appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the Provisions of the said Rules. For the purpose of Customs Tariff Act, 1975, valuation of Export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the Provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of value of Export Goods) Rules, 2007. Prima facie on Examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the CVR and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. In the instant case, the Exporter is Merchant Exporter and hence, transaction value of the impugned goods under Export could not be determined under Rule 4 & 5 of the Customs

Valuation Rules, 2007. Hence the value of all the items could be ascertained from the wholesale Market.

7.Past Exports:

In order to investigate past consignments, the data was retrieved from the date of issuance of IEC i.e. 25.04.2024 till 30.04.2025 for Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C). However, the Exporter had filed a total No. of 04 Shipping Bills only in past. During further investigation, ICES data was scrutinized, on perusal of the past Export data, no foreign remittance has been received as per FEMA regulations. The details of the Shipping Bill are as under where no BRC/foreign remittance has been realized yet against this IEC.

Table-IV

Sr. No.	SB No.	SB Date	LEO Date	Expected Realization Date	Drawback Amount (in INR)	RoDTEP	FOB to be Realised (In FC)	FOB actually Realised
1	2099253	01-Jul-24	03-07-2024	30-04-2025	2,883	34560	23,266	0
2	2181810	04-Jul-24	06-07-2024	30-04-2025	1,534	17280	12,379	12,322
3	2446642	16-Jul-24	18-07-2024	30-04-2025	96,358	106349	46,606	0
4	2447977	16-Jul-24	18-07-2024	30-04-2025	85,754	109462	47,970	0
GRAND TOTAL					1,86,529	2,67,651	2,40,025 (in FC)	12,322

As the prescribed timeline for realization of foreign remittance is 09 months as per RBI Master Circular No.14/2014-15 dated 01.07.2014, which states," it has been decided in consultation with the Government of India that the period of realization and repatriation of Export proceeds shall be nine months from the date of Export for all Exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs & BTPs until further notice. As per Table-IV, there are 03 Shipping Bills mentioned at SR. No. 1,3 & 4 in the above table for which FOB has not been realized despite completion of expected realization time period as mandated by RBI. Accordingly, the Drawback is liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bills mentioned in Table-IV under Section 75 and 75A of the Customs Act 1962 read with Rule 17 &18 of the drawback Rules, 2017 along with applicable interest. Also, RoDTEP are liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bills mentioned in Table-IV in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of

the Customs Act, 1962. Total drawback claimed in 03 Shipping Bills mentioned at Sr. No. 1,3 & 4 in the above table in which FOB not realized despite completion of time period is Rs. 1,84,995/-, RoDTEP claimed is Rs. 2,50,371/-.

8. Further, an alert to withhold the Export incentives against the Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) was inserted during the investigation.

9. The exporter, vide letter dated 01.08.2024, requested for release of the goods for export. In this connection, NOC dated 05.08.2024 was issued to CEAC Section (RUD-V) for provisional release of the export goods. The provisional release was granted subject to execution of Bond and Bank Guarantee. Accordingly, the exporter has submitted a Bond amounting to Rs. 47,15,031/- (Rupees Forty Seven Lakh Fifteen Thousand Thirty One only) along with a Bank Guarantee of Rs. 1,00,000/- (Rupees One Lakh only), deposited vide Cash Challan No. 250 dated 05.09.2024.

10. Further, letters dated 30.09.2024, 22.10.2024, 07.11.2024 and 10.12.2024 were also sent Division-IV (Chakan), Pune Commissionerate, old jurisdictional CGST Commissionerate and letters dated 30.09.2024, 22.10.2024, 07.11.2024 and 05.12.2024 were also sent to Division-VI, Mumbai East Commissionerate, New Jurisdictional CGST to verify genuineness of the Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (GSTIN-27AACCW4770C1ZD). However, No reply in this regard is received by the SIIB(X).

SUMMONS & STATEMENT

11. Further, in order to record the statement of M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C), under section 108 of Customs Act, 1962 04 Summonses have been issued vide DIN-20241078NT000000D799 dated 28.10.2024 to appear on 18.11.2024, DIN- 20241278NT000000B75D dated 02.12.2024 to appear on 16.12.2024, DIN- 20241278NT000000F9E2 dated 17.12.2024 to appear on 02.01.2025 & DIN-20250178NT000000F3F9 dated 06.01.2025 to appear on 10.01.2025 (**RUD-VI**) in the name of M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) to appear before the office of SIIB(X), 6th floor, C-604, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, Dist: Raigad, Maharashtra-400707 u/s Section 108 of the Customs Act, 1962. However, the summonses sent via speed post returned to the SIIB(X) with the remark that the '**Item returned due to insufficient address & Addressee left without instruction**'. Also, Summonses have been sent through the e-mail address provided by the exporter in their official correspondence with this office. In respect of Summons issued vide DIN-

20241278NT000000B75D dated 02.12.2024 after getting information from the CB, **Mr. Vishal Nathuram Shinde**, Director of M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) present himself for recording of the statement on **27.02.2025**, wherein he inter-alia stated that;

(I) On being asked to provide a brief description of the firm and confirm authorization to record the statement, he stated that M/s. Waza Automation Private Limited is located at WAZA AUTOMATION PRIVATE LIMITED, OFFICE NO 502, FLOOR 5, ALIS CHAMBERS, SAHAR CARGO ROAD, ANDHERI EAST, MUMBAI, MAHARASHTRA, 400069. He further stated that the firm is a merchant exporter engaged in the trading of fabrics and that, as Director, he is fully authorized to provide a statement in this regard.

(II) On being asked whether the firm files GST returns regularly, he stated that GST returns are filed regularly.

(III) On being asked to provide copies of GSTR-1, 2A, and 3B to support this claim, he submitted GSTR-3B from April 2024 to January 2025 but stated that **GSTR- 1 and GSTR-2B were not readily available.**

(IV) On being asked whether Shipping Bill No. 2562972 dated 20.07.2024 was filed by the firm, he confirmed that the said shipping bill was filed through their customs broker, M/s Indo Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484).

(V) On being asked how he contacted the CHA and whether he knew any person from M/s Indo Foreign (Agents) Pvt. Ltd., he stated that he knew Mr. Gabaji Mahadu Gunjal, a G-card holder of the CHA, who is a friend of his cousin.

On being asked whether anyone from M/s Indo Foreign (Agents) Pvt. Ltd. visited the place of business before filing the shipping bills, he stated that the required documents for KYC were provided to the CHA, **but no one physically visited for verification.**

(VI) On being asked whether he agreed with the examination of goods conducted under panchnama dated 29.07.2024 and whether he was present at the time of examination, he stated that he agreed with the examination and that his authorized representative, Mr. Gabaji Mahadu Gunjal, was present during the Panchnama proceedings.

(VII) On being asked why it should not be construed that the goods were mis-declared to avail undue export benefits, he acknowledged the

findings in the DYCC report but clarified that the mis-declaration was unintentional, as the goods were declared without proper verification after receiving them from the supplier.

(VIII) On being asked about the supplier of goods in the mentioned shipping bills, he stated that the **goods were procured from the local market and different shops.**

(IX) On being asked whether he was the actual owner of the goods or merely acting as a frontman, he stated that, as the Director of the firm, he is the actual owner of the goods.

(X) On being asked to provide financial evidence to support this claim, he stated that **he would submit financial bank statements and ITR within three days.**

(XI) On being asked to provide purchase invoices and details of payments made to the supplier, he stated that **no purchase invoices were available as the goods were procured from multiple shops in the local market, and no proof of payment to the supplier was available.**

(XII) On being asked to explain why the consignment was destined for risky countries, he stated that foreign buyers contact the firm through online marketing, and goods are sent as per their demand.

(XIII) On being asked why it should not be construed that the firm has an improper supply chain and procured goods without paying proper taxes, he reiterated that the goods were procured from different shops in the local market, and as such, he did not have any invoices.

(XIV) On being asked about the market enquiry conducted on 31.07.2024 in the presence of his authorized representative, which revealed overvaluation of goods to avail undue export benefits, he acknowledged the findings and took responsibility for declaring the valuation. However, he clarified that the overvaluation was an unintentional error, and the lower quality of goods supplied by their suppliers contributed to the overvaluation.

(XV) On being asked whether the firm had exported goods under any previous shipping bills, he stated that goods had been exported under five shipping bills in the past.

(XVI) On being asked about the payment terms with the foreign buyer and whether any payment had been received in past exports, he stated that the payment terms were 180 days, but no payment had been

received from the foreign buyer. He further stated that he remained in constant contact with the buyer and was pursuing the payment.

(XVII) On being asked to explain the lack of payment by the foreign buyer, he reiterated that no payment had been received, but the buyer had assured that payment would be made as soon as possible.

(XVIII) On being asked whether he was aware that the RBI guideline prescribes a time limit of nine months for receiving foreign remittance, he stated that he was aware and that the foreign buyer had assured payment within the prescribed time. He also assured that if the payment was not received, he would return the export incentives to the department.

(XIX) On being asked about past summons that were returned by India Post with the remark "Insufficient Address" and whether the firm was operational at the declared place of business, he stated that exports were discontinued due to non-payment by buyers, leading to financial losses. **He further stated that the address recorded in official documents was incorrect, which may have resulted in the summons not being delivered.**

(XX) On being asked why the GST verification of the firm had not been received despite multiple reminders, he reiterated that he had ceased export operations due to financial losses and that **the place of business was no longer operational.**

(XXI) On being asked how he became aware of the summons despite not receiving them, he stated that he was informed by the CB firm.

