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	OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-I सीमा-शुल्क आयुक्त का कार्यालय, एनएस-1 CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा-शुल्क भवन, NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707 न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707
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Date of Order : 10.11.2025

आदेश की तिथि : 10.11.2025

Date of Issue:**11.11.2025**

जारी किए जाने की तिथि:

11.11.2025**DIN:** 20251178NW0000318152**F. No. S/10-112/2024-25/Commr/NS-I/Gr II (C-F)/CAC/JNCH****SCN No. 1100/2024-25/Commr/Gr. II (C-F)/NS-I/CAC/JNCH dated 20.09.2024****Passed by: Shri Yashodhan Wanage**

पारितकर्ता: श्री यशोधन वानगे

Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva

प्रधानआयुक्त, सीमाशुल्क (एनएस-1), जेएनसीएच, न्हावाशेवा

Order No.: 225 /2025-26 /Pr. Commr./NS-I /CAC /JNCH

आदेशसं. : 225 /2025-26/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच

Name of Party/Noticees: M/s Soofi Traders, Customs broker M/s. Dhimant P Doshi, Customs broker M/s Threestar Solutions and Services Private Limited and Customs broker M/s Palcoman Clearing & Forwarding

पक्षकार (पार्टी)/ नोटिसीकानामः मेसर्स सूफी ट्रेडर्स, कस्टम्स ब्रोकर मेसर्स धीमंत पी दोशी, कस्टम्स ब्रोकर मेसर्स श्रीस्टार सॉल्यूशंस एंड सर्विसेज प्राइवेट लिमिटेड और कस्टम्स ब्रोकर मेसर्स पल्कोमन क्लियरिंग एंड फॉरवर्डिंग

ORDER-IN-ORIGINALमूलआदेश

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

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

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

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमा-शुल्क अधिनियम १९६२ की धारा १२९(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्याय पीठ (वेस्टरीजनलबेंच), ३४, पी. डी. मेलो रोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

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

3. अपील दाखिल करने संबंधी मुख्य मुद्दे: -

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

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

Time Limit-Within 3 months from the date of communication of this order. 11

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

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

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

(b) Rs. Five Thousand - Where amount of duty & Page 2 of 75

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

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

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

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

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

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

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

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित तमाम लों के लिए, सीमा-शुल्क अधिनियम, १९६२, सीमा-शुल्क (अपील) नियम, १९८२ सीमा-शुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।

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

of Section 129 of the Customs Act 1962.

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

BRIEF FACTS OF THE CASE

1.1. The importer M/s Soofi Traders (IEC-0393027074) having office address at B-601, Kohinoor City Commercial 1, Kirod Road, Kurla West, Mumbai- 400070 (hereinafter referred to as importer) had filed various Bills of Entry, details tabulated in Annexure-A attached to the impugned SCN for the clearance of imported goods declared under CTH 29051700, 38237020 and 38237090 through their Customs Brokers. The goods under subject Bills of Entry were imported by the importer under lower/Nil rate of ADD, subject to certain conditions as mentioned in the Notification No. 28/2018-Customs (ADD) dated 25.05.2018 including producer, exporter, country of origin, country of export etc. The analysis of the import data revealed that the importer had mis used the above notification in order to avail the benefit of lower anti-dumping duty rate.

1.2. The importer had imported the goods falling under CTI 29051700, 38237020 and 38237090 without paying the true applicable Anti-Dumping Duty as per the Notification No. 28/2018- Customs (ADD) dated 25.05.2018, further amended vide Notification No 48/2018 dated 25.09.2018. The extract of the said notification is given below: -

Table-I

S. No	Sub-headings	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
1	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Indonesia	Singapore	M/s PT Eco green Oleochemicals	M/s Eco green Oleochemicals (Singapore) Pte Ltd.	NIL	MT	USD
2	2905 17, 2905 19, 3823 70	-do-	Indonesia	Indonesia	M/s PT Musim Mas	M/s Inter-Continental Oils & Fats Pte Ltd, Singapore	7.1	MT	USD
3	2905 17, 2905 19, 3823 70	-do-	Indonesia	Indonesia	M/s PT Wilmar Nabati	M/s Wilmar Trading Pte Ltd., Singapore	52.23	MT	USD

4	2905 17, 2905 19, 3823 70	-do-	Indonesia	Indonesia	Any combination other than Sl. Nos. 1, 2 & 3	Any combination other than Sl. Nos. 1, 2 & 3	92.23	MT	USD
5	2905 17, 2905 19, 3823 70	-do-	Indonesia	Any	Any	Any	92.23	MT	USD
6	2905 17, 2905 19, 3823 70	-do-	Any country other than those	Indonesia	Any	Any	92.23	MT	USD

			subject to anti-dump ing duty						
7	2905 17, 2905 19, 3823 70	-do-	Singapur and Indonesia	Singapur and Indonesia	M/s FPG Oleochemi cals Sdh Bhd	M/s Procter & Gamble International Operations SA, Singapor	17.64	MT	USD
8	2905 17, 2905 19, 3823 70	-do-	Singapur and Indonesia	Singapur and Indonesia	M/s KL - Kepong Oleomas S Dn Bhd	M/s KL - Kepong Oleomas Sdn Bhd	NIL	MT	USD
9	2905 17, 2905 19, 3823 70	-do-	Singapur and Indonesia	Singapur and Indonesia	Any combination other than Sl. Nos. 7 & 8	Any combination other than Sl. Nos. 7 & 8	37.64	MT	USD
10	2905 17, 2905 19, 3823 70	-do-	Singapur and Indonesia	Any Country	Any	Any	37.64	MT	USD

11	2905 17, 2905 19, 3823 70	-do-	Any country other than those subject to anti- dump ing duty	Singapur and Indonesia	Any	Any	37.64	MT	USD
12	2905 17, 2905 19, 3823 70	-do-	Thailand	Thailand	M/s Thai Fatty Alcohols Co. Ltd.	M/s Thai Fatty Alcohols Co. Ltd.	NIL	MT	USD
13	2905 17, 2905 19, 3823 70	-do-	Thailand	Thailand	Any combination other than Sl. No. 12	Any combination other than Sl. No. 12	22.5	MT	USD
14	2905 17, 2905 19, 3823 70	-do-	Any country other than country of origin	Thailand	Any	Any	22.5	MT	USD
15	2905 17, 2905 19, 3823 70	-do-	Thailand	Any country	Any	Any	22.5	MT	USD

Whereas, Para 2 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018 mentions as follows: -

“The anti-dumping duty imposed shall be effective for the period of five years (unless revoked, amended or superseded earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian Currency”.

1.3. Thus, it appeared that the importer is required to pay ADD as per the said notification.

However, the importer had not paid the ADD.

Further, amendment was done vide Notification No.13/2019-Customs (ADD), 14th March, 2019, wherein relevant para reads as below:

“And Whereas, M/s. PT. Energi Sejahtera Mas (Producer) Indonesia and through M/s. Sinarmas Cepsa Pte Ltd (Exporter/trader), Singapore have requested for review in terms of rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in respect of exports of the subject goods made by them, and the designated authority, vide new shipper review notification No.7/38/2018-DGTR, dated the 15th January 2019, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 15th January 2019, has recommended provisional assessment of all exports of the subject goods made by the above stated party till the completion of the review by it;

Now Therefore, in exercise of the powers conferred by sub-rule (2) of rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid recommendation of the designated authority, hereby orders that pending the outcome of the said review by the designated authority, the subject goods, when originating in or exported from the subject country by M/s. PT. Energi Sejahtera Mas (Producer) Indonesia and through M/s. Sinarmas Cepsa Pte Ltd (Exporter/trader), Singapore and imported into India, shall be subjected to provisional assessment till the review is completed.

2. The provisional assessment may be subject to such security or guarantee as the proper officer of customs deems fit for payment of the deficiency, if any, in case a definitive antidumping duty is imposed retrospectively, on completion of investigation by the designated authority.

3. In case of recommendation of anti-dumping duty after completion of the said review by the designated authority, the importer shall be liable to pay the amount of such anti- dumping duty recommended on review and imposed on all imports of subject goods when originating in or exported from the subject country by M/s. PT. Energi Sejahtera Mas (Producer) Indonesia and through M/s. Sinarmas Cepsa Pte Ltd (Exporter/trader), Singapore and imported into India, from the date of initiation of the said review”

1.4. Further Notification No 23/2022-Customs (ADD) dated 12.07.2022 makes the following amendment in the notification 28/2018-Customs (ADD) dated 25.05.2018 and

below entry is added:

Table-II

S.No.	Sub-headings	Description of goods	County of origin	County of export	Producer	Exporter	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
16	2905 17, 2905 19, 3823 70	-do-	Indonesia	Any country including Indonesia	PT. ENERGI SEJAHTERA MAS	Sinarmas CEPESA Pte. Ltd.	51.64	MT	USD

****Note.** - The principal notification No. 28/2018 Customs (ADD), dated the 25th May, 2018 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 498(E), dated the 25th May, 2018 and last amended by notification No. 41/2019- Customs (ADD), dated the 25th October, 2019, published in the official Gazette vide number G.S.R. 812 (E), dated the 25th October, 2019.

1.5. The Anti-dumping duty levied on the import vide Notification 28/2018-Customs (ADD) dated 25.05.2018 was applicable to subject Bills of Entry, but applicable Anti-dumping duty was not paid for the said Bills of Entry by the importer.

Further, during the investigation, it was seen that the importer had opted the benefit of S. No. 01 of Notification 28/2018-Customs (Nil Anti-Dumping) as shown in Table-I for various consignments under the condition that the Producer is "PT Ecogreen Oleochemicals and Exporter is "Ecogreen Oleochemicals (Singapore) Pte Ltd" along with other mentioned conditions in the said notification. On scrutiny of the relevant documents, it was seen that the goods have not been exported from Singapore, but the same have been transshipped at Singapore. The details mentioned on the Bill of Lading for these consignments clearly indicated that the goods were for "Transshipment at Singapore on Vessel - Shipped on Board on Pre-Carriage Vessel at Batam, Indonesia, ". This also indicated that there is no 'Export Declaration/ Bill of Export/Shipping Bill' presented at Singapore, Thus the mandatory condition of country of export as Singapore is not being fulfilled by the Exporter. Consequently, it appeared that the importer inappropriately claimed the benefit of S.No. 01 of Notification 28/2018-Customs.

Copy of one such Bill of Lading uploaded in e-sanchit by the importer is as below:

Shipper PT. ECOGREEN OLEOCHEMICALS JL. PELABUHAN KAWI, KABIL, BATAM ISLAND 29467 INDONESIA TELEPHONE : (62-778) 711002 FACSIMILE : (62-778) 711007		ECONSHIP TECH PRIVATE LIMITED Ocean Bill of Lading No : SIN207131NSA CHINA BL REGD NO SMTG-NV01402 & MTO(India) REGD NO MTO/DGS/2081/OCT/2022 Received the goods in apparent good order and condition and, as far as ascertained by reasonable means of checking, as specified above unless otherwise stated. The carrier, in accordance with and to the extent of the provisions contained in this B/L, and with liberty to sub-contract, undertakes to perform and/or in his own name to procure performance of the combined transport and the delivery of the goods, including all services which are necessary to such transport from the place and time of taking the goods in charge to the place and time of delivery and accepts responsibility for such transport and such services. Weights, measures, marks, numbers, quality, contents, descriptions and value as declared by the shipper but unknown by the carrier. In accepting this B/L the merchant expressly accepts and agrees to all its stipulations, exceptions and conditions whether written, printed, stamped or otherwise incorporated and in particular to the terms overleaf as if they were signed by the merchant. One of the B/Ls must be surrendered duly endorsed in exchange for the goods or delivery order IN WITNESS whereof the number of original B/Ls have been signed, if not otherwise stated above, one of which being accomplished the other(s) to be void. The original B/Ls are cloud based eB/Ls, e-signed by shipping line.	
Consignee SOOFI TRADERS DESHMUGH WAREHOUSING PVT LTD, SHREE DATTA COMPOUND, REHANAL VILLAGE, BHIWANDI DIST. THANE INDIA			
Notify Party SOOFI TRADERS B-601, KOHINOOR CITY COMMERCIAL 1, KIROL ROAD, KURLA WEST, MUMBAI 400070, INDIA, TEL +91 22 2504 6800 (BOARD)			
Vessel : HYUNDAI PRESTIGE		Voyage : 080W	
Port of Loading SINGAPORE		Port of Discharge NHAVA SHEVA, INDIA	Place of Delivery / Final Destination NHAVA SHEVA, INDIA
Container ECNU2264847 EOB010330 80 15100 Seal Total 80 DRUMS Mark & Number ST NHAVA SHEVA ECOROL 14/89 (MYRISTYL ALCOHOL) GROSS WT: 188 KGS NET WT: 170 KGS COUNTRY OF ORIGIN: INDONESIA BATCH NO: B1182-P DATE OF MANUFACTURE: 28.11.2020 NAME OF MANUFACTURER: PT. ECOGREEN OLEOCHEMICALS	Said to contain 1 X 20 FEET CONTAINER (80 STEEL DRUMS X 170 KGS) = 13.600 MT/FCL ECOROL 14/89 (MYRISTYL ALCOHOL) QUANTITY: 13.600 MT SHIPPER'S REF: 1010714720 / 2010714720 GSTIN Number # 27AAAFS4828A2I - IEC Number # 0983027074 E-mail Id # docs@soofi.in / yojana@soofi.in PAN Number - AAASF4828A HS CODE: 290690		Gross Weight 15100.000 KGS Net Weight 13600 KGS
TRANSHIPMENT AT SINGAPORE ON VESSEL HYUNDAI PRESTIGE VOY. 080W SHIPPED ON BOARD ON PRE-CARRIAGE VESSEL BUANA OCEAN 08 VOY. 801212 AS AT BATAM, INDONESIA ON 11 DEC 2020 "FREIGHT PREPAID" 14 DAYS FREE DETENTION AT DESTINATION			

1.6. The amount of Anti-Dumping Duty payable is calculated and is mentioned in the attached Annexure-A.

The brief details of the Bills of entry is tabulated below:

Sr. No.	BE Number	BE Date	QUANTITY	UQC	Assessable Value Amount	USD Rate	ADD Rate (In USD per Mtr Ton)	Re-determined ADD (In Rs)	Differential ADD (In Rs)	IGST on Differential ADD (In Rs) @18%
1	5058978	26-09-2019	13600	KGS	1276496	72.2	92.23	90562.482	90562.482	16301.247
		00:00								
2	5058984	26-09-2019	3000	KGS	243675	83.5	92.23	23103.615	23103.615	4158.6507
		00:00								
3	5058984	26-09-2019	12000	KGS	935712	72.2	92.23	79908.072	79908.072	14383.453
		00:00								
4	5059950	26-09-2019	13600	KGS	1296134	72.2	92.23	90562.482	90562.482	16301.247
		00:00								
5	5232357	10-10-2019	6800	KGS	637806	72.15	92.23	45249.883	45249.883	8144.9789
		00:00								
6	5538183	04-11-2019	13600	KGS	1297930	72.3	92.23	90687.914	90687.914	16323.825
		00:00								
7	6125286	18-12-2019	15000	KGS	1194600	72.4	92.23	100161.78	100161.78	18029.12
		00:00								
8	6143835	19-12-2019	13600	KGS	1299725	72.4	92.23	90813.347	90813.347	16346.403
		00:00								
9	6611143	24-01-2020	27200	KGS	3030508	71.65	92.23	179745.2	179745.2	32354.136
		00:00								
10	6696821	31-01-2020	13600	KGS	1393449	71.65	92.23	89872.601	89872.601	16177.068
		00:00								
11	6949738	20-02-2020	13600	KGS	1491485	72.15	92.23	90499.765	90499.765	16289.958
		00:00								
12	7112505	04-03-2020	27200	KGS	2835675	72.65	92.23	182253.86	182253.86	32805.695
		00:00								
13	7164010	09-03-2020	15000	KGS	1392188	74.25	92.23	102721.16	102721.16	18489.809
		00:00								
14	7210684	12-03-2020	15000	KGS	1447875	74.25	92.23	102721.16	102721.16	18489.809
		00:00								
15	7210905	12-03-2020	13600	KGS	1479357	74.25	92.23	93133.854	93133.854	16764.094
		00:00								
16	7211419	12-03-2020	13600	KGS	1560141	74.25	92.23	93133.854	93133.854	16764.094
		00:00								
17	7592630	05-05-2020	13600	KGS	1560141	74.25	92.23	93133.854	93133.854	16764.094
		00:00								
18	7763803	28-05-2020	13600	KGS	1406376	76.6	92.23	96081.525	96081.525	17294.674
		00:00								
19	8063978	03-07-2020	4200	KGS	357781.2	76.4	92.23	29594.762	29594.762	5327.0572
		00:00								
20	8063978	03-07-2020	10800	KGS	1006646	76.4	92.23	76100.818	76100.818	13698.147
		00:00								
21	8246581	22-07-2020	13600	KGS	1469643	76.1	92.23	95454.361	95454.361	17181.785
		00:00								
22	8247959	22-07-2020	13600	KGS	1448944	76.1	92.23	95454.361	95454.361	17181.785
		00:00								
23	8402161	07-08-2020	27200	KGS	2585802	75.75	92.23	190030.69	190030.69	34205.525
		00:00								
24	8970261	28-09-2020	27200	KGS	2840768	74.6	92.23	187145.74	187145.74	33686.233
		00:00								

25	9005034	30-09-2020 00:00	10800	KGS	1007100	74.6	92.23	74307.866	74307.866	13375.416
26	9005034	30-09-2020 00:00	4200	KGS	394783.2	74.6	92.23	28897.504	28897.504	5201.5506
27	9329967	26-10-2020 00:00	6800	KGS	739678.5	74.25	92.23	46566.927	46566.927	8382.0469
28	9571727	15-11-2020 00:00	13600	KGS	1497289	75.15	92.23	94262.749	94262.749	16967.295
29	9682084	24-11-2020 00:00	4200	KGS	397958.4	75.2	92.23	29129.923	29129.923	5243.3862
30	9682084	24-11-2020 00:00	10800	KGS	1015200	75.2	92.23	74905.517	74905.517	13482.993
31	9682340	24-11-2020 00:00	11900	KGS	1310999	75.2	92.23	82534.782	82534.782	14856.261
32	2236670	05-01-2021 00:00	13600	KGS	1483342	74.45	92.23	93384.72	93384.72	16809.25
33	2237822	05-01-2021 00:00	13600	KGS	1483342	74.45	92.23	93384.72	93384.72	16809.25
34	2457114	22-01-2021 00:00	19690	KGS	2777343	73.85	92.23	134112.24	134112.24	24140.204
35	2869047	22-02-2021 00:00	13600	KGS	1468399	73.5	92.23	92193.108	92193.108	16594.759
36	2869048	22-02-2021 00:00	13600	KGS	1468399	73.7	92.23	92443.974	92443.974	16639.915
37	3354569	30-03-2021 00:00	13600	KGS	2139766	73.35	92.23	92004.959	92004.959	16560.893
38	3746140	28-04-2021	13600	KGS	2335368	76.15	92.23	95517.077	95517.077	17193.074

		00:00								
39	3746843	28-04-2021 00:00	15000	KGS	1741931	76.15	92.23	105349.72	105349.72	18962.949
40	3746846	28-04-2021 00:00	15000	KGS	1542038	76.15	92.23	105349.72	105349.72	18962.949
41	3808559	03-05-2021 00:00	27200	KGS	5002141	76.15	92.23	191034.15	191034.15	34386.148
42	4002629	19-05-2021 00:00	13600	KGS	2501071	76.15	92.23	95517.077	95517.077	17193.074
43	4171132	02-06-2021 00:00	13600	KGS	2433740	74.1	92.23	92945.705	92945.705	16730.227
44	4171465	02-06-2021 00:00	13600	KGS	2433740	74.1	92.23	92945.705	92945.705	16730.227
45	4190046	04-06-2021 00:00	27200	KGS	4545854	73.95	92.23	185515.11	185515.11	33392.72
46	4235052	08-06-2021 00:00	13600	KGS	2343328	73.95	92.23	92757.556	92757.556	16696.36
47	4901412	02-08-2021 00:00	13600	KGS	2517455	75.4	92.23	94576.331	94576.331	17023.74
48	5005969	11-08-2021 00:00	13600	KGS	2507439	75.1	92.23	94200.033	94200.033	16956.006
49	5005970	11-08-2021 00:00	15000	KGS	1661588	75.1	92.23	103897.1	103897.1	18701.477
50	5103543	19-08-2021 00:00	13600	KGS	2206138	75.1	92.23	94200.033	94200.033	16956.006
51	5154433	23-08-2021 00:00	19690	KGS	2842921	75.2	92.23	136563.85	136563.85	24581.494
52	5446087	15-09-2021 00:00	27200	KGS	4324596	73.95	92.23	185515.11	185515.11	33392.72
53	5532848	21-09-2021 00:00	13600	KGS	2387942	74.4	92.23	93322.003	93322.003	16797.961

54	5694100	04-10-2021 00:00	4200	KGS	598399.2	74.4	92.23	28820.03	28820.03	5187.6055
55	5694100	04-10-2021 00:00	10800	KGS	1446336	74.4	92.23	74108.65	74108.65	13339.557
56	5727230	06-10-2021 00:00	13600	KGS	2160278	74.4	92.23	93322.003	93322.003	16797.961
57	5735375	06-10-2021 00:00	13600	KGS	2418298	74.4	92.23	93322.003	93322.003	16797.961
58	5935766	21-10-2021 00:00	13600	KGS	2429667	75.7	92.23	94952.63	94952.63	17091.473
59	5988506	25-10-2021 00:00	13600	KGS	2345252	75.8	92.23	95078.062	95078.062	17114.051
60	6049779	29-10-2021 00:00	19690	KGS	3074554	75.8	92.23	137653.46	137653.46	24777.623
61	6099610	02-11-2021 00:00	13600	KGS	2345252	75.8	92.23	95078.062	95078.062	17114.051
62	6099733	02-11-2021 00:00	15000	KGS	2075025	75.8	92.23	104865.51	104865.51	18875.792
63	6172088	09-11-2021 00:00	30000	KGS	4068368	75.55	92.23	209039.3	209039.3	37627.073
64	6842978	27-12-2021 00:00	15000	KGS	3486794	77.15	92.23	106733.17	106733.17	19211.97
65	6843170	27-12-2021 00:00	13600	KGS	3410030	77.15	92.23	96771.405	96771.405	17418.853
66	6984083	07-01-2022 00:00	7800	KGS	1786709	75.4	92.23	54242.308	54242.308	9763.6154
67	6984083	07-01-2022 00:00	7200	KGS	1635697	75.4	92.23	50069.822	50069.822	9012.568
68	7362122	04-02-2022 00:00	15000	KGS	3575779	75.75	92.23	104796.34	104796.34	18863.341
69	7611216	23-02-2022 00:00	27200	KGS	6112595	76.05	92.23	190783.29	190783.29	34340.992
70	7711091	03-03-2022 00:00	27200	KGS	6060881	76.05	92.23	190783.29	190783.29	34340.992
71	7796018	09-03-2022 00:00	13600	KGS	3120023	76.65	92.23	96144.241	96144.241	17305.963
72	7796122	09-03-2022 00:00	13600	KGS	3868495	76.65	92.23	96144.241	96144.241	17305.963
73	8159056	06-04-2022 00:00	15000	KGS	3883835	76.9	92.23	106387.31	106387.31	19149.715
74	8343792	20-04-2022 00:00	13600	KGS	2979901	76.8	92.23	96332.39	96332.39	17339.83
75	8343840	20-04-2022	6000	KGS	1477786	76.8	92.23	42499.584	42499.584	7649.9251

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76	8343840	20-04-2022 00:00	9000	KGS	2296166	76.8	92.23	63749.376	63749.376	11474.888
77	8374153	22-04-2022 00:00	13600	KGS	3147720	77.15	92.23	96771.405	96771.405	17418.853
78	8568169	06-05-2022 00:00	13600	KGS	3143640	77.05	92.23	96645.972	96645.972	17396.275
79	8919768	01-06-2022 00:00	13600	KGS	3368293	78.6	92.23	98590.181	98590.181	17746.233
80	8919811	01-06-2022 00:00	13600	KGS	3444189	78.6	92.23	98590.181	98590.181	17746.233
81	9051366	10-06-2022 00:00	15000	KGS	4008210	78.5	92.23	108600.83	108600.83	19548.149
82	9208310	21-06-2022 00:00	13600	KGS	3404766	78.95	92.23	99029.196	99029.196	17825.255

83	9309225	28-06-2022 00:00	13600	KGS	3172843	78.95	92.23	99029.196	99029.196	17825.255
84	9529184	13-07-2022 00:00	15000	KGS	4344563	79.9	92.23	110537.66	110537.66	19896.778
85	9546993	14-07-2022 00:00	13600	KGS	2781798	79.9	92.23	100220.81	100220.81	18039.745
86	9546994	14-07-2022 00:00	15000	KGS	3955050	79.9	92.23	110537.66	110537.66	19896.778
87	9631666	20-07-2022 00:00	7800	KGS	2056626	79.9	92.23	57479.581	57479.581	10346.325
88	9631666	20-07-2022 00:00	7200	KGS	1898424	79.9	92.23	53058.074	53058.074	9550.4534
89	9872277	05-08-2022 00:00	15000	KGS	4606751	80.25	92.23	111021.86	111021.86	19983.935
90	2148804	25-08-2022 00:00	13600	KGS	1959692	80.5	92.23	100973.4	100973.4	18175.213
91	2151110	25-08-2022 00:00	6800	KGS	2408560	80.5	92.23	50486.702	50486.702	9087.6064
92	2470492	16-09-2022 00:00	40800	KGS	8922470	80.4	92.23	302543.91	302543.91	54457.904
93	2538827	21-09-2022 00:00	27200	KGS	3986682	80.4	92.23	201695.94	201695.94	36305.27
94	2620620	27-09-2022 00:00	13600	KGS	1815110	80.4	92.23	100847.97	100847.97	18152.635
95	2752450	06-10-2022 00:00	10200	KGS	1615558	80.4	92.23	75635.978	75635.978	13614.476
96	2752450	06-10-2022 00:00	4800	KGS	926208	80.4	92.23	35593.402	35593.402	6406.8123
97	2945865	19-10-2022 00:00	19690	KGS	2857255	82.45	92.23	149729.92	149729.92	26951.385
98	3047400	27-10-2022 00:00	27200	KGS	4513954	83.9	92.23	210476.24	210476.24	37885.723
99	3047423	27-10-2022 00:00	13600	KGS	2196502	83.9	92.23	105238.12	105238.12	18942.861
100	3091016	29-10-2022 00:00	27200	KGS	6264310	83.9	92.23	210476.24	210476.24	37885.723
101	3104895	31-10-2022 00:00	13600	KGS	2167976	83.9	92.23	105238.12	105238.12	18942.861
102	3309159	15-11-2022 00:00	40800	KGS	8735647	83.8	92.23	315338.06	315338.06	56760.851
103	3427485	23-11-2022 00:00	27200	KGS	3774490	82.6	92.23	207214.99	207214.99	37298.697
104	3561303	02-12-2022 00:00	15000	KGS	2121750	82	92.23	113442.9	113442.9	20419.722
105	3561449	02-12-2022 00:00	13600	KGS	1873536	82	92.23	102854.9	102854.9	18513.881
106	3561723	02-12-2022 00:00	7800	KGS	1087320	82	92.23	58990.308	58990.308	10618.255
107	3561723	02-12-2022 00:00	7200	KGS	879696	82	92.23	54452.592	54452.592	9801.4666
108	3901881	24-12-2022 00:00	15000	KGS	3220853	83.55	92.23	115587.25	115587.25	20805.705
109	3902039	24-12-2022 00:00	15000	KGS	2067863	83.55	92.23	115587.25	115587.25	20805.705
110	4047680	05-01-2023 00:00	27200	KGS	3583827	83.55	92.23	209598.21	209598.21	37727.678
111	4110428	10-01-2023 00:00	19690	KGS	2389677	83.7	92.23	151999.93	151999.93	27359.987
112	4264187	20-01-2023	27200	KGS	3783166	82.3	92.23	206462.39	206462.39	37163.23

		00:00								
113	4264213	20-01-2023 00:00	15000	KGS	2086305	82.3	92.23	113857.94	113857.94	20494.428
114	4540912	07-02-2023 00:00	13600	KGS	2911882	83.8	92.23	105112.69	105112.69	18920.284
115	4545686	07-02-2023 00:00	7200	KGS	869868	82.75	92.23	54950.634	54950.634	9891.1141
116	4545686	07-02-2023 00:00	7800	KGS	1077902	82.75	92.23	59529.854	59529.854	10715.374
117	4545735	07-02-2023 00:00	15000	KGS	2606625	82.75	92.23	114480.49	114480.49	20606.488
118	4545737	07-02-2023 00:00	19700	KGS	2282245	82.75	92.23	150351.04	150351.04	27063.187
119	4545814	08-02-2023 00:00	27200	KGS	3747582	82.75	92.23	207591.28	207591.28	37366.431
120	4678152	17-02-2023 00:00	15000	KGS	2120528	83.65	92.23	115725.59	115725.59	20830.607
121	4776984	24-02-2023 00:00	19690	KGS	2305896	83.65	92.23	151909.13	151909.13	27343.643
122	4838458	28-02-2023 00:00	13600	KGS	1894171	83.65	92.23	104924.54	104924.54	18886.417
123	4899217	04-03-2023 00:00	27200	KGS	3747480	83.5	92.23	209472.78	209472.78	37705.1
124	4913813	04-03-2023 00:00	15000	KGS	2630250	83.5	92.23	115518.08	115518.08	20793.254
125	4954968	08-03-2023 00:00	15000	KGS	2060363	83.5	92.23	115518.08	115518.08	20793.254
126	5051438	15-03-2023 00:00	19700	KGS	2388467	83.5	92.23	151713.74	151713.74	27308.473
127	5298809	30-03-2023 00:00	13600	KGS	2105892	83.7	92.23	104987.25	104987.25	18897.706
128	5617478	21-04-2023 00:00	13600	KGS	2092054	83.15	92.23	104297.37	104297.37	18773.527
129	5618549	21-04-2023 00:00	4200	KGS	570991.1	83.15	92.23	32209.483	32209.483	5797.7069
130	5618549	21-04-2023 00:00	10800	KGS	1499693	83.15	92.23	82824.385	82824.385	14908.389
131	5619490	21-04-2023 00:00	39380	KGS	4859279	83.15	92.23	302002.25	302002.25	54360.404
132	5754867	01-05-2023 00:00	15000	KGS	1895820	83.15	92.23	115033.87	115033.87	20706.096
133	5754923	01-05-2023 00:00	30000	KGS	3741750	83.15	92.23	230067.74	230067.74	41412.192
134	5755015	01-05-2023 00:00	27200	KGS	3731772	83.15	92.23	208594.75	208594.75	37547.054
135	5763470	02-05-2023 00:00	15000	KGS	1870875	83.15	92.23	115033.87	115033.87	20706.096
								16338113	15223423	2740216.1

1.7. Whereas, consequent upon amendment to the section 17 of the Customs Act, 1962 vide the Finance Act, 2011, "self-assessment" has been introduced effective from 08.04.2011 which provides for self-assessment of duty on imported goods by the importer himself by filing Bill of Entry, in electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting the Bill of Entry electronically to the Proper Officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation 2011 (issued under Section 157 read with Section 46 of the Customs

Act, 1962) the Bill of entry has be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the Service Centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self- assessment vide Finance Act, 2011 in terms of Section 17 and Section 46 of the Customs Act, 1962, it is the added and enhanced responsibility of the importer to declare true and correct

declaration in all aspects including levy of correct duty.

1.8. The Anti-dumping duty vide Notification 28/2018-Customs (ADD) dated 25.05.2018 was leviable on the import of the Saturated Fatty Alcohol goods originating from Indonesia, Malaysia & Thailand and imported into India with effect from 25.05.2018. Hence, the importer had not paid the differential Anti-dumping duty amounting to 1,52,23,423/- & IGST on not paid Anti-dumping Duty amounting to Rs 27,40,216/- as explained in the preceding paras.

1.9. As per section 46(4) the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any and such other documents relating to the imported goods as may be prescribed. In the instant case, the importer has not declared the truth of the contents in the bill of entry and hence the not paid the applicable Anti- dumping duty and IGST. Since such Anti-dumping duty and IGST appeared to have arisen due to suppression and willful misstatement by the importer, the demand for differential duty was found to be invokable under the extended period as per the provisions of Section 28 (4) of the Customs Act, 1962.

1.10. From the above investigation, it appeared that the said goods have been imported by the importer by not paying applicable Anti-dumping duty leviable under Notification 28/2018- Customs (ADD) dated 25.05.2018 which resulted into short payment of Anti-dumping duty of Rs. 1,52,23,423/- & IGST on not paid Anti-dumping Duty amounting to Rs 27,40,216/- (total amounting to Rs 1,79,63,639/-). Accordingly, M/s Soofi Traders had committed these infirmities with a view to resort to evasion of duty with malafide intention to defraud the exchequer of its rightful duty thereby clearly attracting the penal provisions of Section 114A of the Customs Act, 1962 as well.

1.11. This act of willful mis-declaration by the importer it appeared that the said goods have been imported by the importer by not paying applicable Anti-dumping duty leviable under Notification 28/2018-Customs (ADD) dated 25.05.2018 which resulted into short payment of Anti-dumping duty of Rs. 1,52,23,423/- & IGST on not paid Anti-dumping Duty amounting to Rs 27,40,216/- (total amounting to Rs 1,79,63,639/-), liable for confiscation in terms of provisions of Section 111 (m) of the Customs Act, 1962.

1.12. This act of commission and omission, of mis-declaration of the goods, had rendered the subject goods liable to confiscation in terms of provisions of Section 111(m) of the Customs Act, 1962, consequently, rendered the Importer liable for penal action in terms of provisions of Section 112(a) of the Customs Act, 1962.

1.13. The importer had knowingly and intentionally made, used declarations and documents which are false and incorrect during the import transaction under Customs Act, 1962 with the department with an intention to evade Customs duty thereby rendering themselves liable for penalty under Section 114AA of the Customs Act, 1962.

1.14. **Further,** three (03) Customs Brokers namely M/s. Dhimant P Doshi. (AABPD4374MCH001), M/s. Threestar Solutions And Services Private Limited

(AADCT7763KCH001) and M/s. Palcoman Clearing & Forwarding (AAAFP2442BCH001) had filed the bills of Entry as mentioned in **Annexure-A** on behalf of the importer M/s Soofi Traders without **verifying the information as mentioned in the Bills of lading and Invoice** while filing the Bills of Entry, which resulted in non-levy/short-levy of correct ADD as per Notification 28/2018-Customs (ADD) dated 25.05.2018 by the importer M/s Soofi Traders. It was seen that the Customs brokers failed to file the said Bills of Entry as per correct serial no. 6 of the ADD Notification No. 28/2018-Customs (ADD) dated 25.05.2018 even though it was evident from the Bills of lading and Invoices of the respective Bills of Entry that the said goods have been transshipped at Singapore but were Shipped on Board on Pre-Carriage Vessel at Batam, Indonesia. However, there was no 'Export Declaration/ Bill of Export/Shipping Bill' presented at Singapore by the importer, despite this the three the CBs filed Bills of entry and claimed benefit of S.No. 01 of Notification 28/2018-Customs instead of filing under ADD Sr. No. 6 of the notification.