(XXII) On being asked whether he had ever been penalized by Customs, GST, or any other government agencies in the past, he stated that the firm had never been penalized by any government agencies.

(XXIII) On being asked if he had anything further to state, he stated that he had nothing else to add.

Further, on receipt of spot Summons CBIC-DIN-20250278NT00003303D9 dated 04.02.2025 to appear on 04.02.2025, Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) presented himself for the recording of the Statement under section 108 of the Customs Act, 1962 on 04.02.2025 (**RUD- VII**) wherein he inter-alia stated that;

(XXIV) On being asked whether he knew why he had been summoned

and whether he was the authorized person on behalf of CB M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484), he replied that he had appeared in response to the summons dated 04.02.2025, in relation to the export through JNPT by M/s. Waza Automation Private Limited (IEC AACCW4770C). He stated that he was the authorized person, holding a G-Card, to give a statement before Customs on behalf of the CB firm.

(XXV) On being asked about his job profile in the CB firm and whether he had been authorized to give a statement, he stated that he was a G-Card Holder with power of attorney in CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484). He mentioned that he supervised all work pertaining to exports and was fully authorized to give a statement.

On being asked who handled the documentation work in the CB firm, he stated that the documentation work was handled by him along with his subordinate staff.

(XXVI) On being asked about the procedure followed during the filing of a Shipping Bill, he stated that exporters were verbally guided to send all necessary documents as per the exporting commodity through email. It was also asked whether they intended to claim export benefits. After receiving the documents, a checklist was created, which was then sent to the exporter for approval. Once the approval was received, the Shipping Bill was filed on behalf of the exporter on ICEGATE.

On being asked about the duration of his employment and the existence of the CB firm in the Customs Broker business, he stated that he had been an employee of the firm for the last sixteen years and that the firm had been in the business for the same period.

(XXVII) On being asked whether Shipping Bill No. 2562972 dated 20.07.2024 was filed on behalf of the exporter M/s. Waza Automation Private Limited (IEC AACCW4770C), he stated that the mentioned Shipping Bill was filed by his subordinates under his supervision.

(XXVIII) On being asked how the shipment from M/s. Waza Automation Private Limited (IEC AACCW4770C) was received, he stated that the order was received through the official email of the exporter. Since the exporter was a new client, all documents related to Customs clearance were thoroughly checked before filing.

(XXIX) On being asked whether he was aware of the case booked against the exporter for misdeclaration, especially regarding value, he stated that he was aware of the case and that during the market enquiry, the goods were found to be overvalued.

(XXX) On being asked how contact with the exporter was established, he stated that the exporter was introduced through a forwarder friend.

(XXXI) On being asked whether the KYC of the exporter was available, he stated that the KYC was verified online for every transaction. The exporter held a valid IEC issued by DGFT, and the KYC documents were verified through the DGFT website as per CBLR 2018, with signed/certified copies being maintained.

On being asked about the charges for clearance of goods, he stated that Rs. 1500/- per export shipment was charged as agency fees.

(XXXII) On being asked whether the address of M/s. Waza Automation Private Limited (IEC AACCW4770C) had been verified, **he stated that the verification had been conducted at the time of KYC before the filing of Shipping Bills.**

On being asked whether any documentary evidence could be provided regarding the address verification, **he stated that no documentary evidence was readily available.**

(XXXIII) On being asked about the duration for which the export clearance of M/s. Waza Automation Private Limited (IEC AACCW4770C) was handled, he stated that this was the fourth shipment of the exporter through their CB firm.

(XXXIV) On being shown the summons issued under Section 108 of the Customs Act, 1962, to the exporter, and being informed that no one had appeared before the office to date, he was asked to explain the reason for the non-appearance. He stated that there had been no contact with the exporter for a considerable period and, therefore, he was unaware of the reason for their non-appearance.

(XXXV) On being informed that, as per the investigation, the goods had been misclassified, and that under CBLR 2018, it was the responsibility of the Customs Broker to classify goods correctly, he stated that classification was done based on the documents provided by the exporter. Furthermore, after the preparation of the checklist, it was sent to the exporter for verification, and only after their approval was the Shipping Bill filed.

(XXXVI) On being asked whether the exporter's company was still in existence and his opinion regarding the exporter not responding to summons, he stated that there had been no recent contact with the exporter. The documents were filed as per the classification provided by the exporter, without any violation of the existing export policy, and in

adherence to CBLR 2018.

(XXXVII) On being informed that the investigation revealed overvaluation of goods, he was asked for his comments. He stated that the valuation was based on the invoices submitted by the exporter. Once the checklist was prepared, it was forwarded to the exporter for verification, and upon confirmation, the Shipping Bill was filed accordingly.

(XXXVIII) On being asked whether he could provide the tax invoice for the transaction, he stated that the tax invoice was not readily available.

(XXXIX) On being asked whether there was any suspicion that the proprietor/exporter might be a frontman and someone else was the actual owner financing such activities, he stated that there was never any such suspicion. **As a Customs Broker, exporter credentials were verified, and KYC verification was conducted as per CBLR 2018.**

(XL) On being asked about compliance with Regulation 10 of CBLR, 2018, regarding advising clients to comply with relevant laws and reporting non-compliance to Customs authorities, he stated that physical verification of the exporter's premises/addresses was conducted. The exporter had informed that the goods covered under Shipping Bill No. 2562972 dated 20.07.2024 were procured locally for export, and the Shipping Bill was filed based on the KYC documents.

(XLI) On being asked whether any documentary evidence, such as a tax invoice, could be provided for the locally procured goods, he stated that no such documentary evidence was available.

(XLII) On being asked why it should not be considered that he was aware of the misdeclaration by the exporter regarding the non-existent supply chain, he stated that the Shipping Bills were filed based on the documents provided by the exporter, including KYC documents, invoices, and packing lists. During examination, the goods were found to match the declared quantity and description. He stated that there was no knowledge regarding the supply chain or violations under the GST Act.

(XLIII) On being asked whether the CB firm or the exporter had been penalized by any government agency, he stated that to his knowledge, neither the CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484) (CHA License No. 11/2708) nor the exporter had been penalized as of that

date.

(XLIV) On being asked whether he had anything more to add, he stated that the CB firm was a genuine Customs Broker with a presence across India, diligently handling export shipments. He asserted that they would continue to cooperate with Customs authorities in the ongoing investigation.

13. RELEVANT LEGAL PROVISIONS

A. Customs Act, 1962

Section 2(30): Market price in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.

Section 50: Entry of goods for Exportation. -

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

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

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

(3) The Exporter who presents a Shipping Bill or bill of Export under this section shall ensure the following, namely:-

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

SECTION 113(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, shall be liable to confiscation;

Section 113(ia): Any goods entered for Exportation under claim for drawback which do not correspond in any material particular with any information furnished by the Exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75, shall be liable to confiscation;

Section 113(ja): any goods entered for Exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the Provisions of this Act or any other law for the time being in force;

Section 114(iii): Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, in the case of any other goods, to a penalty not exceeding the value of the goods as declared by the Exporter or the value as determined under this Act, whichever is the greater;

114AA. Penalty for use of false and incorrect material. -

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

Section 114AC: Penalty for fraudulent utilisation of input tax credit for claiming refund. -

Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for Exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

[114AB. Penalty for obtaining instrument by fraud, etc.—Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

Explanation.—For the purposes of this section, the expression "instrument" shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.]

Section 28AAA. Recovery of duties in certain cases.—(1) Where an instrument issued to a person has been obtained by him by means of-

- (a) collusion; or
- (b) willful mis-statement; or
- (c) Suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilized under the Provisions of this Act or the Rules or regulations made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relating to such utilization of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

Section 28AA of the Customs Act, 1962 Interest on delayed payment of duty-

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other Provision of this Act or the Rules made there under, the person, who is liable to pay duty in accordance with the Provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section

(2), whether such payment is made voluntarily or after determination of the duty under that section.

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

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

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

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

Section 75A(2) of Customs Act, 1962: Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the Rules made there under, the claimant shall, within a period of two months from the date of demand, pay in

addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

A. Customs and Central Excise Duties Drawback Rules, 2017.

Rule 17: Repayment of erroneous or excess payment of drawback and interest.-Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962.

Rule 18 (1): Where an amount of drawback has been paid to an Exporter or a person utilized by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such Export goods have not been utilized by or on behalf of the Exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-Rule (5), be recovered .

Customs Brokers Licensing Regulations, 2018:

10. Obligations of Customs Broker.— A Customs Broker shall —
(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;

Foreign Trade (Development and Regulation) Act, 1992.

Section 11:(1) 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 foreign trade policy for the time being in force.