Therefore, it appeared that the Customs Brokers namely M/s. Dhimant P Doshi, M/s. Threestar Solutions and Services Private Limited and M/s. Palcoman Clearing & Forwarding also failed to exercise due diligence to ascertain the correctness of information while filing BEs for clearance of cargo, and this failure on the part of CB resulted in revenue loss to the exchequer. Accordingly, Customs Brokers namely M/s. Dhimant P Doshi, M/s. Threestar Solutions and Services Private Limited and M/s. Palcoman Clearing & Forwarding, had committed these infirmities with a view to resort to evasion of duty with malafide intention to defraud the exchequer of the rightful duty thereby clearly attracting the penal provisions of **Section 112(a) and /or 114A and Section 114AA** of the Customs Act, 1962.

1.15. Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962, M/s Soofi Traders (IEC-0393027074) was called upon to Show Cause to the Commissioner of Customs, N.S.-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707, as to why: -

- a) The Anti-dumping duty vide Notification No. 28/2018-Customs (ADD) dated 25.05.2018, further amended vide Notification No 48/2018 dated 25.09.2018 should not be levied on the import of the goods “Saturated Fatty Alcohol” imported against the Bills of Entry, as tabulated in attached Annexure-A of the impugned Show Cause Notice.
- b) The differential Anti-dumping duty amounting to Rs. 1,52,23,423/- & IGST on not paid Anti-dumping Duty amounting to Rs 27,40,216/- (total amounting to Rs 1,79,63,639/-) as explained in the preceding paras should not be demanded and recovered as per section 28(4) of the Customs Act, 1962, and accordingly, the applicable interest against the same should not be demanded and recovered under section 28AA of the Customs Act, 1962.
- c) The goods covered under the Bills of Entry as tabulated in attached Annexure-A of this Show Cause Notice should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- d) Penalty should not be imposed on M/s Soofi Traders under the provisions of Sections 112(a) and/or 114A, and/or 114AA of the Customs Act, 1962.
- e) Penalty should not be imposed on the Customs brokers i.e. M/s. Dhimant P Doshi, M/s. Threestar Solutions and Services Private Limited and M/s. Palcoman Clearing & Forwarding under the provisions of **Section 112(a) and /or 114A and Section 114AA** of the Customs Act, 1962.

2.WRITTEN SUBMISSIONS

2.1. Shri Deepak H Bhurani, partner M/s Soofi Traders, vide letter dated

18.11.2024 has made following submissions: -

a) The charges have been leveled against us on the basis of an investigation done by the department. It has been mentioned at Para 3 of SCN that during the investigation, it was seen by the department that we had opted for the **benefit** of S. NO. 01 of Notification 28/2018-Customs (Nil Anti-Dumping) as shown in Table-I of SCN for various consignments under the condition that the Producer is "PT Ecogreen Oleochemicals. Indonesia" and Exporter is "Ecogreen Oleochemicals (Singapore) Pte Ltd" along with other mentioned conditions in the said notification.

The Serial No-1 in this table has been shown as under-

S. No	Sub-headings	Description of goods	County of origin	County of export	Producer	Exporter	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
1	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Indonesia	Singapore	M/s PT Eco green Oleochemicals	M/s Eco green Oleochemicals (Singapore) Pte Ltd.	NIL	MT	USD

b) It has been claimed in the same para of SCN that on security of the relevant documents, it is seen by the department that the goods have not been exported from Singapore, but the same have been transshipped at Singapore. The details mentioned on the Bill of Lading for this consignment clearly indicated that the goods were for "Transshipment at Singapore on Vessel-Shipped on Board on Pre- Carriage Vessel at Batam, Indonesia,"

The department also claims having found that there is no Export Declaration/ Bill of Export/Shipping Bill presented at Singapore. Thus, the department holds a view that the mandatory condition of the country of export as Singapore is not being fulfilled by the Exporter. Consequently, the department concludes that the importer had inappropriately claimed the benefit of S. No. 01 of Notification 28/2018- Customs.

Accordingly, the department has calculated the amount of Anti-Dumping duty payable as described in the attached Annexure -A.

c) These are the only basis, on which this Show-Cause-Notice has been framed.

In addition to the referred Annexure-A. we also found EIGHT untitled. unmarked and unnumbered pages together with the said SCN which (these EIGHT] Pages) detail down the various BE Numbers along with the Full Item Description. CB details, consignment details and calculation of ADD and IGST payable by Soofi Traders as determined by the department.

With reference to the subject matter and in respect of the said SCN. we had responded via E-mail on 21.10.2024 and by a letter dated 18.10.2024. we had asked for additional time of 30 Days to submit our response to the above referred SCN. Kindly refer to our said letter in Attachment-1. We thank you for granting us the additional time requested by us to submit our response.

d) Now, in response to the said SCN as referred above, and the various points raised by the department, we wish to make our submissions as under-

Without in any manner accepting department's contentions of misdeclaration or misclassification or committing infirmities as claimed the department for the imported materials with the malafide intention of defrauding the exchequer by resorting to evasion of duty, we like to highlight following points:

- i. M/s. SOOFI TRADERS correctly declared and cleared the various imports from ECOGREEN under the correct Serial Number 1 of the Notification Number 28/2018 dated 25.05.2018 with NIL ADD applicable to such imports, and as amended by subsequent Notifications. In all subsequent Notifications, the imports from ECOGREEN continued to be under the same Serial Number 1, with applicability of NIL ADD as per the initial ADD Notification No. 28/2018 dated 25.05.2018
- ii. The brief details of Bills of Entry as tabulated under Para 4 of the SCN and more detailed information as contained in the EIGHT untitled, unmarked and unnumbered pages as referred to herein above, also contain details of import Bills of Entry for Customs Bonding for the purpose of Exports. These imports with relevant Bills of Entry Numbers are listed under Attachment-2.

- iii. We like to know from the department the rules under which their claim has been prepared for such imports that were stored in the customs bonded warehouse and were exported out of the country following the due process of law and complying with all rules, regulations and permissions from the export customs?
 - iv. Further, in multiple references in the EIGHT untitled, unmarked and unnumbered pages, the product descriptions are incorrectly mentioned by the department at multiple places, by including an irrelevant product description in the column - FULL ITEM DESCRIPTION in these EIGHT untitled, unmarked and unnumbered pages. We like to highlight that in SIX out of the EIGHT such pages, the incorrect additional product description reads ECOROL 10 (LAURYL MYRISTYL ALCOHOL) for several listed imports.
 - v. As per the SCN, it appears to the department that the importer had inappropriately claimed the benefit of S. No. 01 of Notification 28/2018- Customs. However, while calculating the ADD claimed as payable by us, the department has not mentioned the basis or relevant Sr. No. of the said Notification No. 28/2018-Customs (ADD) Dated 25.05.2018 under which the department has demanded the ADD imposition as listed in the Annexure-A of the SCN.
 - vi. However, at Para 13 of the said SCN finds the 3 Customs Brokers (CBs) at fault for not filing the Bills of Entry as per Sr. No. 6 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018.
- e) With reference to the subject **matter** and in respect of Imports from Ecogreen Oleochemicals, cleared under Sr. No. I of Notification No. 28/2018-Customs (NIL Anti-Dumping Duty), it is relevant to highlight the background relating to levy of ADD:
- i. Levy of Anti-Dumping Duty was determined and based on the Final Findings of the Designated Authority who conducted a thorough and detailed Anti-Dumping Investigation concerning imports of "Saturated Fatty Alcohols" from manufacturers located in Indonesian, Malaysia, Thailand and Saudi Arabia at the instance of the petitioners. Reference be made to F No. 14/51/2016-DGAD dated 23.04.2018 (Attachment-3).
 - ii. The Designated Authority found that the imports of the subject goods from Saudi Arabia during the Period of Investigation accounted for less than 3 percent. Accordingly, Saudi Arabia was excluded from the investigation.
 - iii. The Designated Authority investigated manufacturers from the remaining three countries namely Indonesia, Malaysia and Thailand to determine the extent of Injury being caused by them to the local producers. Accordingly, the investigating authority recommended a Duty Table as appearing on page 58 of the said F. No. 14/51/2016-DGAD dated 23.04.2018 (Attachment-3).
 - iv. Import of Saturated Fatty Alcohols (Subject Goods). originating in, or exported from

Indonesia, Malaysia and Thailand for the reference period under SCN was thereafter regulated under Notification No. 28/2018-Customs (ADD) dated 25.05.2018 and subsequent changes as per Notification No. 48/2018-Customs (ADD) dated 25th September 2018 as well as further subsequent Notifications.

- v. The Designated Authority had assigned Definitive Anti-Dumping Duties after due investigation of each of the participating producer of "Saturated Fatty Alcohols" in the said investigation. Each of the producers in country of origin under investigation was either exempted or a Specific Anti- Dumping Duty was assigned to them. The extent of Anti-Dumping Duty so assigned by the Designated Authority was based on the determination of the extent of injury caused by the respective producers to the local (Indian) industry Those producers from the three countries who did not participate in the investigations were classified differently with higher imposition of ADD.

- vi. Accordingly, the Designated Authority recommended and imposed Definitive Anti-Dumping Duties on producers of the subject goods-SATURATED FATTY ALCOHOLS. when imported into India for local consumption, from Indonesia. Malaysia and Thailand. A Notification No. 28/2018-Customs (ADD) dated 25th May 2018 was accordingly issued by the GoI. Ministry of Finance (Department of Revenue)
- vii. The above said Notification No. 28/2018-Customs (ADD) specifically mentioned names of the producers who participated in the said investigation with specific identification of their names under the relevant Serial Numbers (from 1 to 3) and the non-participating producers under other Serial Numbers (4 & 5) with specific relevance for Indonesian producers and other Serial Numbers (from 6 to 12) for the Malaysian and Thailand producers. The said list was further modified over period with addition of more participating producers from countries under the said investigation.
- viii. Sr. No. 1 of Notification No. 28/2018 dated 25.05.2018 and the subsequent updates including Notification No. 48/2018-Customs (ADD) dated 25.09.2018, mentioned PT Ecogreen Oleochemicals (as Producer located in Indonesia) PTEO, and Ecogreen Oleochemicals (Singapore) Pte. Ltd., (as Exporter located in Singapore) - EOS. qualifying for NIL (ZERO) Anti- Dumping Duty.

It is relevant to mention here that Ecogreen Oleochemicals had participated in the said investigation by the Designated Authority, who identified them as causing no injury to the local industry and accordingly NIL. Anti-Dumping Duty was recommended for them. The thorough process of dealings including cargo movement was investigated for both PTEO and EOS by the Designated Authority and the same was recorded in detail to arrive at the basis of NIL ADD imposition on Ecogreen, as determined by the Designated Authority and more specifically mentioned in F. No. 14/51/2016-DGAD dated 23.04.2018.

- ix. We, Soofi Traders, Mumbai. imported Saturated Fatty Alcohols from EOS (Exporter) located at Singapore, an affiliate of PTEO (the manufacturer), located in BATAM. Indonesia. Ecogreen Oleochemicals had qualified for NIL / ZERO Anti-Dumping Duty as per the relevant Final findings, based on which the ADD Notification was issued. Our imports as listed Annexure A of the SCN. with due corrections of Item Description have been correctly classified and appropriately cleared for local consumption under Sr. No. 1 of the said Notification No. 28/2018, on which NIL ADD is applicable.

f) - As per the SCN. it is understanding of the department that Shipping Bills should have been filed from Singapore. Since "Ecogreen Oleochemicals (Singapore) Pte. Ltd., did not file the shipping bills at Singapore, therefore, they cannot be considered exporter for these shipments and therefore Indian importers are not eligible for exemption of "NIL" ADD under the notification No- 28/2018- Customs at Serial Number-1. Department claims that the goods have been transshipped at Singapore.

Kindly note our response to the above point as follows:

- i. Anti-Dumping **Duty** is imposed on producers. That has been a standard and recognized practice as per International Trade and as per established norms for such purpose. In this case, PTEO. Indonesia is the producer and determination of NIL ADD was based on the investigation conducted by the Designated Authority in the matter, who also recorded the role of EOS in the sales transaction process being followed by Ecogreen.
- ii. In respect of the above point, reference may be made to Disclosure statement issued under File No. 14/51/2016-DGAD, Government of India, Ministry of Commerce & Industry Department of Commerce (**Directorate** General of Anti-Dumping & Allied Duties). New Delhi. Dated 23.04.2018 (Attachment 3). In this regard, please refer to Paras 29 to 31, on Page nos. 24 and 25

describing the transaction process of PTEO and EOS. Under Para 31 refer the statement, wherein it has been stated:

QUOTE

"During POI, PT Ecogreen Oleochemicals Indonesia has exported ** MT of the subject goods to India through Ecogreen Oleochemicals (Singapore) Pte Ltd, Singapore, and

Ecogreen, Indonesia has sold the subject goods to Eco Singapore on ex-factory terms."

UNQUOTE

At Para 31, it has been found by investigating authority that PT Ecogreen Oleochemicals, Indonesia has exported the goods to India **only through Ecogreen Oleochemicals (Singapore) Pte Ltd**. This is a clear reference to Third-Party Export.

The word **THROUGH** is very much important in the above said sentence.

The Singapore entity, M/s Oleochemicals (Singapore) Pte Ltd had worked as an exporter situated in third Country. This entire transaction was happening through the well-known procedure of third Country invoicing. In the third country invoicing, the goods are moved from origin but the third country party is considered actual exporter because third country party issues the invoice and packing list in his name showing himself exporter. The Foreign currency remittance also goes to this third country exporter.

- iii. This fact is also evident from the Certificate of Origin (COO) issued by the Indonesian Authority under AIFTA Rules, wherein Sr. No. 13 of the said COO, relating to Third Party Export/Documentation is ticked. Refer relevant COO sample copy as Attachment 5. It signifies that the entire process of shipment has been clearly carried out in line with the established process, which was declared to the Designated Authority at the time of reference investigations.
- iv. Importers have been placing orders on EOS, Singapore and EOS was issuing the export invoices, packing list and importers were paying remittance to EOS only. Therefore, the above referred Notifications mentioned M/s. Ecogreen Oleochemicals (Singapore) Pte Ltd - EOS, as exporter. The Companies PTEO and EOS were following the same procedure before initiation of investigation, during the time of investigation, after the Final Findings and issuance of the Notification. There has been no change in the mode of operation and procedure of transactions from PTEO and EOS to the Indian importers before or after the investigation.
- v. All the relevant details namely, Producer Name and details, Exporter Name and details, Country of Origin, Country of Export, Feeder Vessel Name, Mother Vessel Name, Port of

Receipt of Goods, Port of Shipment have been clearly mentioned in all relevant documents. No details/information has been hidden or mis declared or incorrectly declared. The entire process of documentation and imports has been transparently followed, recorded and completed. The department has relied on the documents that were available to them and these were provided by us (importers). Even the Transshipment information has been mentioned on all the documents issued by both PTEO and EOS. Department has not provided any document or any proof of any misdeclaration on part of the importers. In such a situation, there is no place for any wrong, false, incorrect or mis-declaration, on behalf of the importers and hence the inference of the department about importers intent of duty evasion is baseless and without any substance.

- vi. In light of the points as mentioned hereinabove, the interpretation of the above said Notifications by the department while issuing the above referred SCN stating their reliance on the purported mandatory condition of country of export is not legal and the same is incorrect. As stated earlier the Definitive Anti-Dumping Duty levied by the Designated authority was based on

investigations determining the extent of injury caused to the local (Indian) industry by the concerned producers located in Indonesia, Malaysia and Thailand. Therefore, the fundamental basis for levy of ADD related to the producers from the three countries under investigation, PTEO, Indonesia, the producers had qualified for NIL ADD for exports through EOS.

- vii.** Accordingly, all our shipments from Indonesian Producer, PT Ecogreen Oleochemicals, Indonesia PTEO and Exported by Ecogreen Oleochemicals Singapore Pte. Ltd. Singapore - EOS are in order and these imports have been correctly classified under the relevant Sr. No. 1 of the Notification No. 28/2018-Customs (ADD) Dated 25.05.2018 and subsequent Notifications issued by GoI, MOF, Department of Revenue. All these imports qualify for payment of "NIL" ADD. It is relevant to emphasize that Ecogreen - both PTEO and EOS had participated in the investigation process and thus imports from Ecogreen are specifically mentioned under Sr. No. 1 of the ADD Notifications. No other Serial Number classification of the said Notifications is applicable for imports from PTEO and EOS combination.

g) In the context of international trade, third-party or third-country invoicing is a common, legitimate and globally recognized practice where a transaction involves three parties: the manufacturer/producer, the actual exporter (usually an intermediary in a third country) and the importer. The legality of such transactions and the status of the third-country entity as the actual exporter are supported by international trade laws and customs regulations, which recognize third-party invoicing arrangements. In the relevant case, the Singapore company, EOS, is legally the 'exporter in these transactions.

- i.** Third-country invoicing is a legitimate trade practice recognized internationally. The Role of the Exporter in Third-Country invoicing is well settled in law. In this arrangement and as relevant to the context, the producer/manufacturer PTEO, Indonesia ships the goods to the importer in India. The third-country entity EOS acts as the exporter by issuing the invoice, packing list and other necessary documents. The importer issues orders and also remits payment to the third-country exporter EOS, the Singapore entity.
- ii.** In case one follows the interpretation of the SCN issuing authority in respect of the shipment made from Singapore, then it will create a havoc in International Trade and the entire third country invoicing and third country export procedure will collapse. In such a case each third country exporter have to first bring the containers at their port and then file Shipping Bill at their port, then clear the goods from their Customs and then send the goods to third country by loading in another vessel. This entire process will ruin the International Trade of third country export mechanism and will make it impossible to trade due to the unnecessary high costs of handling and processing of shipments by the third country suppliers. The costs for the importers shall become unviable to carry on their business.
- iii.** Under international trade law, the entity issuing the commercial invoice and receiving payment is considered the legal exporter. The Singapore company, EOS, fulfills these

roles because they were having the contractual agreements with the importer to supply the goods, they had issued the invoices and packing lists, and they had received the payments from the importer. In this entire transaction the Company situated in Indonesia was not having any agreement with the Indian Importers for supply of goods, nor they were directly receiving payments from Indian importers, therefore they cannot be considered exporter under this transaction for Indian Importers.

- iv. International trade follows standardized rules known as Incoterms (International Commercial terms), published by the International Chamber of Commerce (ICC). Incoterms define the responsibilities of sellers and buyers, including the delivery, risk transfer, and obligations for shipping documents. The entity issuing the shipping documents, such as the commercial invoice and packing list is seen as the "exporter" under these terms. For example, if a sale is based on an Incoterm like CIF (Cost, Insurance, and Freight) or FOB (Free on Board), the third-country entity

that issues the invoice would be responsible for delivering the goods under the terms of the contract, making them the recognized exporter

- v. Customs authorities around the world, in line with World Trade Organization (WTO) guidelines, recognize the entity that issues the commercial documentation invoice, packing list as the legal exporter. These documents are accepted by the financial institutions for making remittance to third party exporters, which is sufficient legal proof of their role as exporter in the transaction.
- vi. Therefore, legally, EOS Ecogreen Oleochemicals (Singapore) Pte Ltd is the exporter in this transaction because they are issuing the commercial documents and receiving payment. The practice is widely recognized and accepted in international trade, and there is no legal prohibition against this arrangement.

h) It can be observed from Bill of Lading that the goods had been transshipped from Batam Port Indonesia to Singapore Port and port of loading has been declared at Singapore in the Bill of lading. Transshipment occurs when goods are transferred from one vessel to another, typically also due to the limitations of smaller ports or feeder services. The initial movement from Batam Indonesia to Singapore is seen on a feeder service and not the primary loading port for shipping purposes. The port of loading is considered the last port where the cargo is loaded onto the main (Mother) vessel that will carry it to the final destination.

- i. In this case, the mother vessel was loaded at Singapore, not Batam Indonesia. Batam Port's inability to handle large vessels means that goods must be moved first to a larger hub, in this case Singapore, for the main sea voyage. This is a standard practice, especially in documents will reflect Singapore as the port of loading because that is where the goods were loaded onto the main vessel responsible for the international leg of the journey. This declaration aligns with the usual industry practices for shipping documentation and liability purposes. According to conventions and other international maritime regulations, the port of loading is the port where the goods are loaded onto the main vessel, not the feeder vessel. Therefore, declaring Singapore as the port of loading is compliant with these shipping standards.
- ii. In this case, the customs clearance documents will indeed be filed at Batam Port, Indonesia, where the goods are originally manufactured and shipped from, and not in Singapore. Since the goods are manufactured and originated in Indonesia, the export customs clearance must be completed at the point of origin, which is Batam Port, Indonesia. Since the goods are not entering Singapore for domestic use or sale, Singapore customs clearance is not required. Singapore will treat the goods as in-transit, so no separate customs clearance is needed there. The responsibility for clearance lies at the original port of export (Batam, Indonesia) and the final port of import (India). The Indian importer will be notified as consignee in the Bill of lading issued by the shipping line. As per Indonesian customs law, goods manufactured and exported from Indonesia require customs clearance at the port of export, i.e. Batam Port in this case. The export declaration is

filed in Indonesia. Singapore operates as a major transshipment hub and follows WCO (World Customs Organization) standards. The customs authorities do not require clearance for goods in transit.

Apart from transshipment port of Singapore, our exporter M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd. is also located in Singapore.

i) We gave our orders to Ecogreen Oleochemicals (Singapore) Pte. Ltd., therefore import invoices were issued by them and we remitted the payments against these imports to EOS Ecogreen Oleochemicals (Singapore) Pte. Ltd. As a practice, PTEO (Indonesia) sells to EOS (Singapore) on Ex. Factory Basis and thereafter FOS (Singapore) sells on CIF basis in India. This process was endorsed by the DGTR in its final findings at the time of determination of Anti-Dumping Duty (ADD) proceedings in which imports of Saturated Fatty Alcohols in India manufactured by PTEO (Indonesia)

and exported by EOS (Singapore), were exempted from levy of any ADD, as defined under Sr No. 1 of relevant Notifications:

- i. Internationally recognized practice of imposition of anti-dumping duty has consistently been referring to producer in the country of the origin of the product being investigated, irrespective its coordinate of export. This is consistent with the Final findings in the Sunset Review Anti- Dumping Investigation concerning imports of Saturated Fatty alcohol originating in or exported from Indonesia, Malaysia and Thailand under F. No. 7/01/2022-DGTR dated 02.02.2023 (Attachment-6)

Under Sunset Review the Recommendation has been made as under-

"146. Therefore, Authority recommends continuation of anti-dumping measure as fixed rose duty. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on imports of the subject goods described at Column 3 of the Duty Table originating in or exported from Indonesia, Malaysia and Thailand.

S. No .	Heading/Sub-headings	Description of goods	County of origin	County of export	Producer	Amount
1	2	3	4	5	6	8
1	2905 17, 2905 19, 3823 70	Saturated Fatty Alcohols of Carbon chain length C12 to C18 and their blends	Indonesia	All including Indonesia	M/s PT Eco green Oleochemicals	NIL

Now we once again put below, the serial Number 1 of the notification dated 23-4-2018. which was issued vide F. No.- 14/51/2016-DGAD after Final Findings in the matter.

The Serial No-1 in this table has been shown as under: -

S. No .	Sub-headings	Description of goods	County of origin	County of export	Producer	Exporter	Amount		Currency
1	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Indonesia	Singapore	M/s PT Eco green Oleochemicals	M/s Eco green Oleochemicals (Singapore) Pte Ltd.		NIMT	USD

It can be observed under notification issued for Final Findings that the Country of Export was mentioned as "Singapore" whereas for the same serial Number and for the same column the name of country of Export has been mentioned as "Any including the Country

of Origin" under Sunset Review Findings for the goods produced by M/S. PT Ecogreen Oleochemicals. Indonesia.

What does it mean?

Why under sunset review finding, the DGAD has changed the country of Export from SINGAPORE" to any country including Indonesia. It means country of export has no relevance to determine the extent of injury that a manufacturer caused and hence was not the basis of determining imposing of ADD. The basis entirely depends upon the investigation of the producers for imposition of ADD. Here, when goods were produced by M/s PT Ecogreen Oleochemicals, Indonesia, then ADD was not applicable, no matter the goods had been exported from which country.

The Sunset Review Findings has made it clear that ADD is not applicable for the goods produced by M/s PT Ecogreen Oleochemicals, Indonesia and exported from any country including Indonesia.

Thus, our imports from PTEO / EOS, have been correctly cleared under Sr. No. 1 of the Said Notification No. 28/2018-ADD (Customs) dated 25.05.2018 and all subsequent Notifications. These shipments cannot be classified under any other Serial Number of the said Notifications. Therefore, there has been no case of non-payment or short payment or any arrears of Anti- Dumping Duty or related IGST in case of our imports and therefore no liability arises on us on various counts as mentioned in the subject SCN.

- ii. In the subject SCN, department did not mention the relevant Sr. No. of the Notification while claiming short payment of ADD except at Para No. 13 which refers to the three Customs Brokers (CBs). In Para 13, the department finds fault with the CBs for not having filed BoE under Sr. No. 6 of the ADD Notification No. 28/2018-Customs (ADD).

We like to draw the attention of Department to the contents of Sr. No. 6 of the Notification No. 28/2018-Customs (ADD), which reads as follows:

S. No.	Sub-headings	Description of goods	County of origin	County of export	Producer	Exporter	Amount	Unit	Currency
6	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Malaysia	Singapore	M/s FPG Oleochemicals Sdn. Bhd.	M/s Proctor & Gamble International Operations, Singapore	17.64	MT	USD

Obviously, this Serial number cannot be applied to goods produced in Indonesia. Therefore, the demand raised by the department on above basis is not relevant.

Our imported goods do not fall under Serial No-6 of the table mentioned in the Notification No- 48/2018 dated 25/9/2018. Serial No-6 of the table is reproduced below:

S. No.	Sub-headings	Description of goods	County of origin	County of export	Producer	Exporter	Amount	Unit	Currency
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6	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Any country other than those subject to anti- dumping duty	Indonesia	Any	Any	92.23	MT	USD
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In this table, Country of Origin has been mentioned that "any country other than those subject to anti-dumping duty". In our case it is clearly mentioned on COO and Bill of Entry that country of origin of our imported goods is "Indonesia". The goods have been originated in Indonesia and Shipped from Batam Port of Indonesia. This fact is well recorded even in the SCN stating shipment from Batam, Indonesia and transshipment at Singapore. Therefore, even this serial number fails to cover our goods on this ground only.

When one refers to Sr. No. I of Notification No. 28/2018 Customs (ADD) as amended subsequently for all Notifications, Sr. No. 1 of all the Notifications reads as follows:

S. No	Sub-headings	Description of goods	County of origin	County of export	Producer	Exporter	Amount	Unit	Currency
1	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Indonesia	Singapore	M/s PT Eco green Oleochemicals	M/s Eco green Oleochemicals (Singapore) Pte Ltd.	NIL	MT	USD

Our goods are clearly covered at serial No-1 of the table under the above said Notification. The Details are serially mentioned and it matched with the procedure which had followed by us.

1-Country of Origin- Indonesia- There is COO with each shipment which certifies country of origin of goods as Indonesia. Each Bill of Lading shows that the shipping of goods originated from the Batam Port of Indonesia.

2- Country of Export-Singapore- The Country of Export is Singapore because Exporter M/s Ecogreen Oleochemicals (Singapore) Pte Ltd. is located in Singapore. The orders were placed on Singapore Entity EOS. Export invoices and Packing lists were issued from Singapore exporter and all Remittances by importers were made to Singapore entity - EOS.

3-Producer M/S. PT Ecogreen Oleochemicals, Indonesia has been mentioned as producer on the Country-of-Origin Certificate of all shipments. The certificate of Analysis has been issued by M/S. PT Ecogreen Oleochemicals, Indonesia. All shipping lines has declared the name of shipper as M/S. PT Ecogreen Oleochemicals, Indonesia in Bill of Ladings.

4-Exporter- It can be observed that all export Invoices, packing list have been issued by the M/s Ecogreen Oleochemicals (Singapore) Pte Ltd and all payments have been made to Singapore Company. On the COO certificate also the name of M/s Ecogreen Oleochemicals (Singapore) Pte Ltd has been mentioned as exporter.

Thus, there is no ambiguity that the imports have been correctly classified under Sr No. 1 of Notification No. 28/2018-Customs (ADD), leaving no doubt that the demand raised by the department on us towards non-payment/short-payment is without any basis and thus the same needs to be withdrawn.

j) It has been called upon from us to explain why the goods covered under the Bills of Entry as tabulated in attached annexure-A of this Show- Cause- Notice should not be held liable for confiscation under section 111(m) of the Customs act, 1962 and why penalty should not be imposed on us under the provisions of Sections 112(a) and/or 114A, and/or 114AA of the Customs Act, 1962.

(i) Reading through the various provisions and those mentioned in the SCN, we humbly

submit that nothing has been mis-declared by us while filing the Bill of Entry. Department has not found or produced any other documents from their sources except the documents submitted by us and there is no basis to establish suppression of any facts relating to our imports.

Bill of lading clearly stated that goods had been transshipped from Batam port of Indonesia after Custom clearance and brought to Singapore through the feeders for loading at main/Mother vessel at Singapore.

(ii) All our imports have been legal and these have been customs cleared by following due legal process. We had not mis declared the description of goods. We had declared the country of origin of goods as Indonesia. We had declared place of receipt of goods at Batam Port Indonesia and Transshipment at Singapore. We had declared the port of loading of the goods at Singapore because goods were loaded on to Mother Vessel at Singapore. We had classified the goods in

correct Customs tariff Heading and applied NIL ADD as per correct interpretation of Notification No- 28/2018 Customs-dated 25/5/2018.

(iii) As per various decisions of Courts, if there is any dispute about the interpretation of applicability of notification between the importer and Customs department, then it will not mount misdeclaration on the part of importer under Section 111(m) of the Customs Act and importer will not be liable for penalty under the provisions of Section 112(a) and/or 114A, and/or 114AA of the Customs Act, 1962 of the Customs Act.

k) In view of all above facts, we hereby submit that we had not mis declared the description of the imported goods, nor their classification nor their country of origin nor their port of loading. Therefore, our imported goods are not liable for confiscation nor we are liable for penalty

We have rightly applied the ADD of the Serial No-1 of the table as mentioned in Notification No- 28/2018 Customs (ADD) dated 25/5/2018. Therefore, there is no question of imposition of penalty on us under Section 114 A of the Customs Act for short levy of duty. Also, we are not liable for penalty under the provisions of Section 114AA of the Customs Act because we have not used the false and incorrect information for clearance of the goods from Customs.

In view of the above and without prejudice to our right to place on records any more relevant information, it is clear that the imports of Saturated Fatty Alcohol from exporter Ecogreen Oleochemicals Singapore, by our company during the said period was correctly classified and customs cleared in accordance with the prevailing rules, regulations, applicable Notifications and procedures. Therefore, no liability arises on our part towards payment of any duties, as claimed in the reference SCN.

Therefore, the Anti-dumping notification has rightly mentioned that goods manufactured by PT Ecogreen Oleochemicals Indonesia and exported through Ecogreen Oleochemicals Singapore will attract "NIL" ADD. Since in our case manufacturer is PT Ecogreen Oleochemicals Indonesia and exporter is Ecogreen Oleochemicals Singapore therefore we have rightly paid the "NIL" ADD.

With the above submission, we request you to withdraw the demand as per the reference SCN and close the relevant file.

2.2. The notice M/s Palcoman Clearing & Forwarding, vide letter dated 15.10.2024 through its authorized representative Advocate Shri Anil Balani, has submitted that: -

2.2.1. The Notice states that importer M/s. Soofi Traders did not pay applicable Anti-dumping Duty under Notification 28/2018-Cus. (ADD) dated 25.05.2018 on Saturated Fatty Alcohol consignments imported by them in the period 26.09.2019 upto 02.05.2023.

2.2.2. As far as my clients are concerned, the SCN states that they filed Bills of Entry on behalf of the said importer without verifying the information in the Bills of Lading and

Invoices, which resulted in short levy of Anti-dumping Duty. The Notice states that my clients failed to file Bills of Entry as per correct Sr. No.6 of the said Notification 28/2018-Cus. (ADD). As per the SCN, although there was no Shipping Bills at Singapore, benefit of Sr. No..1 of the said Notification 28/2018 was claimed.

2.2.3. Sections 112(a) and/or 114A and Section 114AA of the Customs Act are invoked against my clients. At the outset my clients deny all the allegations and charges contained in the Notice. The following submissions may kindly be noted: -

- a.** Annexure-A to the SCN was not received by my clients alongwith the SCN. Kindly supply copy of Annexure-A.

- b.** Out of the total 135 consignments imported by M/s. Soofi Traders, only 6 Bills of Entry were filed by my clients in the period 26.09.2019 till 20.02.2020 on behalf of the said importer. All the 6 Bills of Entry were Warehousing Bills of Entry and the imported goods were re-exported from the Warehouse itself as per the provisions of Section 65 of the Customs Act. Thus, there is no revenue implication. Only if the goods were cleared for Home Consumption from the Warehouse, customs duty including ADD and IGST would become payable.
- c.** Total Anti-Dumping Duty with differential IGST demanded in the SCN in respect of the said 6 Bills of Entry is Rs.1,06,790/- only.
- d.** The said Bills of Entry were filed by clients in the normal course of their business. They acted bonafide and in good faith.
- e.** Statement of my clients under Section 108 of the Customs Act was never recorded. My clients were not a party to the proceedings till date.
- f.** Notice is issued to my clients after a delay of 5 years, for the first time. However, only the importer has been called upon in para 14 to show cause.
- g.** M/s. Soofi Traders is a reputed importer. In each case the Check List was forwarded to the importer for approval. Copy of one such approval of check list is attached herewith. Thus, the Bills of Entry were filed only after obtaining the approval of the importer.
- h.** Benefit of Sr. No.1 of Notification 28/2018-Cus. (ADD) was claimed only because the goods had originated in Indonesia and the exporter is located in Singapore. In the Certificate of Origin furnished by the Importer, the name of the manufacturer is shown as PT. Ecogreen Oleochemicals, Indonesia. Payment for the goods was made to exporter M/s. Ecogreen Oleochemicals (Singapore) Pte Ltd. and the Invoice, Packing List, etc. were issued by the said exporter M/s. Ecogreen Oleochemicals (Singapore) Pte Ltd.
- i.** As per proviso to Section 9-A (1) (Anti-Dumping Duty on dumped Articles) of the Customs Tariff Act, 1975, even if the goods are merely transshipped, the country of export is the country through which the goods are transshipped.
- j.** Further, there is no bar in the Notification on transshipment from Singapore. In fact, if transshipment saves time and money, insisting on Shipping Bill at Singapore defies logic. If transshipment from Singapore is not permitted, different officers at different points of time over the 3 years period, would never have extended benefit of exemption under Sr.No.1 of Notification 28/2018-Cus. (ADD).
- k.** From a plain reading of the Notification 28/2018-Cus. (ADD) it is obvious that Sr. No.6 of the notification does not apply because admittedly the goods are of Indonesian origin and Sr.No.6 applies to goods originating from countries other than Indonesia.