Foreign Trade (Regulation) Rules, 1993

Rule 11: On the importation into, or Exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of Exportation of goods, certify that the quality and specification 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 declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

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

14. M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) having its registered office address at OFFICE NO. 502 FLOOR 5 ALIS CHAMBERS, SAHAR CARGO ROAD, Andheri East, MUMBAI, MUMBAI SUBURBAN, MAHARASHTRA, 400069 had filed Shipping Bill No. 2562972 dated 20.07.2024 through their Customs Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484). The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 29,53,106.69 as against the declared FOB value of Rs. 47,09,336.61. By inflating the FOB value, the Exporter was attempting to claim Drawback of Rs. 1,03,816.20 and RoDTEP of Rs. 1,29,941.20 whereas they were eligible for Drawback of Rs. 45,815.60 and RoDTEP of Rs. 70,874.56 respectively. (as tabulated in Table-II above).

14.2 As can be seen from the Table-II above, based on the Market Enquiry conducted on 31.07.2024, it appears that the goods declared by the Exporter in the Shipping Bill No. 2562972 dated 20.07.2024 have been mis-declared in terms of their RITC, Drawback & RoDTEP Sr. No. and valuation. During the Market Enquiry it was found that the value of the goods filed under the said Shipping Bill were inflated and hence needed to be re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The Export incentive such as drawback & RoDTEP are therefore re-determined with respect to the re-determined FOB as mentioned in the Table-II above. It is thus cogent and clear that the Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) had (i) mis-declared the impugned goods in terms of their RITC, Drawback & RoDTEP Sr. No. and valuation (ii) attempted to defraud the Government by claiming undue higher amount of Drawback and RODTEP and thereby acted in a manner which rendered the said goods under Table-I above liable for confiscation in terms of the Provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962 respectively.

14.3 The Exporter has violated the Provisions of Rule 11 of the Foreign Trade (Regulations), 1993 in as much, as they did not make a correct declaration of value and description of the goods in the Shipping Bill filed by them to the Customs authorities.

14.4 As the Exporter had not made declaration truthfully in the said Shipping Bill, they have violated the conditions of Section 50(2) of the

Customs Act, 1962. Hence, it appears that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods, on the part of the Exporter with mala-fide intention to claim undue Export benefits not legitimately payable to them. The Exporter had declared the FOB value in the Shipping Bill as Rs. 47,09,336.61 whereas the re-determined FOB value after conducting the Market Survey was Rs. 29,53,106.69 only and hence higher Drawback & RoDTEP and other Export incentives were attempted to be claimed. Thus, it appeared that the said goods were attempted to be Exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as Exporter had furnished wrong declaration to the Custom Authorities.

14.5 As the goods were attempted to be Exported by mis-declaration for which confiscation is proposed. However, the drawback & RoDTEP claim in the live Shipping Bill as mentioned in Table-I is not demanded since the goods were Exported without disbursing the Export incentives to the Exporter.

14.6 The description of the goods was not found in consonance with the Exporter's declaration with respect to value, as the Exporter had overvalued the goods on the basis of fake invoices. Hence, the declared value appeared to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

14.7 Accordingly, as per Rule 3 (3) *ibid*, since the value of the impugned goods could not be determined under the Provisions of Sub Rule (1), the value was to be re-determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

14.8 As the Export goods were not standard goods, the Export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the goods of like kind and quality Exported cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods could not be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

14.9 The Exporter has neither produced any cost of production details, manufacturing or processing of Export details and correct transport 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.

14.10 The value of the impugned goods is, therefore, proposed to be re-determined under the residual Rule 6 of CVR (Export) Rules, 2007. This Rule stipulates that 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. Therefore, in order to arrive at the correct value of the impugned goods the same was required to be done on the basis of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, the total value of the goods has been re-determined from Rs. 47,09,336.61 to Rs. 29,53,106.69 as per the DYCC Reports and Market Enquiry conducted of the subject goods.

14.11 With respect to the Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C), the SIIB(X) sent 04 letters dated 30.09.2024, 22.10.2024, 07.11.2024 and 10.12.2024 were also sent Division-IV (Chakan), Pune Commissionerate, old jurisdictional CGST Commissionerate and letters dated 30.09.2024, 22.10.2024, 07.11.2024 and 05.12.2024 were also sent to Division-VI, Mumbai East Commissionerate, New Jurisdictional CGST to verify genuineness of the Exporter but till date no reply is received from the jurisdictional GST Authority by any means of communication. Also, 04 Summonses to the Exporter have been dispatched to Exporter's address mentioned in the IEC by the SIIB(X). However, the summonses sent via speed post returned to the SIIB(X) with the remark that the 'Item returned due to **insufficient address & Addressee left without instructions.**' Also, Exporter in his statement submitted that the PPOB was non-operation at that time. Hence, from the above facts, it appears that the Exporter is **non-existent** at the PPOB. Also, Summonses have been sent through the e-mail address provided by the Exporter in their official correspondence with the SIIB(X). Exporter in his statement stated that the goods were procured from the local market and different shops and no purchase invoices were available as the goods were procured from multiple shops in the local market, and no proof of payment to the supplier was available with them. Thus, from the above facts, it appears that the Exporter is a fly by night operator/Paper-based firm and was established only to Export inferior goods to claim higher export incentives. Therefore, it appears that the Exporter connived with their supplier to obtain invoice by fraud and collusion to utilize input tax credit on the basis of such invoice for discharging tax on goods which have been entered for exportation under the Shipping Bill filed by them.

It further appears that the Exporter M/s. WAZA AUTOMATION

PRIVATE LIMITED (AACCW4770C) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration in terms of value of the impugned goods. The Exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with malafide intent to avail undue/excess export benefits in form of Drawback, RoDTEP and other export benefits. Therefore, the Exporter also liable for penalty u/s 114 AA of Customs Act, 1962 for this intentional mis- declaration. Further, the Exporter appears to be non-existent and non-genuine. Thus, the ITC claimed appears wrongly claimed and claimed by fraud etc. and, hence the Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) have rendered themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962.

14.12 It further appears that the Exporter M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) have rendered themselves liable to penalty in terms of section 114(iii) of the Customs Act, 1962 on account of mis-declaration in value of the impugned goods. The Exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the Exporter with malafide intent to avail undue/excess Export benefits in form of Drawback, RoDTEP and other Export benefits. Therefore, M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) also liable for penalty in terms of Section 114 AA of Customs Act, 1962 for this intentional mis-declaration.

14.13 For the past Shipping Bill as mentioned in Table-IV wherein foreign remittance have been not received by the Exporter as per ICES 1.5 and thereby in a manner which rendered the said goods liable for confiscation in terms of Provisions of Section 113(ia) & 113(ja) of the Customs Act, 1962. The Export incentive claimed by the Exporter in these Shipping Bill are also liable to be demanded from them in terms of Section 75 and 75A of the Customs Act 1962 read with Rule 18 of the drawback Rules, 2017 & Section 28AAA and Notification No. 76/2021-Cus(N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

14.14 As above discussed, the Exporter has obtained Drawback & RoSCTL/RoDTEP by fraud, collusion, willful misstatement or suppression of facts without realizing the BRC for the Past Shipping Bills mentioned in Table-IV. Hence, it appears that the M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) have rendered themselves liable to penalty in terms of section 114AB of the Customs Act, 1962 on account of non-receipt of the foreign remittance in Shipping Bill filed by the Exporter as mentioned at Table-IV above.

14.15 The Custom Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) failed to ascertain the veracity and genuineness of the Exporter firm M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C). The Regulation 10 (n) of the CBLR, 2018 has mandated that the CB has to 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. In the instant case, as stated by the CB, they have merely taken copies of the IEC and GST registration from the Exporter and started filing Shipping Bills on their behalf. Though, the CB stated that they conducted verification of address of the Exporter. However, Exporter in his statement submitted that no one physically verified the premises for KYC. Also, no evidence has been produced in support of their claim. The CB has to verify the antecedents of the Exporter by using reliable, independent, authentic documents, data or information, which the CB has failed to do in this case. It appears that the CB is not disclosing the truth since the Exporter is non-existing and found to be non-genuine. The CB in their voluntary statement has submitted that they had verified the address of the Exporter, which contradict the statement of the Exporter. No evidence has been put forth by the CB to corroborate their claim of actually verifying the principal place of business of the Exporter. The role of the CB in this fraudulent export of a non-existing and non-genuine firm is not ruled out. Had the CB confirmed the veracity and genuineness of the Exporter through their own independent and reliable sources, he could have easily known that the Exporter and their supply chain is dubious. Further the CB was well aware that the exporter had purchased the export goods locally and did not have any Tax invoice for the same. In spite of this fact known to him, the CB filed the Shipping bill for RoDTEP. The regulation 10 (d) of the CBLR, 2018 has mandated that the CB shall 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. The CB clearly violated this Rule by filing shipping bill with RODTEP benefit wilfully. The CB has thereby violated regulation 10 (d) and 10(n) of the CBLR, 2018 and have rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962. Further, Shri Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) has also violated Regulation 10(d) and 10(n) of CBLR 2018 in another case file involving another exporter M/s M/s. SUNRISE FASHION (IEC: BRFPB7387E). Hence it appears Shri Gabaji M. Gunjal G-card 2114/2021 is a repeat offender.