- l.** Several consignments were examined and assessed by the department and therefore it is not a case of self-assessment. Hence the extended period of limitation under Section 28(4) is not available to the department. The question of suppression with intent to evade duty does not arise.
- m.** In any event, the importer is available and contesting the demand.
- n.** The goods are not liable for confiscation under Section 111(m) because the Bills of Entry were filed on the basis of invoice, Bill of Lading and COO. There is no inaccuracy or misdescription of any details and particulars.
- o.** In any case, my clients have not committed any act rendering the goods liable to confiscation under Section 111(m). There is no admission or confession of guilt. The importer was also not

blamed my clients. Hence, they are not liable for penalty under Section 112(a).

- p. Penalty under Section 114A is imposable only on the person from whom the duty is recoverable under Section 28(4).
- q. Section 114AA is not applicable for the following reasons.
- My clients did not knowingly or unknowingly make any false declaration.
 - As per 27th Report of the Standing Committee on Finance (2005-2006), Section 114AA applies only in cases of fraudulent exports. Further, in the following judgements also it is held that Section 114AA is only applicable in cases of fraudulent exports and not in import cases:
 - i. A. V. Global Corporation P.Ltd.-2024 (10) TMI 159-CESTAT New Delhi
 - ii. Suresh Kumar Aggarwal -2024 (6) TMI 779-CESTAT Mumbai;
 - iii. Interglobe Aviation Ltd. 2022 (379) ELT 235 (Tri.-);
 - iv. Access World Wide Cargo -2022 (379) ELT 120 (Tri.);
 - v. Bosch Chassis Esystems India Ltd.- 2015 (325) ELT 372(T);
 - vi. Sri Krishna Sounds and Lightings - 2019 (370) ELT 594(T).
 - Without prejudice to the above, in the following judgements it is held that Section 114AA cannot be invoked when Section 112 is already invoked for the same offence:
 - i. Dharmendra Kumar - 2019 (370) ELT 1199 (Tri. -All.)
 - ii. Arya International 2016 (332) ELT 726 (Tri. -Ahmd.)
 - iii. Buhler India Pvt. Ltd.-2014 (310) ELT 593 (Tribunal)
 - iv. Govt. of India Order dated 31.8.2020 in R. A. File No.151/2020-CUS (WZ)/ASRA/MUMBAI issued vide F.No.371/17/8/16/RA 5760 dated 30.9.2020;
 - v. Order dated 11.12.2020 of Gujarat High Court in Special Civil Application No. 15689/2020 of Abdul Hussain Saifuddin Hamid.
- r. As per Advisories dated 2.12.2022; 29.12.2022 and 22.05.2024 issued by the Chief Commissioner of Customs, Mumbai Zone-II, JNCH, Nhava Sheva; the Principal Chief Commissioner of Customs, Mumbai Zone-I, and the Pr Commissioner of Customs, Mundra Custom House, Customs Brokers should not be made co-noticees in cases involving interpretative disputes regarding classification, availment of benefit of exemption notification, etc.
- s. In this case, it was the consistent practice of the department to assess Bills of Entry with benefit of Sr.No.1 of Notification 28/2018-Cus. (ADD). Transshipment was considered as export from Singapore. A mere change of interpretation by the department after 5 years,

can never justify issuance of SCN to Customs Broker. It is not the department's case that my clients have benefited or earned anything extra over and above their nominal clearing charges from the said imports. The mere filing of Bills of Entry cannot expose them to penalties under the Customs Act.

t. In such circumstances, it is prayed that the proceeding against my client may be dropped.

2.3. The notice M/s Dhimant P Doshi., vide letter dated 04.08.2025 has submitted that: -

2.3.1. We M/s DHIMANT P DOSHI. had filed and cleared some of Fatty alcohol's Bill of Entry of import documents as listed under said SCN.

2.3.2. We further would like to submit that as per receipt of sets of import documents and instruction/information with respect to filing, clearance and classification and customs duties including ADD duties, the Checklist had been prepared on the basis of sets of import documents received from the importer, thereafter Checks had been sent to the client M/s Soofi Traders for their perusal, verification of all aspect in regards to description of goods, classification, Customs duties including ADD duties, ADD Notifications serial number and all other relevant details such as BL, invoice, values etc and as per practices we adapted that only after verification of the content of the checklist from the client and due approval and receipt of information from the importer to file and process, we had processed documents accordingly

2.3.3. We further submit that we act as Customs Broker to process Bill Of Entry for clearance on the basis of documents received from the importer, further as per Para 13 of SCN we submit that we were not aware whether the goods were transshipped at the port of transshipment or there is any other documentary evidence like documents for export, export declaration or any other relevant documents were presented or any such process had been undertaken at port of Export, we had not received any such documents or information from the importer whatsoever except import documents were provided on which Bills of Entry were filed,

2.3.4. We further would like to state as per Board guidelines under Board Instructions vide Number 20/2024 dated 03.09.2024 and JNCH Advisory Number 02/2024 wherein it has been mentioned that:

The Custom Broker being made a Co-notice in the offence case under Customs Act, 1962 and further clarified that implicating Customs Brokers as co-notice in a routine manner in matters involving interpretation statute must be avoided unless element abetment of Customs Brokers in investigation is established by investigating authority. And element abetment should clearly elaborate in Show Cause"

2.3.5. We finally reiterate here that submissions made before your kind self is true and correct. Respectfully urge and would greatly appreciate consideration to drop our company name from SCN as we have acted utmost responsibly.

2.4. The notice M/s Threestar Solutions and Services Private Limited., vide letter dated

24.10.2024 has submitted that: -

2.4.1. All the Allegations made in the impugned SCN No.1100/2024-25/Commr/NS-I/GR.IIC- F/CAC/JNCH dated 20.09.2024 are completely denied as the same are devoid of facts and merits. The allegations levelled are also not sustainable in law as the Noticee has neither misclassified the goods nor contravened any provisions of the Customs Act, 1962 or any other law for the time being in force as per the details, discussed below.

2.4.2. CB filed Bills of Entry as per the documents received from the importer in good faith: The Noticee/CB, being a Custom House Agent (CHA)/Custom Broker (CB) would like to submit that they had filed checklist for the Bills of Entry on the basis of the documents viz. Invoice, packing list, Bill of Lading etc. received from the importer and sent to the importer for approval. On receiving the approval from the importer, the Noticee/CB had filed Bills of Entry in the ICEGATE system. The Bills of Entry were assessed to duty and physically examined by the then proper officer of the customs department. No discrepancy/adverse comment was reported in any of the Bills of Entry by the officers who had examined the goods. After satisfying all the parameters of the goods,

the proper officer had allowed the importer to clear the goods for home consumption. Accordingly, the Noticee had cleared the goods from the docks and handed over to the importer. In the whole process the role of the Noticee/CB is very transparent. The CB had neither done any manipulation in any import document nor done any misdeclaration of the goods with respect to the relevant import invoice received from the importer/ nor any suppression of facts.

2.4.3. The Noticee would like to submit that the similar/ identical goods of the same importer were already examined and finally assessed under Chapter 29 and cleared by the department. Hence, the CB has filed the impugned goods in good faith by following the precedents set by the final assessment done by the proper officer of the department. Therefore, the action on the part of the CB is very transparent. Hence, all the charges levelled on the Noticee are liable to be set aside.

2.4.4. Moreover, the subject goods were assessed to duty and physically examined by the proper officer of the department and thereafter allowed to be cleared for home consumption. When the proper officers of the department, after assessment and examination of the impugned goods, were satisfied with the declaration and allowed the importer to clear the goods, the role of the Noticee, being a Custom Broker, ends. The Noticee/CB has neither right nor daring to raise objection against the proper officer of the department. Moreover, when the then concerned officers of the custom department had verified the goods with respect to the import invoice, packing list etc. and did not raise any discrepancy/ objection, it can be construed that the goods were as declared. Hence, levelling charges on the CB hypothetically is not legally correct. Therefore, all the charges levelled on the CB are liable to be set aside.

2.4.5. As per Sr. No.6 of Notification No.28/2018-Cus (ADD) dated 25.05.2018 no ADD is

leviable on the subject goods:

The Noticee would like to submit that in Para 13 of the SCN the department has mentioned that the Customs brokers failed to file the said Bills of Entry as per correct serial No.6 of the ADD Notification No.28/2018-Customs (ADD) dated 25.05.2018 even though it is evident from the Bills of Lading and Invoices of the respective Bills of Entry that the said goods have been transshipped at Singapore but were Shipped on Board on Pre-Carriage Vessel from Batam, Indonesia.

As per Sr. No.6 of the Notification No.28/2018-Customs (ADD) dated 25.05.2018, ADD is leviable when the subject goods are exported from Indonesia but the country of origin of the goods are any other country other than those subject to antidumping duty, it means the country of origin of that goods should be other than Indonesia, Malaysia and Thailand. Whereas from the documents it is evident that the Country of Origin of the subject goods was Indonesia. Therefore, as per Sr. No.6 of the Notification No.28/2018-Customs (ADD) dated 25.05.2018, ADD is not leviable on the subject imported goods.

Hence the charges levelled on the Custom Broker that they have knowingly participated in the act of suppression of facts and mis-classification are improper and without any basis and therefore, all the allegations levelled against the Noticee are liable to be dropped.

2.4.6. Custom Broker is not the beneficiary of the duty saved amount, if any:

CB took regular charges for clearance, did not take any abnormal charges, hence charges of abetment/ suppression of facts/ misclassification is presumption/assumption:

The Noticee/CB would like to submit that nothing has been come out in the investigation that the Noticee/ Customs Broker has obtained undue money from importer or any other person to abet in the conspiracy. There is no incriminating statement against the CB by any person. Moreover, the Noticee would like to submit that he had not obtained any abnormal charges for filing the impugned Bill of Entry and clearance of the goods. Hence, it is evident that the Noticee had filed Bills of Entry in good faith on the basis of the documents received from the importer and the action of the Noticee was bonafide. Therefore, no penal action should be initiated against the Noticee M/s Threestar Solutions and Services Private Limited on the basis of the assumption and presumption.

Furthermore, as per Sr. No.6 of the Notification No.28/2018-Customs (ADD) dated 25.05.2018, ADD is not leviable on the subject imported goods. The Noticee relies on the case law 2019 (365) E.L.T. 453 (Tri. - Bang.) N.S. Mahesh versus Commissioner of Customs, Cochin.

2.4.7. CB is not the beneficiary of the non-payment/Short payment of duty, if any:

The Noticee/CB had no benefit in the non-payment/ short payment of the custom duty or any kind of duty which needs to be paid by the importer to the department for the process of importation of goods. The work of the CB was limited to the filing of Bill of Entry and submit the requisite documents and present the goods for examination in compliance to the direction/instruction of the proper officer of the department and clearance of goods from the port on behalf of the Importer after assessment and payment of duty as assessed by the proper officer of the department. The Noticee performed all his functions and duties diligently under the four walls of the Customs Act, 1962 and the CBLR, 2018. Therefore, no penalty should be

imposed on the Noticee/CB under the Customs Act, 1962. The Noticee relies on the case law OTA FALLOONS FORWARDERS PVT. LTD. Versus COMMISSIONER OF CUS., LUDHIANA [2021 (377) E.L.T. 456 (Tri. - Chan.)]

2.4.8. Onus of assessment (including classification) lies with the Revenue and not with the CB:

The Noticee/Customs Broker would like to submit that they have filed the Checklist on the basis of the invoice, packing list, Bill of Lading etc. and forwarded the same to the importer for approval. After approval of the checklist, they filed the Bill of Entry in ICEGATE portal. The goods covered under Bills of Entry were assed to duty by the then Assessing Officers and accordingly the applicable duty amounts were paid. After the assessment the goods were examined by the then proper officers and finally the Out of Charge were given to the goods and after completing all the requisite formalities the goods were released by the Custom Broker for giving delivery to the importer. The Custom Broker has performed all the requisite activities perfectly. The Custom Broker was never having any doubt about the classification of the goods because the goods were assessed to duty by the Ld. Assessing Officers of the department. When the Ld. Assessing Officers had classified under Chapter 29 or Chapter 38, then the Custom Broker should not have any doubt about the classification of the goods.

Furthermore, the Customs Broker has no right to raise any doubt about the classification done by the Assessing Officers of the department. Therefore, levelling allegation on the Custom Broker regarding non-intimation of misclassification of the goods by the importer is neither proper nor legal.

- i) 2019 (366) E.L.T. 318 (Tri. - Hyd.) LEWEK ALTAIR SHIPPING PVT. LTD. Versus COMMISSIONER OF CUS., VIJAYAWADA -.
- ii) BRINDAVAN BEVERAGES PVT. LTD. Versus COMM. OF CUS., C. EX. & S.T., MEERUT [2019 (29) G.S.T.L. 418 (Tri. - LB)]
- iii) SAND PLAST (INDIA) LTD. Versus COMMISSIONER OF CENTRAL EXCISE, DELHI-II [2019 (24) G.S.T.L. 737 (Tri. - Del.)]
- iv) HINDUSTAN FERODO LTD. Versus COLLECTOR OF CENTRAL EXCISE, BOMBAY [1997 (89) E.L.T. 16 (S.C.)]
- v) HERO MOTORCORP LTD. Versus COMMISSIONER OF CUSTOMS (NS-I), RAIGAD [2022 (379) E.L.T. 214 (Tri. - Mumbai)]
- vi) PARLE AGRO (P) LTD. Versus COMM. OF COMMERCIAL TAXES, TRIVANDRUM [2017 (352) E.L.T. 113 (S.C.)]

2.4.9. Claiming benefit of wrong notification is not an offence:

The notice would like to submit that filing of Bills of Entry with wrong notification is not an offence. The Noticee would like to submit that claiming benefit of wrong Notification is not an offence as held by Hon'ble Supreme Court in the case of DENSONS PULTRETAKNIK Versus COMMISSIONER OF CENTRAL EXCISE 2003(155) ELT 211 (SC). The Noticee relies on the

following case law:

- i) DIMENSION DATA INDIA PVT. LTD. Versus COMMISSIONER OF CUSTOMS [2021 (376) E.L.T. 192 (Bom.)] The above judgment has been upheld by the

Hon'ble Supreme Court of India vide Commissioner v. Dimension Data India Private Ltd. - 2022 (379) E.L.T. A39 (S.C.)]

- ii) SIRTHAI SUPERWARE INDIA LTD. Versus COMMR. OF CUSTOMS, NHAVA SHEVA-III [2020 (371) E.L.T. 324 (Tri. - Mumbai)]

2.4.10.CB has no mens rea, penalty is not imposable:

The Noticee/CB had neither done any misdeclaration nor suppression nor had any knowledge about any misdeclaration by the importer to mis-classify the said goods as well as to evade payment of full Customs duty as mentioned in the SCN. The Noticee/CB only filed Bills of Entry on the basis of invoices and other documents, which he received from the importer, in good faith subsequently presented the goods for examination and assessment by the proper officer of the department. The department had given out of charge order after proper scrutiny of the goods and the import documents. Thereafter the goods were cleared by the CB and handed over to the importer. From the whole fact it is very clear that the Noticee/CB has not done any misdeclaration / suppression as alleged in the SCN. Therefore, all the charges levelled on the Noticee in the subject SCN are liable to be dropped. The Noticee relies on the following case laws:

- i) HERA SHIPPING SOLUTIONS PVT. LTD. Versus COMMR. OF CUS., CHENNAI-IV [2022 (382) E.L.T. 552 (Tri. - Chennai)]
- ii) COMMISSIONER OF CUS. (EXPORTS), CHENNAI Versus I. SAHAYA EDIN PRABHU [2015 (320) E.L.T. 264 (Mad.)]
- iii) I. SAHAYA EDIN PRABHU Versus COMMISSIONER OF CUSTOMS, CHENNAI [2008 (222) E.L.T. 308 (Tri. - Chennai)]
- iv) JEENA AND COMPANY Versus COMMISSIONER OF CUSTOMS, BANGALORE [2021 (378) E.L.T. 528 (Tri. - Bang.)]
- v) M.S. EXIM SERVICES Versus C.C., LUDHIANA [2021 (377) E.L.T. 615 (Tri. - Chan.)]
- vi) SACHIN KUMAR Versus COMMISSIONER OF CUSTOMS, MANGALORE [2020 (374) E.L.T. 775 (Tri. - Bang.)]
- vii) OTA FALLOONS FORWARDERS PVT. LTD. Versus COMMISSIONER OF CUS., LUDHIANA [2021 (377) E.L.T. 456 (Tri. - Chan.)]
- viii) KAMAL SEHGAL Versus COMMISSIONER OF CUSTOMS (APPEALS), NEW DELHI [2020 (371) E.L.T. 742 (Tri. - Del.)]