15. Now, M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) having its registered office at OFFICE NO. 502 FLOOR 5 ALIS CHAMBERS, SAHAR CARGO ROAD, Andheri East, MUMBAI, MUMBAI SUBURBAN, MAHARASHTRA, 400069 are hereby called upon to Show Cause to the Additional Commissioner of Customs, CEAC, NS-II, JNCH, having office at Jawaharlal Custom House, Nhava Sheva, Tal-Uran, Dist-Raigad, Maharashtra, within 30 days of receipt of this notice as to why:

- i. The declared FOB value of Rs. 47,09,336.61 covered under the Shipping Bill No. 2562972 dated 20.07.2024 is not liable for rejection and is also not liable for re-determination to value of Rs. 29,53,106.69 under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;
- ii. The drawback of Rs. 1,03,816.20 claimed by M/s. WAZA Automation Private Limited in respect of Shipping Bill No. 2562972 dated 20.07.2024 is not liable to be re-determined to Rs. 45,815.60, consequent upon re-determination of the FOB value to Rs. 29,53,106.69 under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, based on DYCC Test Reports and Market Enquiry, and the excess drawback is not liable for recovery under Section 75 and 75A of the Customs Act, 1962 read with Rule 17 of the Drawback Rules, 2017, along with applicable interest.
- iii. The RoDTEP of Rs. 1,29,941.20 claimed by M/s. WAZA Automation Private Limited in respect of Shipping Bill No. 2562972 dated 20.07.2024 is not liable to be re-determined to Rs. 70,874.56, consequent upon re-determination of the FOB value to Rs. 29,53,106.69 under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, based on DYCC Test Reports and Market Enquiry, and the excess RoDTEP claimed is not liable for recovery in terms of Notification Nos. 76/2021-Cus (N.T.), 77/2021-Cus (N.T.) and 25/2023-Cus (N.T.) read with Sections 28AAA and 28AA of the Customs Act, 1962, along with applicable interest.
- iv. The said impugned Export goods covered under the Shipping Bill No. 2562972 dated 20.07.2024 having total declared FOB value of Rs. 47,09,336.61 which appear to be mis-declared in terms of value, are not liable for confiscation under the Provisions of Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962;
- v. M/s. WAZA AUTOMATION PRIVATE LIMITED (IEC: AACCW4770C) have not rendered themselves liable for penalty under Section 114(iii) of the Customs Act, 1962 for having, by acts of commission and omission, attempted to export goods by mis-declaring the value in the Shipping Bill referred to above, with intent to avail ineligible export incentives, thereby contravening the provisions of the Customs Act, 1962 and the rules made thereunder.

- vi. M/s. WAZA AUTOMATION PRIVATE LIMITED (IEC: AACCW4770C) have not rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962 for having knowingly made, signed and used documents, declarations and statements which were false and incorrect in material particulars, namely mis-declaration of the FOB value of export goods, for the purpose of claiming export incentives, in violation of the provisions of the Customs Act, 1962.
- vii. M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) have not rendered themselves liable for penalty under Section 114AC of the Customs Act, 1962 for the above violation;
- viii. The goods pertaining to Shipping Bill Nos. mentioned at Sr. No. 1, 3 & 4 in Table-IV totally valued at Rs. 97,43,236.53/- are also not liable for confiscation under the Provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962 since the Export benefits of Drawback and RoDTEP have been availed and taken by the Exporter without realizing the Export proceeds i.e on account of non-receipt of foreign remittance of the value of Export;
- ix. The drawback amount of Rs. 1,86,529.00/- claimed in Shipping Bill Nos. mentioned at Sr. No. 1, 3 & 4 in Table-IV above are also not liable for recovery on account of non-receipt of remittance in and should be demanded from the Exporter along with applicable interest under Section 75 and 75A of the Customs Act 1962 read with Rule 17 & 18 of the drawback Rules, 2017;
- x. The RoDTEP of Rs. 2,67,651.00/- claimed in Shipping Bill Nos. mentioned at Sr. No. 1, 3 & 4 in Table-IV above are also not liable for recovery on account of non-receipt of remittance in terms of Notification No. 76/2021- Cus (N.T) dated 23.09.2021 & 24/2023-Cus (N.T) dated 01.04.2023 read with section 28AAA of Customs Act along with applicable interest under section 28AA of the Customs Act, 1962;
- xi. M/s. WAZA AUTOMATION PRIVATE LIMITED (IEC: AACCW4770C) should not be held liable for penalty under Section 114(iii) of the Customs Act, 1962 in respect of the Shipping Bills mentioned at Table-IV, for having exported goods and availed export incentives including Drawback and RoDTEP without realization of foreign remittance, in contravention of the conditions governing such export incentives.
- xii. M/s. WAZA AUTOMATION PRIVATE LIMITED (IEC: AACCW4770C) should not be held liable for penalty under Section 114AA of the Customs Act, 1962 in respect of the Shipping Bills mentioned at Table-IV, for having knowingly made, signed and used declarations and documents, including Shipping Bills and export incentive claims, which became false and incorrect in material particulars due to non-receipt of foreign remittance, while continuing to avail export benefits.

xiii. M/s. WAZA AUTOMATION PRIVATE LIMITED (ACCW4770C) have not rendered themselves liable for penalty under Section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bill Nos. mentioned in Table- IV filed by the Exporter;

16. Further, M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484), Raheja Arcade, 4th Floor, Office No. 408, Plot No. 61, Sector-11, CBD Belapur, Navi Mumbai are hereby called upon to show cause to the Additional/Joint Commissioner of Customs, CEAC, NS-II, JNCH, Nhava Sheva within 30 days of the receipt of this notice as to why Penalty should not be imposed on them under Section 114(iii) and 114AA of the Customs Act, 1962 for violation of regulation 10(n) and 10(d) of CBLR, 2018.

17. Further, Shri Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) by committing the same offence as in another case file involving another exporter M/s. SUNRISE FASHION (IEC: BRFPB7387E) is hereby called upon to show cause to the Additional/Joint Commissioner of Customs, CEAC, NS-II, JNCH, Nhava Sheva within 30 days of the receipt of this notice as to why Penalty should not be imposed on them under Section 114(iii) and 114AA of the Customs Act, 1962 for violation of regulation 10(n) and 10(d) of CBLR, 2018.

18. The noticees are further informed that they should clearly state in their written reply whether they wish to be heard in person before the case is adjudicated. In case no reply is received within 30 days of the receipt of this SCN and no request is made for the PH or they do not appear before the adjudicating authority on the date and time fixed, the case will be decided ex- parte on the basis of evidence available on record without any further reference to them.

19. This show cause notice is issued only in respect of issues discussed in the show cause notice and the goods mentioned against the Shipping Bill discussed hereinabove.

20. The Department reserves its right to add, amend, modify, etc. this notice based on any fresh facts or evidence which may come to the notice of the Department after issue of this notice but prior to adjudication thereof.

21. This show cause notice is issued without prejudice to any other action that may be taken against the persons/firms mentioned herein or

any other person under the Customs Act, 1962 or any other law for the time being in force.

22. List of the documents relied upon in this notice (RUDs) are as per Annexure-A attached with this notice. It may be noted that all the relied upon documents and annexure enclosed with this show cause notice are an integral part of this show cause notice.

 B
13/02/26

(BATCHALI RAGHU KIRAN)
COMMISSIONER (IN-SITU) OF CUSTOMS
CEAC, NS-II, JNCH

To, Noticees,

1. M/s. Waza Automation Private Limited (AACCW4770C)
Office No. 502 Floor 5 Alis
Chambers, Sahar Cargo Road,
Andheri East, Mumbai, Mumbai
Suburban, Maharashtra, 400069.
2. Shri Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s.
Indo Foreign (Agents) Pvt. Ltd.
(CHA License No.11/1484)
3. M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484)
Raheja Arcade, 4th Floor, Office No. 408, Plot No. 61,
Sector-11, CBD Belapur, Navi Mumbai.

Copy to:

1. The Dy/Asstt. Commissioner of
Customs, SIIB (X), JNCH.
2. The Dy/Asstt. Commissioner of
Customs, CAC, JNCH
3. Supdt./CHS, JNCH for display on
Notice Board.
4. Office Copy.

Annexure - I

Sr. No.	List of Relied Upon Documents
RUD-I	Shipping Bill No. 2562972 dated 20.07.2024
RUD-II	Panchanama dated 29.07.2024
RUD-III	Test Reports from DYCC
RUD-IV	Copy of Market Enquiry dated on 31.07.2024
RUD-V	NOC 02.08.2024 for Provisional Release for Export.
RUD- VI	Copy of statement of Mr. Vishal Nathuram Shinde, Director of M/s. M/s. WAZA AUTOMATION PRIVATE LIMITED (AACCW4770C) dated 27.02.2025
RUD- VII	Copy of statement of Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) dated 04.02.2025.

2. Supdt./CHS, JNCH for display on Notice Board.
3. Office Copy.

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INDO-FOREIGN (AGENTS) PVT LTD

Indian Customs EDI System - Exports (ICES / E)

Shipping Bill For Export

Shed - J D-26

INNSA1

Shipment Date: 07/26/2024 17:59:47

Job 484 Date: 20/07/2024 SB No: 2562972 Date: 20/07/2024

State Of Origin: MAHARASHTRA

Shipper's Name: **WAZA AUTOMATION PRIVATE LIMITED**
 PAN No: **AACCW4770C(0) Type: MERCHANT PAN: AACCW4770C**
 OFFICE NO 502 FLOOR 5 ALIS CHAMBERS
 SAHAR CARGO ROAD, ANDHERI
 EAST MUMBAI, MAHARASHTRA, 400069 MAHARASHTRA
 GST No: **GSN - 27AACCW4770C1ZD**

Consignee's Name: **KRV GENERAL TRADING LLC**
 1, TEXTILE MARKET, ALI BIN ABI
 TALIB STREET BUR DUBAI 47725,
 DUBAI UNITED ARAB EMIRATES, UNITED ARAB
 EMIRATES

Port of Loading (INNSA1): **NHAVA SHEVA SEA**
 Final Destination Country (AE): **UNITED ARAB EMIRATES**
 Final Destination Port (AEJEA): **JEBEL ALI**
 Port of Discharge (AEJEA): **JEBEL ALI**
 Country of Discharge (AE): **UNITED ARAB EMIRATES**

No of Packages: **193 PKG**
 Net Weight: **4874.000 KGS**
 Gross Weight: **4899.000 KGS**

No of Containers:
 Nature of Cargo: **P**

Marks & Nos: **AS PER INVOICE**

Forex Bank Account:
 Authorised Dealer Code: **0410002**
 I.F.S. Code No:
 Drawback Account No:

Rotation No:
 FOB Value (Rs.): **4709336.61**
 RODTEP Amount: **129941.20**
 Drawback Amount: **103816.20**
 ROSCTL Amount: **0.00**

ST/Excise Regn:

Invoice Details Serial No: **1**
 Invoice Value (USD): **56944.82 (Rs. 4709336.61)**
 FOB Value (USD): **56944.82 (Rs. 4709336.61)**
 Nature of Contract: **FOB**
 Invoice No: **WAPL/24-25/05** Date: **19/07/2024**

Drawback Amount(Rs): **103816.20**
 Nature of Payment: **DA (180 Days)**
 Exporter Contract No:
 Exchange Rate: **USD 1 = Rs 82.7**

Insurance:
 Freight:
 Discount:
 Commission:
 Other Deduction:
 Packing Charges:

Buyer's Name:
SAME AS CONSIGNEE

Sl.No	RITC Code	Item Description	Unit	Rate	Per	Unit	Total Value(FC)	FOB Value(INR)	Reward
							Declared PMV(INR)	Accepted PMV(INR)	
Scheme Description									
Manufacturer Details									
#Pkg	Transit Country	District	HAWB No		IGST Pymt	Tax Value (INR)	Tax Amount(INR)	End Use	
1	52081190	COTTON GERY FABRICS				56944.82	4709336.61	YES	19
	38218	SQM	1.49	Per 1	SQM	135.55	5180270.27		
		DRAWBACK (DBK)							
#		MUMBAI CITY				LUT@0%	0.00	0.00	GNX100
Total		Tax Amount	0.00		Invoice Value	56944.82	4709336.61	FOB	
Total		GST Amount	0.00		S/B Invoice Value	56944.82	5180270.27	PMV	

Drawback Details

Inv SIno	Item SIno	Drawback No	Custom Rate	Drawback Rate	Custom Special Rate	Drawback Special Rate	Drawback Quantity	Drawback Amount
1	1	520801B	2.5	21.3/KGS			4874 KGS	103816.20

Package Details

Package From	Package To	Type									
01	193	PKG									

Info Details

Inv SIno	Item SIno	SQC Quantity	RODTEP Claim Rate	RODTEP Amount	GST Amount	CCS Amount	District Name	Trade Type	Info Code

INDO-FOREIGN (AGENTS) PVT LTD

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State Of Origin: MAHARASHTRA

NSA1
n: 07/26/2024 17:59:47

Job: 484 Date: 20/07/2024 SB No: 2562972 Date: 20/07/2024

1	38218 SQM	YES 4.3% 3.4/SQM	129941.20	0482 MUMBAI CITY 27 MAHARASHTRA	NCPTI
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Supporting Document Details

Inv Item	IRN DRN	Doc Type	Place of Issue	Issue Date	Expiry Date	Issuing Party Beneficiary Party
1	2024072000027290	380000		20/07/2024		WAZA AUTOMATION PRIVATE LIMITED
1	2024072000009900	Commercial invoice				KRV GENERAL TRADING LLC
1	2024072000027291	271000		20/07/2024		WAZA AUTOMATION PRIVATE LIMITED
1	2024072000009900	Packing list				KRV GENERAL TRADING LLC
1	2024072000027292	022CO1		20/07/2024		WAZA AUTOMATION PRIVATE LIMITED
1	2024072000009900	Self-Declaration on Customs Cases				KRV GENERAL TRADING LLC

Statement Details

Code-Type Serial Nos Details

RD001-DEC 1/1,
I/We, in regard to my/our claim under RoDTEP scheme made in this Shipping Bill or Bill of Export, hereby declare that:
1. I/ We undertake to abide by the provisions, including conditions, restrictions, exclusions and time-limits as provided under RoDTEP scheme, and relevant notifications, regulations, etc., as amended from time to time.
2. Any claim made in this shipping bill or bill of export is not with respect to any duties or taxes or levies which are exempted or remitted or credited under any other mechanism outside RoDTEP
3. I/We undertake to preserve and make available relevant documents relating to the exported goods for the purposes of audit in the manner and for the time period prescribed in the Customs Audit Regulations, 2018.

Following is the list of document attached

Invoice	Item	Agency	Document Name
-	-		Invoice
-	-		Packing List
-	-		Rotation No & Date
Factory Stuffing	Sample Accompanied	Vessel Name & Voyes	
NO	NO		

I/We declare that particulars given here true and correct.

I/We undertake to abide by the provisions of Foreign Exchange Management Act.1999, as amended from time to time, including realisation or repatriation of foreign exchange to or from india.

Signature of Exporter/CHA with Date

P-1
29/07/24

P-2
29/07/24

CS
29/07/24

PANCHANAMA dated 29.07.2024 DRAWN AT CFS- JWR Logistics Pvt. Ltd., Village- Padeghar, Panvel, Navi Mumbai – 410206

Pancha No. 1		Pancha No. 2	
Name	Chetan kisan Rohokale	Name	Navnath Bhau Date
Age	30	Age	35
Address	Gavthan, Sarola Advai, SaroleAdvai, Ahmadnagar, Jamgaon, Maharashtra 414103	Address	Bhau Date, Pemdara, Pune, Maharashtra 412410
Occupation	Service	Occupation	Service
Mobile No.	9137321384	Mobile No.	7506044643

We the above mentioned Panchas were called upon by a person who introduced himself as Shri Paramveer Singh Nain, an Intelligence Officer, SIIB(X), JNCH on 29.07.2024 at 16:15 hrs at JWR CFS, 15-23, National Highway 4B, Panvel-JNPT Highway, Village- Padeghar, Ulwe, Panvel, Navi Mumbai, Maharashtra-410206 to witness the examination of goods of exporter M/s Waza Automation Pvt Ltd (AACCW4770C) covered under 01 Shipping Bill No. 2562972 dtd 20.07.2024 kept inside JWR CFS, for confirmation of declaration in respect of description of goods, quantity and any other declaration thereof.

Here we were introduced to Shri Vishnu, Intelligence Officer, SIIB(X) and Shri Gabaji M Gunjal, G-card holder of M/s. Indo Foreign (Agents) Pvt Ltd (CHA License No.11/1484) having Kardex No. 2114/2021. Then the officer explained to us that the exporter M/s Waza Automation Pvt Ltd (AACCW4770C) having address at Office No 502, Floor 5 Alis Chambers Sahar Cargo Rd, Andheri East, Mumbai 400069 has filed 01 Shipping Bill No. 2562972 dtd 20.07.2024 through their Customs Broker M/s. Indo Foreign (Agents) Pvt Ltd (CHA License No.11/1484) for export of their consignment.

We were shown a copy of Hold letter No. 46/2024-25/SIIB(X) issued vide F.No. CUS/SIIB/ALT/427/2024-SIIB (E) hold of 01 Shipping Bill No 2562972 dtd 20.07.2024 filed by exporter M/s Waza Automation Pvt Ltd (AACCW4770C) through their authorized Customs Broker M/s. Indo Foreign (Agents) Pvt Ltd their respective export invoice & packing list.

Further, the above-mentioned officer requested us to bear witness to the examination proceedings of the goods covered under 01 Shipping Bills No. 2562972 dtd 20.07.2024 to which we both voluntarily agreed.

Thereafter, all of us proceeded to the area/location inside JWR CFS where the goods were found placed inside Shed No. I at location D-26. A total of 193 packages of Sb No. 2562972 dtd 20.07.2024 found placed at the said location. The goods were found to be packed in white polypropylene bags. There after each of these packages were opened by the laborers available in the CFS with the help of CHA and CFS staff and further the officer started examining the goods thoroughly.

Details of the goods covered under the above said Shipping Bills is as follows:

Sr.No.	S/B No. & Date	Description of Goods	FOB (in Rs.)	Drawback (in Rs.)	RoDTEP (in Rs.)	IGST
1.	2562972 dtd 20.07.2024	Cotton grey Fabrics	4709336	103816	129941	LUT

P-1
29/7/24

P-2
NB 6
29/7/24

CP
29/7/24

During 100% examination, goods covered under Shipping Bills No. 2562972 dtd 20.07.2024 were found as declared in terms of quantity and marked description as per checklist & shipping bill.