2.4.11. No evidence to put charges on CB:

The Noticee would like to submit that they used to prepare the checklist on the basis of commercial invoice and packing list provided by the importer and sent to the importer for approval. After obtaining approval from the importer and seeing the past Bills of Entry, which were assessed and cleared by the department, the Noticee/ CB filed the Bills of Entry in good faith. The Noticee worked in a bonafide manner and filed Bills of Entry in good faith on the basis of documents which he used to get from the importer. The Noticee had no knowledge about any duty evasion as alleged in the SCN. All the allegations levelled on the Noticee is liable to be dropped. The Noticee relies on the case laws M.S. EXIM SERVICES Versus C.C., LUDHIANA [2021 (377) E.L.T. 615 (Tri. -

Chan.)]-

2.4.12. No individual role specified, allegation construed on the basis of assumption and presumptions:

The Noticee submits that there is no such evidence against their CHA Firm individually. The Noticee has been dragged into the matter mechanically just because the name of all the CHAs have been incorporated in SCN. In absence of tangible evidence against the Noticee the common allegations by the department in the SCN as far as the Noticee is concerned would therefore, be considered as based on assumptions and presumptions by the department. The Noticee had the checklist on the basis of the import invoice, packing list, Bill of Lading etc. and on approval of the checklist from the importer, the Noticee/CB had filed the Bills of Entry. Thereafter, the Noticee presented the goods and documents before the proper officer and the importer had paid duty as assessed by the department and finally after getting out of charge, given by the proper officer, the Noticee/CB had got clearance of the goods and handed over to the importer. It shows that Noticee/CB had done his job within the four walls of the Customs Act, 1962 as well as the CBLR, 2018. Hence, all the allegations levelled against the Noticee are liable to be dropped.

2.4.13. No Incriminating statement given by the Importer or any other party involved in the SCN against the Noticee:

The Noticee filed check list on the basis of commercial invoices and various documents which were provided by the importer to him and thereafter sent the checklist to Importer for the confirmation. After obtaining the confirmation from Importer then only checklist was uploaded on the ICEGATE and Bill of Entry was filed by the Noticee. Noticee performed his work within the four walls of the Customs Act, 1962, the Customs Brokers Licensing Regulations, 2018 and any other relevant Rules/ Acts. No incriminating statement against the Noticee was given by any other Noticee in the SCN. The Noticee relies on the following case laws:

- i) HINDUSTAN CARGO LTD. Versus COMMISSIONER OF C. EX.,
CHENNAI [2007 (220) E.L.T. 349 (Tri. - Chennai)]
- ii) ADANI WILMAR LTD. Versus COMMISSIONER OF
CUSTOMS (PREV.), JAMNAGAR [2015 (330) E.L.T. 549 (Tri. -
Ahmd)]

2.4.14. Assessment is the job of the Assessment Officers of Customs; no penalty can be imposed on the CB:

The Noticee would like to submit that they have filed the Bills of Entry on the basis of the import documents received from the importer. The goods were finally assessed and cleared by the proper officer. At the time of assessment/examination/ clearance of the goods no objection was raised by the department. Now after several years the department has raised a dispute with regard to classification of the finally assessed and cleared goods. Fact of the case proves that there was no such fault of the CB. Furthermore, classification dispute is an interpretational in nature and in interpretational matter no penalty can be imposed on the Noticee. The Noticee

relies on the following case laws:

- i) 2017 (352) E.L.T. 229 (Tri. - Del.) BRIJESH INTERNATIONAL Versus COMMR. OF CUS. (IMPORT & GENERAL), NEW DELHI --
- ii) 2018 (364) E.L.T. 427 (Tri. - Del.) HLPL GLOBAL LOGISTICS PVT. LTD. Versus COMMR. OF CUS. (GEN.), NEW DELHI
- iii) KORES (INDIA) LTD. Vs COMMISSIONER OF CUS. (I), NHAVA SHEVA [2019 (370) E.L.T. 1444 (Tri. - Mumbai)]

2.4.15. Penalty u/s 112(a) not imposable on the Noticee:

The Noticee would like to submit that they had filed Bills of Entry as per the import documents like invoice, packing list, Bill of Lading etc received from the importer and as per the guidance/ direction received from the importer in good faith. Furthermore, the goods were assessed to duty and examined by the proper officer of the department. When the goods were assessed and examined by the proper officer of the department, the role of Custom Broker/ Noticee in those Bills of Entry ends. In this context, the Noticee would like to refer to section 112 of the Customs Act, 1962.

2.4.16. The Noticee (CB) has neither committed nor omitted anything wrong which can render the goods liable for confiscation under section 111 of the Customs Act, 1962. Therefore, no penalty under section 112(a) of the Customs Act, 1962 is imposable on the Noticee. The Noticee relies on the following case laws:

- i) HLPL GLOBAL LOGISTICS PVT. LTD. Versus COMMR. OF CUS. (GEN.), NEW DELHI [2018 (364) E.L.T. 427 (Tri. - Del.)]
- ii) HIM LOGISTICS PVT. LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI [2016 (340) E.L.T. 388 (Tri. - Del.)]
- iii) HIM LOGISTICS PVT. LTD. Versus COMMISSIONER OF CUSTOMS, NEW DELHI [2016 (338) E.L.T. 721 (Tri. - Del.)]
- iv) DEVRAJ M. SALIAN Versus COMMISSIONER OF CUSTOMS (I), MUMBAI [2015 (316) E.L.T. 139 (Tri. - Mumbai)]
- v) INDIAN ACRYLICS LTD. Versus COMMISSIONER OF CUSTOMS, KANDLA [2015 (325) E.L.T. 753 (Tri. - Ahmd.)]
- vi) TATA MOTORS LTD. Versus COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI-I [2015 (316) E.L.T. 257 (Tri. - Mumbai)]

2.4.17. Penalty not imposable u/s 114A of the Customs Act, 1962:

The Noticee would like to submit that he has neither colluded nor made any willful mis-statement nor suppressed any facts in this matter and moreover, he is not liable to pay duty or interest in this matter, hence penalty is not imposable on him under section 114A of the Customs Act, 1962.

2.4.18. Penalty under section 114A of Customs Act, 1962 can be imposed only on the person who is liable to pay duty or interest on the goods which is the duty of the Importer only. The CHA/CB have no relation w.r.t to the duty or interest which needs to be paid for the import or export of goods. The CHA deals with the filing of documents for import and export

and clearance of goods from the port on behalf of the importer or exporter. The CHA/CB directly or indirectly have no relation with the amount of duty which needs to be paid for the Import of the goods to the department. The CHA/CB may not be charged for the penalty under section 114A of Customs Act, 1962 for short-levy or non-levy of duty not paid. Case Laws:

- i) Commissioner v. Elecon Cargo Pvt. Ltd. – [2017 (348) E.L.T. A131 (S.C.)]
- ii) 2023 2 Centax 148 (Tri. -Cal) UNITED CUSTOM HOUSE AGENCY PVT. LTD. Versus COMMISSIONER OF CUSTOMS (PREVENTIVE), KOLKATA
- iii) 2023 2 Centax 141 (Tri. -Ahmd) JANKI DASS RICE MILLS Versus COMMISSIONER OF CUSTOMS, MUNDRA CUSTOMS
- iv) 2022 TIOL 606 (Cestat -Ahmd) DRRK FOODS (P.) LTD. Versus COMMISSIONER OF CUSTOMS, MUNDRA
- v) 2021 (377) E.L.T. 456 (Tri. - Chan.) OTA FALLOONS FORWARDERS PVT. LTD. Versus COMMISSIONER OF CUS., LUDHIANA
- vi) 2020 (374) E.L.T. 754 (Tri. - Mumbai) SAVITHRI JEWELLERS PVT. LTD. Versus COMMISSIONER OF CUSTOMS, MUMBAI-II
- vii) D. H. Patka & Company Vs. CC (Import), Mumbai [2008(229) ELT.612 (Tri. - Mumbai)]:
- viii) Thawerdas Wadhoomal v/s CC (General) Mumbai, [2008(221) ELT 252 (Tri. - Mumbai)]
- ix) Somayya Shipping Clearing Pvt. Ltd. V/s. CCE, Mumbai, [2006 (197) ELT 552 (CESTAT)]
- (x) Sindhu Cargo Services Ltd. Vs. Commissioner of Customs, [2008(226) ELT 282]

2.4.19. No suppression/ misdeclaration by CB- Penalty u/s 114AA of the Customs Act, 1962 not imposable:

The Appellant submits that Section 114AA of the Customs Act, 1962 emphasizes the words “knowingly and intentionally” which indicated that it is prerequisite to prove that a person had used false documents or declaration with prior knowledge and the person had intentionally done the false declaration. The Noticee being a CB had filed the checklists on the basis of the import documents viz. invoice, packing list, Bill of Lading etc. and past Bills of Entry as reference, received from the importer and sent for approval from the importer. After obtaining the approval from the importer the Noticee had uploaded the full data in the ICEGATE and filed the Bills of Entry. Thereafter, the Noticee presented the goods as well as documents before the proper officer for scrutiny, examination and assessment. After completion of assessment the importer paid the duty as assessed by the department. After payment of duty by the importer the proper officer had given ‘out of charge’ order. Thereafter the Noticee cleared the goods and handed over to the importer. The whole process shows that the Noticee had filed the Bills of Entry in good faith and action on the part of the Noticee was bonafide. The Noticee had not done any wrong thing.

In view of the above submissions, the Appellant submits that no penalty is imposable on him under Section 114AA of the Act as he has not knowingly or intentionally made, signed or used, or caused to be made, signed or used, any declaration, statement or document which was false or incorrect in any material particular, in the transaction of any business for the purpose of this Act. There is no evidence of any action (commission) or inaction (omission) on the part of the Noticee/CB so as to render the goods liable to confiscation and therefore the penalty under Section 114AA is not sustainable. The Noticee relies on the following case laws:

- i) CESTAT, Principal Bench, New Delhi in the matter Brijesh International

Versus Commr. of Cus. (Import & General), New Delhi {2017 (352) E.L.T. 229 (Tri. - Del.)}:

- ii) GIAVUDAN INDIAN PVT. LTD. Versus COMMISSIONER OF CUSTOMS, BANGALORE {2010 (261) E.L.T. 975 (Tri. - Bang.)}, Affirmed in 2016 (337) ELT A42 (Supreme Court):
- iii) 2019 (366) E.L.T. 318 (Tri. - Hyd.) LEWEK ALTAIR SHIPPING PVT. LTD. Versus COMMISSIONER OF CUS., VIJAYAWADA –

2.4.20. Board's INSTRUCTION and ADVISORY NOTICE by Pr. Chief/ Chief Commissioner of Customs, Mumbai Zone-I and II - not to implicate CHA/ CB in a routine manner:

The CBIC, New Delhi vide their Instruction No.20/2024-Customs dated 03.09.2024 issued under F. No.520/01/2023-Cus.IV dated 03.09.2024 has instructed the field formation not to implicate the Custom Broker in a routine manner unless a clear abetment of Custom Broker in the offence is proved.

In this case there is no abetment of the Custom Broker/Appellant, hence, the Appellant should not be implicated.

2.4.21. That appreciating the position that the Customs Brokers are being issued SCN under the provisions of section 112 or 114 /114AA of the Customs Act, for alleged violations of CBLR, The Pr. Chief Commissioner of Customs, Zone-I, NCH, Mumbai has issued an Advisory No. 01/2022 dated 29.12.2022 vide CCCO/TECH/15/2022 dated 29.12.2022.

2.4.22. Similarly, an **ADVISORY No.01/2022-JNCH dated 02.12.2022** has also been issued by the Office of the Chief Commissioner of Customs, Mumbai Zone-II, JNCH, Nhava Sheva directing the officers not to implicate and impose penalty on the Custom House Agents as a routine manner.

In the impugned case, the Appellant/CB had neither connived with the importer nor abetted the importer nor had any mens rea, therefore, imposition of penalty on the Appellant/CB is arbitrary and illegal. Therefore, all the charges levelled on the Appellant/CB are liable to be dropped and no penalty is imposable on the Appellant. Hence, the impugned order is liable to be set aside.

2.4.23. Thus, in view of the above Noticee/CB has neither committed nor omitted to do anything which can render the goods liable for confiscation under section 111 of the Customs Act, 1962. Therefore, no penal action under section 112(a), 114A or 114AA under the Customs Act, 1962 is warranted against the Noticee.

3. PERSONAL HEARING

3.1 Following the principal of natural justice and in terms of Section 28(8) read with Section 122A of the Customs Act, 1962, the Noticee was granted opportunity for personal

hearing (PH) on 04.08.2025.

4.

3.2. Shri Deepak Bhurani, Business head of M/s Soofi Traders, appeared for Personal Hearing in virtual mode before the Principal Commissioner of Customs, NS-1, JNCH on the 04.08.2025 and the following submissions were made by him, during the course of the personal hearing.

- i. Shri Deepak Bhurani emphasized that the importers did not commit any infirmities and that there have been no misdeclaration or misclassification of imports. There has been no malafide intention to defraud the exchequer by evasion of any applicable duties.
- ii. He referred to the Anti-Dumping Duty Investigations carried on by DGAD for imports of Saturated Fatty Alcohols (SFA) from Indonesia, Malaysia and Thailand. The imports under the SCN being of Indonesian Origin were subject to ADD Investigations. Both PT. Ecogreen Oleochemicals, Indonesia (PTEO) and Ecogreen Oleochemicals (Singapore) PTE Ltd., EOS, had participated in the ADD investigations and their submissions describing the transaction process of PTEO and EOS were recorded in Final findings under File No. 14/51/2016-DGAD, Paras 29 to 31 on Page Nos. 24 and 25. Upon investigations, the Authority recommended definitive ADD on the producers of the three countries based on the extent of injury being caused to local industry by each of the participant in the investigation. Ecogreen was found to be causing no injury to the local industry and hence NIL ADD was imposed on Ecogreen.
- iii. Ecogreen was located in Indonesia and the nearest port to the plant was BATAM, which is a minor port. BATAM cannot accommodate main vessels or mother vessels. The cargo travels from BATAM via Barges to Singapore Port, which is the nearest main port. The Export Process is completed at BATAM Port and the cargo passes in transit through Singapore Port, where the cargo is loaded on the Main Vessel/Mother Vessel. The BL is accordingly issued at Singapore. This process of shipment is being followed historically by Ecogreen, before the ADD imposition, during investigation and continues to be the same even currently. There is no requirement of export process at Singapore as the cargo movement happens under the recognized international laws and process.
- iv. Without admitting to any claims of ADD avoidance and therefore the liability to pay ADD on shipments covered under the SCN, he mentioned that the list forming part of the SCN contained reference of 26 shipments that were cleared under warehousing BoE for exports and in no manner, these can be part of any claim by the customs. The Tax Avoidance claimed in SCN on such shipments amount to ADD Rs 30,36,885/- and IGST Rs 5,46,640/-, Total Rs. 35,83,525/- It is respectfully submitted that the overall claim as raised in the SCN amounting to Rs. 1,79,63,639/- has not been accepted by the Noticee
- v. It was highlighted that the SCN raised a total claim amounting to Rs. 1,79,63,639/- on account of ADD and IGST, however the basis of such a claim was not mentioned in the SCN. The reference of Serial Number 6 of Notification No. 28/2018 has been made only in

Para 13 of the SCN which is addressed to the Customs Brokers (CHA). However, a simple reading of the said the said Sr. No. 6 in Notification No. 28/2018 refers to "Malaysia" as "Country of origin", whereas the product under import is of Indonesian origin

- vi.** It was further highlighted that in the subsequent Notification No. 48/2018 dated 25th September 2018, Sr. No. 6 referred to "ANY COUNTRY OTHER THAN THOSE SUBJECT TO ANTI DUMPING DUTY" Therefore, the claim under the SCN on the Notice does not qualify being applicable under the relevant notifications
- vii.** In addition, Shri Deepak also referred to the Notification Final Findings (Case No AD (SSR)- 01/2022) dated 2 February, 2023 in Sunset Review of Anti-Dumping Investigation wherein PTEO (ECOGREEN) was again identified as causing no injury to the local industry and hence NIL ADD was not applied to Ecogreen in these Final findings. Further, the Duty Table in the reference Final Findings mentions Country of Export as "ANY INCLUDING INDONESIA" This further supports the shipment process being followed by Ecogreen in their exports via Singapore through EOS.
- viii.** Anti-Dumping duty is imposed on producers depending upon the extent of injury being caused by such producers to the local industry. In case of Ecogreen, no such injury was identified during the initial ADD investigations or during the subsequent Final findings as per the Sunset Review of 2nd February, 2023.
- ix.** Shri Deepak requested the authority to accept the submissions made by the Noticee, M/s Soofi Traders in respect of the imports from Ecogreen, which have been correctly classified under Sr. No. 1 of the relevant Notification No. 28/2018 or 48/2018 by the Noticee and thus there has been no misdeclaration or duty avoidance
- x.** He handed over the copies of both Notifications- (i) Final Findings under File No. 14/51/2016- DGAD and (ii) Final Findings (Case No. AD (SSR)-01/2022) dated 2nd February, 2023 in Sunset Review to the authority
- xi.** Shri Deepak referred to the COO issued under FTA for the said transactions, which had third party invoicing duly Ticked on it under Sr No. 13 of the COO document. The name of EOS, has been recorded on the COO. Shipment via Singapore is in line with the process described by Ecogreen during investigations and that follows the WCO norms in respect of Transshipment.

- xii.** The Noticee, M/s Soofi Traders placed orders on EOS, who issue Sales Contracts, Invoice, Packing List and Insurance Certificates and Payments were remitted to EOS, as per the Incoterm, the transaction is between Exporter EOS and Importer-Soofi Traders. The entire responsibility of the cargo movement being on EOS, they are formally the Exporters located in Singapore. These are internationally recognized processes for shipment and hence in line with the established systems.