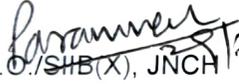
Thereafter, samples of the fabrics were drawn randomly in duplicate from the S/B No. 2562972 dtd 20.07.2024 in our presence. Further, the said samples as drawn above were sealed with wax seal and taken over for the purpose of further investigation by the said Customs Officer. We have put our dated signatures as a token of having seen the drawn samples and sealing of the same in the presence of Shri Gabaji M Gunjal G-card holder of M/s. Indo Foreign (Agents) Pvt Ltd (CHA License No.11/1484)

All the goods pertaining to Shipping Bills No. 2562972 dtd 20.07.2024 were re-packed in the same packages and kept back inside Shed-I at the same location inside JWR CFS in our presence and the same were handed over to Manager, JWR CFS for safe custody.

We have put our dated signatures on the Shipping Bills No. 2562972 dtd 20.07.2024, their respective Export Invoice and Packing List and other relevant documents as a token of having seen the same and being present during the examination.

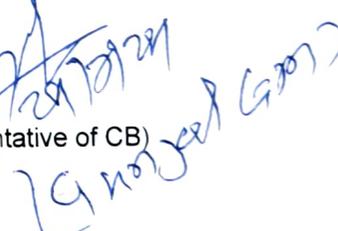
The Panchanama running into 02 pages ended on the same place and same date i.e. 29.07.24 at 20:30 hrs. The Panchanama was carried out in our presence and in the presence of the authorized Customs Broker representative. The Panchanama was carried out in peaceful and systematic manner and no untoward event happened during the course of drawing the Panchanama and no damage was done to the subject goods.

Drawn by me, on the 29th day of July 2024.

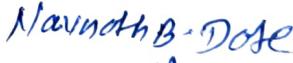

I.O./SIIB(X), JNCH
(Paramveer Singh Nain)


29/07/2024
I.O./SIIB(X), JNCH
(Vishnu)

In presence of:


29/07/2024
(Representative of CB)



Pancha-I 
29/07/24


Pancha-II 
29/07/24



भारत सरकार / Government of India
 वित्त मंत्रालय / Ministry of Finance
 आसुत सीमाशुल्क एन.एस.॥ का कार्यालय
 Office of Commissioner of Customs NS-II
 Jawaharlal Nehru Custom House, Nhava Sheva,
 Dist- Raigad, Maharashtra - 400 707



CUS/SIIB/ALT/427/2024-SIIB(E)

Date: 08.2024

To,

The Chemical Examiner, Gr. I
 Incharge, Customs Laboratory, JNCH
 Nhava Sheva,
 Tal: Uran, Dist: Raigad.

Sub: Testing of sample pertaining to Shipping Bill No. 2562972 dtd 20.07.2024 by M/s Waza Automation Pvt Ltd. (AACCW4770C) – reg.

Please find enclosed herewith sealed envelopes of samples of below mentioned goods from the consignment pertaining to 2562972 dtd 20.07.2024 for testing purpose.

Sr.No.	S/B No. & Date	Declared Description	No. of RSS
1.	2562972 dtd 20.07.2024	Cotton Grey Fabrics	1

The above-mentioned sealed envelopes are being sent herewith. The test may be conducted on the samples and report may be given on the following parameters: -

- Detailed analysis of composition
- Nature of the sample
- Whether the samples are as per their respective declared description

Thanking you.

Yours sincerely,

(Kapil)

Appraiser of Customs

SIIB(X), JNCH

Encl: as above.

Lab No. 612 / SIIB (X) dt 01/08/24

SIIB No 2562972 / 20.7.24

Report:- The sample as received is in the form of a
 a piece of white knitted fabric. It is composed of
 polyester filament yarns along with spandex yarn.

Percentage composition = Polyester = 92.3 %

Spandex = Balance

GSM = 171.9

Sealed remnant returned

Sunil Bagotia
 28/8/24
 Sunil Bagotia
 Assistant Chemical Examiner
 JNCH Laboratory

Praful Dalal
 28/8/24
 प्रफुल दलाल
 रसायन परीक्षक ग्रेड-II
 Chemical Examiner Gr. II

Market Enquiry Report of M/s. Waza Automation Private Limited conducted on 31/07/2024

As approved by the competent authority, the undersigned officer from SIIB(X) along with Shri Gabaji M Gunjal, Authorized representative of Exporter, conducted a market survey of goods covered under Shipping Bill No. 2562972 dated 20.07.2024 presented for export by M/s Waza Automation Private Limited (IEC: AACCW4770C). The officer carried representative samples of the goods which were drawn from the aforesaid consignment covered under the said Shipping Bill. Market enquiry was conducted on 31/07/2024 in the wholesale market near Masjid Bunder, Mumbai.

To ascertain the fair market value of the goods, we visited the different Wholesale Shops near Masjid Bunder, Mumbai. The samples were opened in the presence of authorized representative of Exporter Shri Gabaji M Gunjal. Representative samples were shown to the shopkeeper of subject goods and quotation / inquiries were made for wholesale purchase of identical/ similar goods. The shopkeepers refused to have identical goods i.e. of same brand but offered similar goods on the basis of quality, composition, size and design of the goods. The wholesale rates for the said samples as quoted verbally by shopkeepers for which both officer and Exporter agreed are as follows:

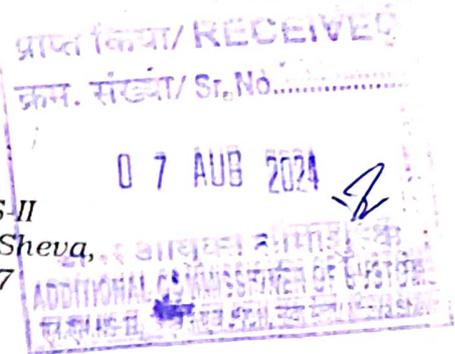
S/B No.	Item Description	Shop 1	Shop 2	Shop 3	Average wholesale price	PMV
		A.K. Enterprises 13/17, Shop No. 3, Noorie House, Chakla Street, Mumbai-400003	R.D Fashion 16 Nagdevi Street, Nakhuda Mohallah, Mumbai 400003	Farida Fashions 51, Kolsa Street, near rapid heights Tower, Mumbai-400003		
2562972 dated 20.07.2024	Cotton Grey fabrics	75	110	70	85	135.55

The shopkeepers further informed that the price of the goods will vary depending upon the quantity, mode of payment and quality of the goods ordered.


(Shri Gabaji M Gunjal)
Authorized representative of Exporter


(Paramveer S. Nain)
IO/SIIB(X)

भारत सरकार/ Government of India
 वित्त मंत्रालय / Ministry of Finance
 आयुक्त सीमाशुल्क एन.एस.-II का कार्यालय
 Office of Commissioner of Customs NS-II
 Jawaharlal Nehru Custom House, Nhava Sheva,
 Dist- Raigad, Maharashtra - 400 707



F.No. CUS/SIIB/ALT/427/2024-SIIB(E)

Date: .08.2024

To,
 The Additional Commissioner of Customs
 CEAC, JNCH
 Nhava Sheva.

Sir,

Sub: NOC for Provisional release of the goods for Export covered under Shipping Bill No.2562972 dated 20.07.2024 of exporter M/s Waza Automation Pvt Ltd (IEC: AACCW4770C)- reg.

Please refer to the subject mentioned above.

The Exporter M/s Waza Automation Pvt Ltd (IEC: AACCW4770C) has filed 01 shipping bill No.2562972 dated 20.07.2024 for export of RMG. Based on the NCTC inputs, the same was hold by this unit vide hold letter approved on 25.07.2024.

Red Flags by NCTC are as follows:

- Both the exporters have obtained IEC very recently in the F. Y. 2024-25.
- As per e-way bill portal, supply chain of both the exporters appears to be dubious/non-existent.
- Both the exporters had filed nil GST returns, with no inward ITC, nil zero rated supplies and NIL tax payment (either through ITC or Cash) etc., as is evident from GSTR3B. (Copies enclosed.). M/s Waza Automation Pvt Ltd filed GSTR with minimal clearances in the month of June 2023 and both these exporter have claimed IGST refund under LUT.
- The details such as Name of the goods (including the spelling mistake), country of destination and consignee & buyer are common in the case of both the exporters.
- The country of destination is also sensitive.
- As the supply chain is non-existent, there is high possibility that the goods have been procured improperly without proper tax payment and the intent of the exporter is to avail undue ITC refund benefits.
- There is a possibility that the goods under export are locally procured, without proper payment of taxes and may be of poor quality.
- Given the above, there is high possibility of mis-declaration in terms of

quality, quantity of goods, mis-classification, concealment and overvaluation to avail undue IGST / ITC refund for exports.

ix. Given the above facts, the possibility of a syndicate using the credentials of persons with meagre financial resources to create dummy entities with the intent to claim inadmissible export benefits, may be probed.

Thereafter, the subject goods under 01 shipping bill were 100% examined by SIIB(X) under Panchanama dated 29.07.2024 wherein goods found as declared in terms of quantity and marked description. However, For valuation angle Market enquiry of the goods was conducted on 31/07/2024. After market enquiry the goods for which the value declared was on the higher side, FOB value is re-determined as given below:-

S/B No.	Item Description	Declared FOB	Re-determined FOB Value = Declared FOB * (Re-determined PMV / Declared PMV)	Declared DBK	RE-Determined DBK	Rodtep Amount	Redetermined Rodtep Amount
2562972 dated 20.07.2024	Cotton Grey fabrics	4709336.61	2953107	103816.2	73827.67	129941.20	126983.59
			Difference		29989		2957.61

In view of the above, the value of the goods has been re-determined and it is observed that the exporter has attempted to claim excess/undue export incentives in the form of Duty Drawback to the tune of Rs. 29,989, RODTEP to the tune of Rs. 2957 by doing over-valuation of the goods. As further investigation is still pending with regard to DYCC test report, GST verification etc. Meanwhile, the exporter vide letter dated 01/08/2024 has requested for provisional release of the goods for Export purpose.

This office has no objection for provisional release of the goods for Export covered under shipping bill No. 2562972 dated 20.07.2024.

This is issued with the approval of the additional Commissioner of

Customs, SIIB(X), JNCH.

Yours Faithfully

Signed by Rahul Dhingra

Date: 05-08-2024 18:29:20

(Rahul Dhingra)

**Dy. Commissioner of Customs
SIIB (X), JNCH**

Encl:- Copy of shipping bills & packing list.

Statement of Shri. Vishal Nathuram Shinde, Director of M/s Waza Automation Private Limited (IEC: AACCW4770C) recorded under Section 108 of the Customs Act, 1962 in the office of Special Investigation and Intelligence Branch (Export) situated at 6th floor, Room no. C-604, JNCH, Nhava Sheva, Dist.- Raigad- 400707 on 27.02.2025.

.....

In pursuance of Summons CBIC-DIN- 20241278NT000000B75D dated 02.12.2024, issued by Shri Milan, Superintendent, SIIB(X), I present myself to give statement u/s 108 of the Customs Act, 1962. I have been explained the provisions of Section 108 of Customs Act, 1962. I have been also explained that giving false evidence under this statement is an offence punishable under section 193 of the Indian Penal Code, 1860/ corresponding section of Bharatiya Nyaya Sanhita, 2023. I am also informed that this statement of mine can be used as evidence against me in any court of law, or for any adjudication proceedings. Having been understood the provisions of Section 108 of the Customs Act, 1962; I am giving my true, correct and voluntary statement which is as follows.

Name in full:	Shri. Vishal Nathuram Shinde
Date of Birth:	29.09.1991
Father's name:	Nathuram Haibat Shinde
Present residential address:	C/O: Nageshwar Krupa Chawl No. 5, Room No. 07, Retibunder Road, Near Gavdevi Mandir, Dombivali (W), Kalyan, Vishnunagar, Thane, Maharashtra - 421202.
Educational Qualification:	12 th
Languages known:	Hindi and English
Occupation:	Business
Income Tax PAN:	CXOPS4749H
Mobile no.:	7506681069
Aadhar Number:	3447 9400 6024

Q1. Give a brief description of firm M/s Waza Automation Private Limited (IEC: AACCW4770C) and are you authorized to record statement on behalf of the exporter?

Ans. M/s Waza Automation Private Limited (IEC: AACCW4770C) is located at WAZA AUTOMATION PRIVATE LIMITED OFFICE NO 502 FLOOR 5 ALIS CHAMBERS SAHAR CARGO ROAD, ANDHERI EAST MUMBAI, MAHARASHTRA, 400069. We are a merchant exporter engaged in the trading of Fabrics. I am the Director of the company and am fully authorized to provide a statement in this regard.

Q2. Do your firm files GST returns regularly?

Ans. Yes, we file GST returns regularly.

Q3. Please provide the GSTR1, 2A and 3B copies to support your claim?

Ans. I am submitting GSTR-3B from April, 2024 to January, 2025 and GSTR-1 and GSTR-2B is not readily available.

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27-2-25

Q4. Did you file the Shipping Bill No. 2562972 dated 20.07.2024?

Ans. Yes, the above mentioned shipping bill was filed by us through our customs broker M/s Indo Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484).

Q5. How you contacted the CHA? Do you know any person from M/s Indo Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484)?

Ans. Yes, I know Mr. Gabaji Mahadu Gunjal, G-card holder of CHA M/s Indo Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484). He is a friend of my cousin.

Q6. Did anyone from CHA M/s Indo Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) visited your place of business before filing of the shipping bills for you?

Ans. We provided the documents required for KYC to the CHA. However, no one visited physically for the verification.

Q7. Do you agree with the examination of goods conducted under panchnama dated 29.07.2024? Were you present at the time of examination?

Ans. Yes, I agree with the examination of the goods. On our behalf, our authorized representative Mr. Gabaji Mahadu Gunjal, G-card holder of CHA was present during the Panchnama dated 29.07.2024.

Q8. Your goods were found mis-declared in terms of declared composition of goods. Why it should not be construed that you mis-declared the goods to avail undue export benefits?

Ans. I acknowledge the findings in the DYCC report. However, I would like to clarify that the mis-declaration was an unintentional error. The goods were declared without proper verification after receiving them from our supplier.

Q9. Who is the supplier of goods in the above mentioned shipping bills?

Ans. We have procured the goods from local market and from different shops.

Q10. Are you the actual owner of the goods in case of just a frontman acting for any other persons?

Ans. As being Director of the firm, I am actual owner of the goods.

Q11. Please provide any financial evidence to support your claim?

Ans. I will submit my financial bank statements and ITR in 03 days.

Q12. Please provide the purchase invoices against the goods to support your claim and how payment was made to the supplier?

Ans. I don't have any purchase invoice as the goods were procured from a lot of shops from local market. Also, I don't have any proof of payment to the exporter.

Q13. Your consignment of RMGs are destined to risky countries. Please explain?

Ans. We have many foreign buyers which contact us through online marketing. These buyers are located in different countries. We send goods to the buyer as per their demand.

Handwritten signature
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Q14. Why it should not be construed that you have improper supply chain and have procured the goods without payment of proper taxes?

Ans. We have procured the goods from the different shops in local market. So, I don't have any invoices.

Q15. A market enquiry of the goods was conducted on 31.07.2024 in the presence of your authorized representative. It was found that the goods were overvalued to avail undue export benefits. Please explain.

Ans. I acknowledge the findings of the market enquiry, and also take full responsibility for declaring the valuation of the goods. However, I would like to clarify that this was an unintentional error on our part. Additionally, the goods supplied by our suppliers were of lower quality, which contributed to the overvaluation.

Q16. Did you exported goods under any shipping bills in past also?

Ans. We have exported goods under 05 shipping bills in past.

Q17. What was the payment terms with the buyer of the goods? Have you received foreign buyer in past exports?

Ans. Payment was to be made after 180 days. However, we have not received any payment from our foreign buyer and we are in constant contact with the buyer and pursuing them for the payment.

Q18. Since no payment has been made by the foreign buyer. Please explain.

Ans. No payment has been made by the buyer to date. We are in constant touch with the buyer and he has promised to make the payment as soon as possible.

Q19. Do you know that according to RBI guideline, the prescribed time limit for receiving of foreign remittance is 09 months?

Ans. I know about this. We are assured by our foreign buyer that he will make the payment before completion of 09 months. I assure that I will return the Export incentives to the dept. if the payment is not made by the buyer in prescribed time.

Q20. Summons were issued to you in the past for recording your statement; however, they were returned by India Post with the remark "Insufficient Address." Is your firm operational at the declared place of business?

Ans. I discontinued exports as the buyer failed to make payment for previously exported goods, resulting in significant financial losses. Additionally, the address mentioned in records is incorrect, which may be the reason for the non-receipt of summons and their subsequent return to your office.

Q21. Despite multiple reminders, the GST verification of your firm has not been received. Is your firm non-compliant with GST regulations or non-operational?

Ans. As stated earlier, I have ceased export operations due to financial losses, and the place of business is no longer operational.

Q22. If you did not receive any summons, then how did you come to know that you are being summoned by the department?

Ans. I became aware of the summons through the CB firm.

Q23. Have you ever been penalized by Customs, GST or any other government agencies in past?

Ans. No, we are not penalized by any government agencies in past.

Q24. Do you have anything else to say?

Ans. No, I don't have anything else to say.

The above statement of mine running into 04 pages and 24 questions has been given as my true, correct and voluntary without any force, threat, inducement or coercion. On my request, the said statement has been typed on the office computer of SIIB (X), JNCH, Nhava Sheva, Dist. Raigad, Maharashtra-400 707 as per my say and as per my request and I certify, it has been recorded exactly as stated by me in response to questions raised to me during the proceedings. I therefore affix my dated signature on every page of the statement in token of having been recorded correctly as stated by me. I have nothing more to add. Statement of mine is correctly recorded as per my say.

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Shinde
27/2/25
Vishal Nathuram Shinde,

Director of M/s Waza Automation Private Limited (IEC: AACCW4770C)

Typed by me:-

Neeraj Kumar Gupta
27/2/25
(Neeraj Kumar Gupta)
I.O./SIIB(X), JNCH

Before me,

Milan
27/2/25
(Milan)
SIO, SIIB(X), JNCH

Statement of Shri. Gabaji Mahadu Gunjal, authorised representative and G-Card holder of M/s. Indo-Foreign (Agents) Pvt. Ltd. (11/1484), recorded under Section 108 of the Customs Act, 1962 in the office of Special Investigation and Intelligence Branch (Exports) situated at Room No. 604, C-Wing, 6th floor, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra - 400707 on 04.02.2025.