3.3. Shri Anil Balani, Advocate of Noticee M/s. Palcoman Clearing and Forwarding, Customs Broker attended the personal hearing through virtual mode 04.08.2025. He submitted that :-

- i.** Out of a total of 135 Bills of Entry, his client filed only 06 Bills of Entry.
- ii.** No loss was caused to the revenue because all the 06 consignments were exported from the warehouse.
- iii.** In any case, no act was committed by his client rendering the goods liable for confiscation under Section 111 of the Customs Act, 1962 and no false declaration was made intentionally. Hence, penalties are not attracted.
- iv.** Lastly, Section 9A of the Customs Tariff Act refers to “Transshipment Port” also as country of export. Hence by claiming benefit of Sr. No. 1 of ADD Notification 28/2018-Cus 9 (ADD), there was no abetment in evasion of duty.
- v.** In the case of CC (Exp), Nhava Sheva Vs Mascot International reported in 2017 (352) ELT 3 (SC), the Hon’ble Supreme Court has held that when goods are re-exported, the question of payment of anti-dumping duty would not arise. In the instant case also, the goods imported under 6 Bills of Entry filed by his client were re-exported from the warehouse itself. As such ADD was not payable on the same.

3.4 Shri Dhaval Doshi attended the personal hearing through virtual mode 04.08.2025 on behalf of Noticee M/s Dhimant P Doshi, Customs Broker. He submitted that written submissions have been filed vide letter dated 04.08.2025. He clarified standard operating procedure followed by them for filling Bills of Entry:

- i.** They receive pre-alert from the importer to initiate the preparation of the checklist for filling bill of entry.
- ii.** Upon preparation, the checklist is shared with the importer for verification and confirmation of all details, including classification, duty structure and other relevant credentials.
- iii.** Only after receiving written approval from the importer, they proceed to file the Bill of Entry on ICEGATE portal.

He submitted that considering their limited role as a service provider acting strictly on the instructions and approvals of the importer, their name may be dropped from the list of the co-noticees in the impugned SCN.

3.5 Shri Ashwani Kumar Prabhakar, Advocate attended the personal hearing through virtual mode 04.08.2025 on behalf of Noticee M/s. Threestar Solutions and Services Pvt. Ltd.,

Customs 00Broker. He made following submissions during personal hearing:

- i.** Customs Broker filed Bills of Entry as per documents received from the importer.
- ii.** Assessment is the duty of the importer/proper officer as per Section 17 of the Customs Act, 1962.
- iii.** Customs Broker has no role in assessment (Vivo Mobiles Vs C.C., 2024 TIOL-149 CESTAT, Delhi)
- iv.** No evidence against the CB. Checklist were sent to importer and were duly signed by the importer.
- v.** CBIC instructions 20/2024 Customs dated 03.09.2024 an advisory issued by JNCH No. 1/2022 JNCH also be taken on record.
- vi.** Goods not to be held liable to confiscation under Section 111 (m) of the Customs Act, 1962 on the ground of claiming benefit of the ineligible exemption Notification- 2023 (11), Centex 211 (T), Aurolé Inpsects Pvt. Ltd. Vs C.C.
- vii.** Once goods are cleared, they cannot be held liable to confiscation, as the goods are not imported goods. The definition of imported goods excludes the goods cleared for home consumption.

4 DISCUSSION AND FINDINGS

4.1 I have carefully gone through the Show Cause Notice, material on record and facts of the case, as well as written and oral submissions made by the Noticee. Accordingly, I proceed to decide the case on merit.

4.2. The adjudicating authority has to take the views/objections of the noticee on board and consider before passing the order. In the instant case, the personal hearing was granted to the noticee's on 04.08.2025 by the Adjudicating Authority which was attended by Shri Deepak Bhurani (on behalf of M/s Soofi Traders, Advocate Shri Anil Balani (on behalf of M/s Palcoman Clearing & Forwarding, Customs Broker), Shri Dhaval Doshi (on behalf of M/s Dhimant P Doshi, Customs Broker) and Advocate Shri Ashwani Kumar Prabhakar (on behalf of M/s Threestar Solutions and Services Pvt. Ltd., Customs Broker). The submissions made by the noticees during the personal hearing have been taken on record in para 3 above.

4.3. I find that in compliance to the provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to the Noticee. Thus, the principles of natural justice have been followed during the adjudication proceedings. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the allegations made in the SCN as well as the submissions / contentions made by the Noticee.

4.4. The present proceedings emanate from Show Cause Notice No. 1100/2024-25/Commr/NS-I/Gr. II(C-F)/CAC/JNCH dated 20.09.2024 to M/s. Soofi Traders and its Customs Brokers, alleging wrongful availment of exemption from Anti-Dumping Duty (ADD) on imports of 'Saturated Fatty Alcohols' under various Bills of Entry by mis-declaring the country of export as Singapore. The SCN alleges that the importer inappropriately claimed benefit of Sr. No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018 (NIL ADD) though the goods were actually shipped from Batam, Indonesia and merely transshipped at Singapore, without any export declaration being filed there. The SCN contends that the goods fall under Sr. No. 6 of the said Notification attracting ADD at the rate of USD 92.23 per MT, and accordingly, differential ADD amounting to ₹1,52,23,423/- along with IGST of ₹27,40,216/- (totaling ₹1,79,63,639/-) is recoverable under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA. The SCN further proposes holding the goods liable for confiscation under Section 111(m) of the Act, and seeks imposition of penalties upon M/s Soofi Traders under Sections 112(a), 114A and 114AA of the Customs Act, 1962. It also proposes penal action against the Customs Brokers, M/s. Dhimant P Doshi, M/s Threestar Solutions and Services Private Limited and M/s. Palcoman Clearing and Forwarding under Sections 112(a), 114A and 114AA for their alleged failure to exercise due diligence while filing the impugned Bills of Entry.

4.5. I find that the importer, M/s. Soofi Traders, has contended that the exemption from Anti- Dumping Duty (ADD) under Sr. No. 1 of Notification No. 28/2018-Customs (ADD) was rightly claimed, as the consignments were produced by M/s. PT Ecogreen Oleochemicals, Indonesia and exported through their related entity, M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd. The importer has submitted that Ecogreen Singapore was the actual exporter in terms of international trade practice, since invoices and packing lists were issued by them and remittances were made to them. It has been argued that third-country invoicing is a well- recognized practice in international trade. Furthermore, it has been contended that Ecogreen Oleochemicals has participated in the investigation by the Designated Authority, who identified them as causing no injury to the local industry and accordingly NIL anti-dumping duty was recommended for them. It has also been submitted that thorough process of dealings including cargo movement was investigated for both PT Ecogreen Oleochemicals and Ecogreen Oleochemicals (Singapore) Pte. Ltd. by the Designated Authority and the same was recorded in detail to arrive at the basis of NIL ADD imposition on Ecogreen. The importer has further relied upon the subsequent Sunset Review, wherein PT Ecogreen Indonesia was granted NIL ADD irrespective of the country of export, to contend that the policy intent was to exempt their imports from duty. It has denied any misdeclaration, asserting that the country of origin was correctly declared as Indonesia, the exporter as Ecogreen Singapore, and the port of loading as Singapore in line with shipping practice. Accordingly, the importer has prayed for dropping of the demand, interest, penalty, and confiscation proposed in the Show Cause Notice.

4.6. On careful perusal of the Show Cause Notice, reply filed by the Noticee, and the case records, I find that the following main issues arise for determination in this case:

A. Whether or not the goods “**Saturated Fatty Alcohols**” imported under the Bills of Entry mentioned in Annexure-A of the SCN are rightly covered for the purpose of Anti-Dumping Duty under Serial No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018, attracting NIL rate of ADD, or under Serial No. 6 of the said Notification, attracting ADD @ USD 92.23 per MT.

B. Whether or not the differential Anti-Dumping Duty of ₹1,52,23,423/- and IGST thereon of ₹27,40,216/- (totaling ₹1,79,63,639/-) is recoverable from the importer M/s. Soofi Traders under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA.

C. Whether or not the imported goods covered under the Bills of Entry in question are liable to confiscation under Section 111(m) of the Customs Act, 1962.

D. Whether or not penalty is imposable on the importer M/s. Soofi Traders under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

E. Whether or not penalties are imposable on the Customs Brokers, namely M/s. Dhimant P Doshi, M/s Threestar Solutions and Services Private Limited and M/s Palcoman

Clearing & Forwarding under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

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

A. Whether or not the goods "Saturated Fatty Alcohols" imported under the Bills of Entry mentioned in Annexure-A of the SCN are rightly covered for the purpose of Anti-Dumping Duty under Serial No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018, attracting NIL rate of ADD, or under Serial No. 6 of the said Notification, attracting ADD @ USD 92.23 per MT.

4.8. I find that in respect of the consignments under dispute, the Noticee's submission that the goods were produced by M/s. PT Ecogreen Oleochemicals, Indonesia and exported through M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd., thereby attracting NIL ADD under Serial No. 1 of Notification No. 28/2018-Customs (ADD), is borne out from the records. The import documents on file, including the commercial invoices, packing lists, and Certificates of Origin, clearly establish Indonesia as the country of origin, PT Ecogreen Oleochemicals as the producer, and Ecogreen Singapore as the exporter. The Bills of Lading further confirm that the consignments were first shipped from Batam, Indonesia on feeder vessels, and subsequently loaded onto mother vessels at Singapore, thus identifying Singapore as the port of loading.

4.9. I find that Notification No. 28/2018-Customs (ADD) dated 25.05.2018 was issued pursuant to the Final Findings of the Designated Authority (DGAD) in the anti-dumping investigation concerning imports of Saturated Fatty Alcohols. In the said findings, the Authority clearly recorded that exports made by M/s. PT Ecogreen Oleochemicals, Indonesia were effected through their related trading arm, M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd. It was precisely on this basis that Sr. No. 1 of the Notification prescribed a NIL rate of duty for such exports. Thus, the legislative intent underlying the exemption entry was to exempt the exports of PT Ecogreen routed through Ecogreen Singapore, recognizing that such transactions were not causing injury to the domestic industry. In light of this background, it would not be correct to interpret the entry in a manner that defeats the very objective for which it was created.

4.10. I further find merit in the importer's contention that Ecogreen Singapore was the actual exporter of the goods in terms of international trade practice. The commercial invoices, packing lists, and payment remittances were all issued to and settled with Ecogreen Singapore. It is a well-recognized practice in international trade that goods produced in one country may be invoiced and exported through a related entity in another country, without such practice affecting the eligibility for benefits where the policy intent

clearly permits the same. In the present case, although the consignments were loaded at Batam, Indonesia on feeder vessels and transshipped at Singapore onto mother vessels, the port of loading as per the bill of lading was Singapore, which is consistent with global shipping practice. The absence of a shipping bill filed at Singapore cannot by itself negate the fact that Ecogreen Singapore was the exporter of record for the purposes of the notification, since the exemption entry does not prescribe such a procedural requirement.

4.11. I also take note of the findings of the Designated Authority in the Sunset Review vide Final Findings Notification No. 7/01/2022-DGTR dated 02.02.2023, wherein it was categorically recorded that exports made by M/s. PT Ecogreen Oleochemicals, Indonesia attract a NIL rate of anti-dumping duty, irrespective of the country of export. This clarification from the authority which originally conducted the anti-dumping investigation leaves no ambiguity as to the policy intent. It is evident that the exemption was producer-specific and not meant to be restricted or denied merely because the goods were routed through or transshipped at Singapore. Accordingly, the reliance placed in the SCN on procedural aspects such as non-filing of a shipping bill at Singapore is of no consequence, as the binding clarification of the Designated Authority leaves no scope for denying the NIL duty benefit to PT Ecogreen's exports. Para 146 of Sunset Review vide Final Findings Notification No. 7/01/2022-DGTR dated 02.02.2023 is quoted below for reference

:-

"146. Therefore, Authority recommends continuation of anti-dumping measure as fixed rate duty. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on imports of the subject goods described at Column 3 of the Duty Table, originating in or exported from Indonesia, Malaysia and Thailand.

DUTY TABLE

S. No.	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Amount (USD/MT)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	2905.17, 2905.19, 3823.70	Saturated Fatty Alcohol of Carbon chain length C12 to C18 and their blends	Indonesia	Any including Indonesia	M/s PT Ecogreen Oleochemicals	Nil

4.12. Section 9A and 9B of Customs Tariff Act, 1975 are quoted below for reference: -

"Section 9A . Anti- dumping duty on dumped articles. -

(1) Where ¹ [any article is exported by an exporter or producer] from any country

or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.

Explanation. *For the purposes of this section, -*

(a) "Margin of dumping", in relation to an article, means the difference between its export price and its normal value;

(b) "export price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

(c) "Normal value", in relation to an article, means -

(i) the comparable price, in the ordinary course of trade, for the like article when ² [destined for consumption] in the exporting country or territory as determined in accordance with the rules made under sub section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either -

(a) comparable representative price of the like article when exported from the exporting country or ³ [territory to] an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided *that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

⁴ *[(1A) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name*

*or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be*⁵ *[, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify].]*

⁶ [(1B) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of anti-dumping duty imposed under sub-section (1) has taken place whereby the anti- dumping duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.

Explanation. - *For the purposes of this sub-section, "absorption of anti-dumping duty" is said to have taken place,-*

(a) if there is a decrease in the export price of an article without any commensurate change in the cost of production of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or

(b) under such other circumstances as may be provided by rules.]

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India an anti-dumping duty on the basis of a provisional estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined:-

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and

(b) refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

⁷ [(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub- section (2) shall not apply to articles imported by a hundred percent export-oriented undertaking or a unit in a special economic zone, unless,-

(i) it is specifically made applicable in such notification or to such undertaking or unit; or

(ii) such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, anti- dumping duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.

Explanation. - For the purposes of this section,-

(a) the expression "hundred percent export-oriented undertaking" shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944 (1 of 1944);

(b) the expression "special economic zone" shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).]

(3) If the Central Government, in respect of the dumped article under inquiry, is of the opinion that -

(i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and

(ii) the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may, by notification in the Official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub- section, and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

(4) The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period ⁸ [upto five years] and such further period shall commence from the date of order of such extension:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

⁹ [**Provided** also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time.]

(6) The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for any anti-dumping duty under this section may be identified, and for the manner in which the export price and the normal value of, and the margin of dumping in relation to, such articles may be determined and for the assessment and collection of such anti-dumping duty.

¹⁰ *[(6A) The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (6) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer:*

Provided *that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available.]*

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

¹¹ *[(8) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.]*

Section 9B. No levy under section 9 or section 9A in certain cases. -

(1) Notwithstanding anything contained in [section 9](#) or [section 9A](#), -

(a) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;

(b) the Central Government shall not levy any countervailing duty or anti-dumping duty -

(i) under [section 9](#) or [section 9A](#) by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;

(ii) under sub-section (1) of each of these sections, on the import into India of any article from a member country of the World Trade Organization or from a country with whom Government of India has a most favoured nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any

established industry in India or materially retards the establishment of any industry in India; and

(iii) under sub-section (2) of each of these sections, on import into India of any article from the specified countries unless in accordance with the rules made under sub-section

(2) of this section, a preliminary finding has been made of subsidy or dumping and consequent injury to domestic industry; and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation:

Provided that nothing contained in sub-clauses (ii) and (iii) of clause (b) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India;

(a) the Central Government may not levy -

(i) any countervailing duty under [section 9](#), at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby;

(ii) any anti-dumping duty under [section 9A](#), at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.

(2) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be at in any such investigation and for all matters connected with such investigation.”

4.13. I note that under the statutory framework of Section 9A of the Customs Tariff Act, 1975, the levy of Anti-Dumping Duty (ADD) is contingent upon the Final Findings and recommendations of the Designated Authority (DA) functioning under the Directorate General of Trade Remedies (DGTR), Ministry of Commerce and Industry. The DA alone is empowered to conduct a detailed investigation into alleged dumping, determine the margin of dumping, assess the injury to domestic industry and recommend the imposition of ADD at specific rates for specific producer-exporter combinations. The Customs authorities cannot travel beyond their scope or reinterpret them at the assessment or adjudication stage.

4.14. I also note the mandate of Section 9B(1)(b)(iii) of the Customs Tariff Act, 1975, which categorically stipulates that no anti-dumping duty shall be levied on imports from a country unless two specific preconditions are met:

1. A **preliminary finding** of dumping or subsidy and the consequent injury to the domestic industry; and
2. A **further determination** that imposition of such duty is necessary to prevent injury during the pendency of investigation.

4.15. This statutory provision reflects the legislative intent that ADD cannot be imposed automatically or on mere suspicion, but only after due inquiry and determination in strict accordance with the rules framed under Section 9B (2). In the present case, the Designated Authority (DGTR), in its Final Findings of 2018 as well as the subsequent Sunset Review of 2023, has clearly determined that exports from M/s PT Ecogreen Oleochemicals, Indonesia, through M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd., attract a NIL rate of ADD. There is no preliminary finding, nor any subsequent determination, justifying levy of ADD on these specific consignments. Hence, imposition of ADD by disregarding such findings would be contrary to Section 9B(1)(b)(iii) and ultra vires to the statutory framework.

4.16. The Hon'ble Bombay High Court in *Mahle Anand Thermal Systems Pvt. Ltd. v. Union of India* [2023 (383) E.L.T. 32 (Bom.)] categorically held that the levy and collection of Anti- Dumping Duty (ADD) in disregard of the statutory framework under Section 9A read with Section 9B(1)(b)(iii) of the Customs Tariff Act, 1975 is impermissible. The Court, while granting relief to the petitioner, declared that the impugned levy was "incorrect and contrary to Section 9A read with 9B(b)(iii)", as the goods in question stood excluded under the Final Findings. Para 12 to 14 of the said judgement is quoted below:-

"12. Of course, in the notification issued being Notification No. 23 of 2017 the description of the goods not included in the goods on which anti-dumping duty is leviable is worded as under :- "(vii) Clad with compatible non-clad Aluminium Foil : Clad with compatible non-clad Aluminium Foil is a corrosion-resistant aluminium sheet formed from aluminium surface layers metallurgically bonded to high-strength aluminium alloy core material for use in engine cooling and air conditioner systems in automotive industry; such as radiator, condenser, evaporator, intercooler, oil cooler and heater."