In receipt of spot Summons CBIC-DIN-20250278NT00003303D9 dated 04.02.2025 issued by Shri. Milan, Superintendent of Customs, Special Investigation and Intelligence Branch (Exports) from SIIB (X) office situated at Room No. 604, C-Wing, 6th floor, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra - 400707, I present myself for giving statement under section 108 of the Customs Act, 1962 on 04.02.2025. I have been explained the provisions of section 108 of the Customs Act, 1962; that giving false evidence under the said section of the said act is an offence under Section 174, 175 & 228 of the Indian Penal Code, 1860 and punishable under Section 193 of the Indian Penal Code, 1860; that this statement of mine can be used as evidence either against me or any other person in any court of law, anywhere in India. Having been explained the said provisions of the 108 of the Customs Act, 1962 & Sections of the Indian Penal Code, 1860 to me and understood the same; I am giving my true, correct and voluntary statement as follows:

My name is Gabaji Mahadu Gunjal, aged 53 years. I am residing at A/203, Pintiya Building, Dadi Colony, Amrut Nagar, Thane, Mumbai-400084. I have the personal Mobile No. 8097861975, Aadhaar Card bearing No. 2495 9412 1226, PAN Card bearing No. AMKPG8050A and I am submitting the copies of the same as proof of my identity. I have completed my H. Sc from Pune. I can read, understand and write in Hindi, Marathi, and English. I am married and I am staying along with my wife, & kids at the address mentioned above. On my request, the undersigned SIIB (X) officer is typing my statement in the desktop computer/Cell-C as per my say.

Q. Do you know why you have been summoned? Are you the authorized person on behalf of CB M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484)?

Ans. I have come in response to the summons dated 04.02.2025 in relation to the export through JNPT by M/s. Waza Automation Private Limited (IEC AACCW4770C). I am the authorized person, holding a G-Card on behalf of CB M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484), to give a statement before Customs.

Q. What is your job profile in CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484)? Have you been authorized to give a statement on behalf of CB?

Ans. I am G-Card Holder with power of attorney in CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484). I supervise all work pertaining to exports and am fully authorized to give a statement.

Q. Who handles the documentation work in your CB firm?

Ans. I myself with my subordinate staff handle the documentation work in my CB firm.

Q. Can you explain the procedure to be followed by you during filing a Shipping Bill?

Ans. We guide our exporters verbally to send us all necessary documents as per exporting commodity on our mail I'd and also ask whether they want to claim export benefits or not. After that we create checklist based on the documents submitted by the exporter. Thereafter, we send the checklist to exporter for approval, after getting approval from exporter, we file Shipping Bill on behalf of exporter on ICEGATE.

Q. For how many years have you and your CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484) been in the Customs Broker business?

Ans. I have been an employee of this CB firm for the last sixteen years. My CB firm also has been in this business for around the last sixteen years.

Q. Have you filed the Shipping Bill No. 2562972 dated 20.07.2024 on behalf of the exporter M/s. Waza Automation Private Limited (IEC AACCW4770C)?

Ans. Yes, my subordinates, under my supervision, filed the mentioned Shipping Bill on behalf of the exporter M/s. Waza Automation Private Limited (IEC AACCW4770C).

Q. How did you receive the shipment from M/s. Waza Automation Private Limited (IEC AACCW4770C)?

Ans. We received the order for the shipment from the official email of M/s. Waza Automation Private Limited (IEC AACCW4770C). As they were our new client, we thoroughly checked all documents before filing, related to Customs clearance.

Q. Are you aware of the case booked against the exporter M/s. Waza Automation Private Limited (IEC AACCW4770C) for the said Shipping Bill No. 2562972 dated 20.07.2024 for misdeclaration, especially regarding value?

Ans. Yes, I am aware of the case booked against the exporter. Also, during the market enquiry, the goods were found overvalued.

Q. How did you come into contact with the exporter M/s. Waza Automation Private Limited (IEC AACCW4770C)?

Ans. We came in contact with the exporter through our forwarder friend.

Q. Do you have the KYC of the exporter M/s Waza Automation Private Limited (IEC AACCW4770C)?

Ans. Yes, Sir, we verified the KYC of the customer online every time. The exporter has a valid IEC issued by DGFT. We verified the KYC documents from the DGFT online website as per CBLR 2018 and submitting their signed/certified copy.

Q. How much money had the exporter promised to give you for the clearance of goods?

Ans. We usually charge Rs. 1500/- for each export shipment as agency charges.

Q. Have you verified the address of M/s. Waza Automation Private Limited (IEC AACCW4770C)?

Ans. Yes, Sir. The address was verified at the time of KYC before the filing of Shipping Bills.

Q. Can you provide any documentary evidence in this regard?

Ans. No, Sir. There is no documentary evidence readily available in this regard.

Q. Since when are you handling the export clearance of M/s. Waza Automation Private Limited (IEC AACCW4770C)?

Ans. This was the forth shipment of the exporter, M/s. Waza Automation Private Limited (IEC AACCW4770C) through our CB firm.

Q. I will now show you the summons issued under Section 108 of the Customs Act, 1962, to the exporter M/s. Waza Automation Private Limited (IEC AACCW4770C). However, no one has appeared before this office to date. Can you explain the reason for this?

Ans. Sir, we have not been in contact with the exporter for a considerable period of time. Therefore, I am unaware of the reason for their non-appearance.

Q. As per the investigation, it has been observed that the goods were misclassified. Under the provisions of CBLR 2018, it is the responsibility of the Customs Broker to classify goods correctly. What do you have to say about this?

Ans. Sir, the classification of goods is done based on the documents provided by the exporter. Additionally, after the preparation of the checklist, it is sent to the exporter for verification. Only after the exporter verifies the checklist do we proceed to file the shipping bill.

Q. The exporter is not responding to summons. Is the exporter's company still in existence? What is your opinion?

Ans. Sir, we are not in contact with the exporter. We filed the documents with the classification as provided by the exporter and without any violation of the existing export policy, adhering to the guidance under CBLR 2018.

Q. During the course of the investigation, it has been observed that the goods have been overvalued. What do you have to say about this?

Ans. Sir, the valuation of the goods is determined based on the invoices submitted by the exporter. Furthermore, once the checklist is prepared, it is forwarded to the exporter for verification. Upon receiving confirmation from the exporter, the shipping bill is filed accordingly.

Q. Can you provide the tax invoice for the same?

Ans. No, Sir, the tax invoice is not readily available.

Q. In this case, did you not suspect that the proprietor/exporter might be a frontman and someone else was the actual owner? How would they finance such activities?

Ans. Never, Sir. As a Customs Broker, we always verify the exporter's credentials and conduct KYC verification as per CBLR 2018.

Q. Regulation 10 of the CBLR, 2018 mandates that the CB shall 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. Have you diligently followed the regulation w.r.t. the shipment under Shipping Bill No. 2562972 dated 20.07.2024?

Ans. We had done physical verification of the premise(s)/addresse(s) of the exporter. The exporter informed us that the subject goods covered under Shipping Bill bearing No. 2562972 dated 20.07.2024 were procured locally by them and they want to export, thus we filed Shipping bill based on the KYC documents of the exporter.

Q. As you said the goods were procured by the exporter locally. Can you provide any documentary evidence like tax invoice in respect of the same?

Ans. No Sir, there is not such documentary evidence available.

Q. Why should it not be considered that you were aware of the misdeclaration by the exporter regarding the non-existent supply chain?

Ans. We filed the Shipping Bills as provided by the exporter, along with the KYC documents, invoices, and packing list. During the examination, the goods were found as declared in terms of quantity and marked description. We have no idea regarding the supply chain or violations under the GST Act.

Q. Have your CB firm or the exporter been penalized by any government agency?

Ans. To my knowledge, neither our CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484) (CHA License No.11/2708) nor the exporter has been penalized by any government agency as of this date.

Q. Do you have anything more to say/add in this case, apart from your submission above?

Ans. We would like to say that we are a genuine Custom Brokers having presence all over India. We work diligently in case of all the export shipment filed by us. I would like to assert that in future, we would co-operate with the customs authorities in the ongoing investigation.

The above statement of mine running into 03 pages has been given as my true, correct and voluntary without any force, threat, inducement or coercion. On my request, I have been understood by the officer before signing the said statement has been typed on the office computer of SIIB (X), JNCH, Nhava Sheva, Dist. Raigad, Maharashtra-400707 as per my say and as per my request. I certify, it has been recorded exactly as stated by me in response to questions raised to me during the proceedings. I therefore affix my dated signature on every page of the statement in token of having been recorded correctly as stated by me. I have nothing more to add. Statement of mine is correctly recorded as per my say.

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(Handwritten signature)

(Gabaji M. Gurjal)

Authorised representative, M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484)

Typed by me
(Handwritten signature)
09/02/2025
(Neeraj Kumar Gupta)
IO /SIIB(X)
JNCH, NHAVA SHEVA

Before me
(Handwritten signature)
(Milan)
SIO /SIIB(X)
JNCH, NHAVA SHEVA