13. Subsequently, there is a clarification issued by the Directorate General of Anti- Dumping and Allied Duties on 1st February, 2018 which is quoted earlier. Therefore, it is quite clear that clad as well as clad with compatible non-clad or unclad aluminium foil has been excluded from anti- dumping duty. Respondent No. 4 therefore was not justified in insisting on payment of anti- dumping duty for clearance of unclad or non-clad consignment of aluminium foil, more so, when the same product is allowed to be imported from other ports without insisting on

payment of levy of anti-dumping duty.

14. In view of the above, we allow the petition in terms of prayer clauses (a1) and (e) and the same read as under:-

*"(a1) that this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India declaring **that levy and collection of ADD on unclad or non-clad aluminium foils for automobile industry imported from China PR in terms of Notification No.23/2017- Cus. (ADD), dated 16-5-2017, is incorrect and contrary to Section 9A read with 9B(b)(iii) of the Customs Tariff Act, 1975 and read with paragraph(s) 9(ii)(c), 12, 31, 79 and 136(xlix) of Final Findings dated 10-3-2017.***

(e) that this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India ordering and directing the respondents by themselves, their officers, subordinates, servants and agents to forthwith grant refund of Anti-dumping Duty paid by the petitioner under protest on import of unclad/non-clad aluminium foil from China PR in terms of Notification No. 23/2017- Cus.(ADD), dated 16-5-2017 during the period from August 2017 to December 2018;"

4.17. Applying the above legal position to the facts of the present case, I find that the DA in its Final Findings of 2018 clearly determined that exports of goods produced by M/s PT Ecogreen Oleochemicals, Indonesia, through M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd., attract NIL ADD. Further, the Sunset Review of 2023 reaffirmed this position by recording that the NIL rate applies to exports of the said producer with "Country of Export – Any including Indonesia," thereby recognizing that routing or transshipment through Singapore does not disqualify the goods from levy of NIL ADD.

4.18. Therefore, any denial of benefit on the basis of objections relating to exporter-of-record or transshipment would amount to re-interpreting or overriding the DA's binding determinations, which is impermissible under Section 9A, Section 9B, and the ratio laid down by the Hon'ble Bombay High Court. Consequently, I hold that the demand of ADD proposed in the SCN is unsustainable in law.

4.19. I further find that the Hon'ble Gujarat High Court, in *Realstrips Pvt. Ltd. v. Union of India* [2023 (11) Centax 272 (Guj.)], has laid down the binding principle that the recommendations of the Designated Authority (DA) constitute the **jurisdictional facts** for any levy, withdrawal, or continuation of Anti-Dumping Duty or Countervailing Duty. In para **7.6.1**, the Court categorically held:

"7.6.1 The recommendations of the designated authority would contain the findings on

these facts and aspects. They are the jurisdictional facts. They are the foundations for the Central Government to take a decision and to issue the notification. The jurisdictional facts cannot be bypassed."

4.20. The above ratio squarely applies to the present case. It reinforces that the levy, continuation, or withdrawal of duty must strictly follow the statutory procedure and be founded upon DA's findings. Any attempt by Customs authorities to impose or interpret Anti-Dumping Duty beyond the DA's determinations amounts to bypassing jurisdictional facts and is ultra vires to the Customs Tariff Act.

4.21. I find that the Department's position appears to be based on a narrow interpretation of the term "exported from Singapore," focusing on the physical movement of goods from Batam to Singapore via feeder vessel rather than the legal and commercial role of the exporter. However, this stance seems inconsistent with the Designated Authority's findings and the intent of Notification No. 28/2018-Customs (ADD) for the following reasons:

4.21.1. In international trade and anti-dumping investigations, the "exporter" is typically the entity responsible for the commercial transaction and export documentation, not necessarily the entity at the port of physical shipment. Here, M/s Ecogreen Oleochemicals (Singapore) Pte Ltd is clearly identified as the exporter in the Certificates of Origin and other documents, and it handles the commercial export to India. The Designated Authority explicitly recognized this role in its findings.

4.21.2. Furthermore, the definition of transshipment as provided in S.B Sarkar's 'Words and Phrases of Central Excise and Customs' is reproduced below:

"Transship, or Trans-shipment means to transfer from one ship or conveyance to another. Transshipment of imported goods without payment of duty is provided for in Section 54 of the Customs Act, 1962."

Also, the term transshipment has been defined under Chapter 2, International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) as follows:

"transshipment" means the Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation."

From the above definitions, it is evident that definition of the term transshipment does not by any means exclude the act of export. In the instant case, the goods were shipped from Indonesia to Singapore to their related party, which were subsequently exported to India. This can also be seen from the Bill of Lading issued & signed in Singapore. In the instant case, the export would tantamount to goods being taken outside of Singapore. The fact that the goods are being transshipped has no bearing on the fact that the imported goods are indeed exported from Singapore.

4.21.3. Transshipment does not alter exporter status. Transshipment through Singapore from Batam to the main vessel is a common logistical practice and does not change the identity of the exporter. The Sunset Review Findings vide F. No. 7/01/2022-DGTR explicitly state that the country of export is “Any including Indonesia,” indicating that the NIL ADD rate applies regardless of whether the goods were shipped directly from Indonesia or transshipped through another port, such as Singapore. The Department’s focus on the port of loading Singapore as evidence of non-export from Singapore ignores this clarification.

4.21.4. Had the exporter itself been based in Indonesia, the movement through Singapore could have been characterised as *mere transshipment*. However, since the exporter was M/s Ecogreen Oleochemicals (Singapore) Pte Ltd, the shipment cannot be so treated; rather, it represents a valid export from Singapore by the entity expressly recognized in Serial No. 1 of the Notification.

4.21.5. The intent of Serial No. 1 of Notification No. 28/2018-Customs (ADD) specifically covers the producer-exporter combination of M/s PT Ecogreen Oleochemicals and M/s Ecogreen Oleochemicals (Singapore) Pte Ltd. The Designated Authority’s investigation considered the entire export chain, including the ex-factory sale and costs incurred by the Singapore entity for example inland freight. Assigning a NIL injury margin to this combination indicates that the arrangement was thoroughly evaluated and deemed non-injurious to the domestic industry. Denying the NIL ADD rate - by alleging/interpreting movement of goods through Singapore as mere transshipment - would effectively nullify Serial No. 1, as it would prevent the very transaction it was designed to cover from receiving the intended benefit.

4.21.6. The Certificates of Origin, Bills of Lading, and payment remittances all align with the requirements of Serial No. 1. The Department’s contention that the goods were not exported from Singapore lacks support and is not sustainable, as the documentation clearly establishes M/s Ecogreen Oleochemicals (Singapore) Pte Ltd as the exporter, with Singapore as the port of loading for the main vessel.

4.21.7. In anti-dumping cases, the focus is on the commercial and legal roles of the parties involved, not merely the physical movement of goods. The Designated Authority’s findings and the Sunset Review explicitly account for the transshipment process and affirm the applicability of the NIL ADD rate. The Department’s interpretation appears to contradict these findings, which carry legal weight as they form the basis of the notification.

4.22. Therefore, I find that the importer is correct in claiming the Serial No. 1 of Notification No. 28/2018-Customs (ADD) as it specifically covers the transaction involving goods produced by M/s PT Ecogreen Oleochemicals (Indonesia) and exported by M/s Ecogreen Oleochemicals (Singapore) Pte Ltd. The Department’s denial of the

NIL ADD rate on the grounds that the goods were transshipped through Singapore and not exported from Singapore is not supported by the Designated Authority's Final Findings or the Sunset Review. The notification and its underlying findings clearly account for the export arrangement, including transshipment, and assign a NIL ADD rate to this specific producer-exporter combination.

4.23. I find that the SCN's reliance on Serial No. 6 of the Notification, which prescribes an Anti-Dumping Duty of US\$ 92.23 per MT, is misplaced. A careful reading of the Notification reveals that Serial No. 6 applies only to imports of the subject goods originating from countries **other than** those subjected to anti-dumping duty. In the present case, the country of origin is Indonesia which has been subjected to anti-dumping duty and the producer-exporter combination has clearly been covered under Serial No. 1 of the Notification, which prescribes NIL rate of ADD. As such, Serial No. 6 clearly can NOT be applied to the subject imports which originated from Indonesia. Thus, invoking Serial No. 6 to impose ADD is legally untenable as it amounts to expanding the scope of the Notification beyond its express terms.

4.24. I find that the proposals contained in the Show cause notice are not supported by cogent evidence or sustainable reasoning. The entire case of the Department rests on the assertion that the benefit of Serial No. 1 of Notification No. 28/2018-Cus. (ADD) is not available because no export declaration was filed at Singapore and that the goods were merely transshipped through Singapore. However, the SCN does not cite any provision of law or condition in the Notification which prescribes filing of a shipping bill at Singapore as a prerequisite for claiming the exemption. It is a settled principle that conditions not expressly provided in the Notification cannot be read into by implication.

4.24.1. Further, the SCN overlooks the fact that the Designated Authority, in its Final Findings as well as the Sunset Review, has already examined the export channel of PT Ecogreen Indonesia through Ecogreen Singapore and granted NIL ADD to this producer-exporter combination. The very foundation of the Serial No.1 of the Notification rests on these findings, and the SCN has failed to show how the importer's claim falls outside their scope. In fact, all the documents relied upon— Certificates of Origin, Bills of Lading, commercial invoices, and payment remittances — support the importer's stand that the goods originated in Indonesia and were exported through Ecogreen, Singapore.

4.24.2. Therefore, I find that the SCN is fundamentally flawed in its reasoning, proceeds on assumptions rather than evidence and fails to establish the statutory grounds.

4.25. In light of the foregoing discussion, including the statutory framework under Sections 9A and 9B of the Customs Tariff Act, 1975, the DGTR's Final Findings, and binding judicial precedents of the Hon'ble Gujarat High Court, Hon'ble Bombay High Court, I conclude that the goods imported by the Noticee were correctly assessed under Serial No. 1 of Notification No. 28/2018-Customs (ADD) attracting NIL rate of Anti-Dumping Duty. The Department's reliance on Serial No. 6 is misplaced and

unsustainable, as it amounts to an interpretation contrary to the Final Findings and the express scope of the Notification.

Moreover, I find that goods imported vide 06 Bills of Entry, were warehouse Bills of Entry. These 06 Bills of Entry were filed by Customs Broker M/s Palcoman Clearing & Forwarding on behalf of the importer. I find that the goods contained in these 06 warehouse bills of entry were subsequently re-exported. The details are as follows:-

Sr. No.	BILL OF ENTRY / DATE	SHIPPING BILL / DATE
1	5058978 / 26-09-2019	1453313 / 17-02-2020
2	5059950 / 26-09-2019	7506360 / 11-10-2019
3	5538183 / 04-11-2019	8349452 / 19-11-2019
4	6143835 / 19-12-2019	9385639 / 02-01-2020
5	6696821 / 31-01-2020	1438491 / 17-02-2020
6	6949738 / 20-02-2020	2010001 / 09-03-2020

Therefore, either ways, anti-dumping duty will not be applicable, in these imports, as the imported goods have been subsequently re-exported without clearance for home consumption.

Accordingly, I hold the goods imported by the importer vide Bills of Entries as per Annexure-A of the notice are not liable for levy of Anti-Dumping Duty.

B. Whether or not the differential Anti-Dumping Duty of ₹1,52,23,423/- and IGST thereon of ₹27,40,216/- (totaling ₹1,79,63,639/-) is recoverable from the importer M/s. Soofi Traders under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA.

4.26. Since the goods were rightly covered under Serial No. 1 and no ADD was leviable, the consequential IGST on ADD also does not arise. As there has been no short-levy or short-payment of duty, the demand proposed under Section 28(4) of the Customs Act, 1962 is unsustainable. Once the very basis of the demand is found to be incorrect, the question of recovery of the alleged differential duty, along with interest under Section 28AA, does not survive.

C. Whether or not the imported goods covered under the Bills of Entry in question are liable to confiscation under Section 111(m) of the Customs Act, 1962.

4.27. In view of the detailed analysis undertaken in the foregoing paragraphs, I hold that the imports made by the noticee were fully covered by Serial No. 1 of Notification No. 28/2018- Customs (ADD) dated 25.05.2018, as the goods were produced by M/s PT Ecogreen Oleochemicals, Indonesia and exported through M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd., a fact duly corroborated by commercial invoices, Certificates of Origin, Bills of Lading, packing lists and other import documents. I also take note of the Designated Authority's Final Findings as well as the subsequent Sunset Review findings,

both of which establish beyond doubt that exports of Saturated Fatty Alcohols produced by M/s PT Ecogreen Oleochemicals, Indonesia and exported by M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd. were expressly covered by the finding of the Designated Authority and were intended to be granted NIL ADD, irrespective of procedural aspects concerning routing or transshipment. Consequently, I find that there was no mis- declaration, suppression or misstatement of facts on the part of the noticee. The goods have been correctly assessed at the time of import and are, therefore, not liable to confiscation under Section 111(m) of the Customs Act, 1962. The proposal for confiscation in the Show Cause Notice is, accordingly, held to be unsustainable.

D. Whether or not penalty is imposable on the importer M/s. Soofi Traders under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.28. I find that the proposals for penalty in the SCN flow from the allegation that the importer deliberately misdeclared the country of export and wrongly availed the benefit of NIL ADD under Serial No. 1 of Notification No. 28/2018-Cus (ADD), thereby rendering the goods liable to confiscation and the importer liable to penalty under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.28.1. However, as already discussed under Issues A to C, the goods were correctly declared as to their country of origin, exporter, and port of loading, and the benefit of NIL ADD was rightly available to the Noticee under Serial No. 1 of the Notification. No misdeclaration, suppression of facts, or submission of false or forged documents has been established. It is well settled that penalties under Sections 112(a), 114A and 114AA can only be imposed where there is clear evidence of *mens rea* or deliberate intent to evade duty. In the absence of such evidence, mere interpretational differences regarding the scope of a notification cannot justify imposition of penalty.

4.28.2. In light of these findings, I hold that penalties proposed under Sections 112(a), 114A and 114AA of the Customs Act, 1962 are not sustainable and are therefore liable to be set aside.

E. Whether or not penalties are imposable on the Customs Brokers, M/s. Dhimant P Doshi, M/s Threestar Solutions and Services Private Limited and M/s Palcoman Clearing & Forwarding under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.29. I find that the Show Cause Notice has proposed penalties on the Customs Brokers primarily on the allegation that they failed to exercise due diligence while filing the impugned Bills of Entry and thereby facilitated the alleged misdeclaration by the importer. It is alleged that such failure attracts penal liability under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.29.1. On examination of the case records, I note that the role of the Customs Brokers

was limited to filing Bills of Entry on the basis of documents provided by the importer. The import documents such as invoices, certificates of origin, packing lists, and Bills of Lading were genuine and issued by the producer/exporter. The Brokers had no independent reason to doubt the correctness of such documents. Further, the importer had correctly declared Indonesia as the country of origin and Ecogreen Singapore as the exporter, which is borne out by the documentary evidence. Thus, there is no material to suggest that the Customs Brokers either connived with the importer or were aware of any alleged misdeclaration.

4.29.2. It is a settled position of law that Customs Brokers cannot be penalized for bona fide reliance on authentic documents placed before them by the importer, unless it is proved that they had knowledge of falsity or participated in the alleged offence. In the present case, such evidence is completely absent. Consequently, I hold that the Customs Brokers cannot be visited with penal consequences under Sections 112(a), 114A or 114AA of the Customs Act, 1962. The proposals for penalty against them are therefore unsustainable and liable to be dropped.

5. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

i. I order that the demand for differential Anti-Dumping Duty of **Rs. 1,52,23,423/- and IGST on not paid Anti-dumping Duty amounting to Rs. 27,40,216/- (total amounting to Rs 1,79,63,639/-)** under Section 28(4) of the Customs Act, 1962, is not sustainable and is hereby dropped.

ii. I order that the proposal to levy interest under Section 28AA of the Customs Act, 1962, is dropped, as the principal demand does not survive.

iii. I order that the proposal to confiscate the goods covered under the Bills of Entry listed in Annexure-A of the SCN under Section 111(m) of the Customs Act, 1962, is not maintainable and is hereby dropped.

iv. I order that the proposal to impose penalties on **M/s Soofi Traders** under Sections 112(a), 114A, and/or 114AA of the Customs Act, 1962, is not warranted and is hereby dropped.

v. I order that the proposal to impose penalties on Customs broker M/s. Dhimant P Doshi, M/s Threestar Solutions and Services Private Limited and M/s Palcoman Clearing & Forwarding under Sections 112(a), 114A, and/or 114AA of the Customs Act, 1962, is not warranted and is hereby dropped.

vi. I order that the Show Cause Notice No. 1100/2024-25/Commr/NS-I/Gr. II(C-F)/CAC/JNCH dated 20.09.2024 is hereby dropped in its entirety.

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

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

To,

- 1) M/s Soofi Traders (IEC-0393027074)
B-601, Kohinoor City Commercial 1,
Kirol Road, Kurla West Contact No:
919820888160, Mumbai- 400070.
- 2) M/s. Dhimant P Doshi,
512, Anant Deep Chambers,
273/277, Narshi Natha
Street, Mumbai-
400009.
- 3) M/s. Threestar Solutions and Services Private Limited,
4045, 4th Floor, Bhandup Industrial Estate,
Pannalal Compound, Lal Bahadur Shastri Marg, Bhandup
(W), Sadan wadi, Bhandup West,
Mumbai-400078

- 4) M/s. Palcoman Clearing & Forwarding,
2, MK Bhawan, 4th Floor, 300,
SBS Road, Fort, Mumbai-400001.

Copy to:

1. The Addl. Commissioner of Customs, Group II(C-F), JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
5. Office Copy.