

 सत्यमेव जयते	OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), सीमाशुल्क आयुक्त का कार्यालय (एनएस-1) NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस, TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA - 400 707. ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707	 आज़ादी का अमृत महोत्सव
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Date: 07.11.2025

S/10-1063/JCI GUT & IA /NS-I/CAC/JNCH
File No. CUS/APR/SCN/1468/2025-Gr (1And1A)/JNCH
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DIN: 26251178NW 000 0701844

SHOW CAUSE NOTICE UNDER SECTION 124 OF THE CUSTOMS ACT, 1962

Sub: Show Cause Notice in respect of mis-declaration of Country of Origin and repeated use of Phytosanitary Certificate in respect of goods imported vide Bill of Entry No. 8732004 dated 11.11.2023 filed by Customs Broker M/s. Peejaycee and Company (CB Code AAFFP5032QCH004) on behalf of the importer M/s. Shree Krishna Udyog (IEC No. 3013017031)-reg.

Background:

Based on specific intelligence, consignment of goods i.e. Kiwi fruits imported by importers M/s. Shree Krishna Udyog (IEC No. 3013017031) covered under Bills of Entry 8732004 dated 11.11.2023 were put on hold by CIU, JNCH.

Accordingly, the officers of CIU, JNCH conducted 100% examination of the containers. On examination, the goods were found to be as declared. The goods were re-exported from UAE and were declared to be of Chile origin. On scrutiny of the Phytosanitary Certificate for re-export issued by the Ministry of Climate Change & Environment, UAE it was noticed that the original certificates were issued by the authorities of Chile in April 2023. The said consignments had reached Indian Ports after 7-8 months of issuance of Chilean Phytosanitary Certificate in November in unripe condition which prima facie indicated that the Kiwi Fruit were not of Chile Origin.

On further verification of the import data of Kiwi, it was found that some Phytosanitary Certificates issued by the authorities of Chile were fraudulently used by the various importers in import consignments exported from the UAE which indicates that Phytosanitary Certificates issued by the authorities of Chile were wrongly used by the various importers to route the Iranian Kiwi which is restricted vide the Plant Quarantine (Regulation of import into India) (Seventh Amendment) Order 2023 dated 04/09/2023 issued by Ministry of Agriculture and Farmers Welfare in the Gazette of India.

Further, it has been discovered from open sources that the harvest time of Kiwi Fruit in Chile is from March to May and its shelf life is of 4-6 months if stored in proper refrigeration conditions. This means that the shelf life of the goods would have expired in the month of October or November if the same had been imported from Chile. However, on examination of the said consignments, the kiwi fruits were found to be in unripe condition even after 6-7 months of inspection as per Phytosanitary Certificate issued by the authorities of Chile in the month of May-2023.

During the examination it has been found that the kiwi fruit are in unripe condition which itself defines the age of the kiwi being 2-3 months. Further, the packaging used by the exporters was petrochemical white plastic crates which are used for exporting Iranian Kiwi and the packaging of Kiwi fruit in Chile for export is of cardboard packaging. It has also been found through data analysis of import data

of Kiwi that the import value of Kiwi from Chile is approximately \$1.8/kg to \$2.5/kg and in this case, the kiwi has been imported @ \$0.7/kg.

1.2 Modus Operandi Circular:

While investigating the importation of Chilean-origin fresh kiwi fruit via the UAE, it was discovered that certain Phytosanitary Certificates issued by Chilean authorities in April and May 2023 were being fraudulently used by exporters in the UAE to obtain re-export certificates from UAE Authorities for shipments to India, falsely declaring the origin as Chile.

On review of multiple Bills of Entries, it revealed that many of these Chilean Phytosanitary Certificates were repeatedly used, indicating intent to conceal the true Country of Origin (COO). In several instances, discrepancies were noted between the quantities listed on the certificates issued by Chile and those from the UAE, suggesting that the actual COO may be from countries other than Chile, including Iran.

The CIU analysed multiple Bills of Entries of Kiwi fruits imported from UAE and found a consistent pattern of fraudulent activity involving the use of the same Phytosanitary Certificates across multiple shipments. Consequently, a Modus Operandi Circular was issued on 05/12/2023 (RUD-1), to inform all field formations within JNCH about these fraudulent practices. The Modus Operandi Circular is enclosed for easy reference.

2. Present Case:

Subsequent investigations revealed that similar imports of kiwi into India were carried out with similar modus operandi using forged Phytosanitary Certificates from Chile. An Office Order dated 13th June, 2024, was issued concerning past import cases involving various kiwi importers including the case involving the importer M/s. Shree Krishna Udyog (IEC No.3013017031), as it appeared that M/s. Shree Krishna Udyog had imported a kiwi consignment using the above-mentioned modus operandi.

2.1 In accordance with the Modus Operandi Circular dated 05/12/2023 vide F. No. SG/Misc-273/2021-22/CIU/JNCH, investigation has been initiated against importer M/s. Shree Krishna Udyog (IEC No. 3013017031). It is found that the importer M/s Shree Krishna Udyog with IEC 3013017031 having its registered address at 78, Shakti Nagar, 9888402659, Jalandhar, Punjab - 144001 had filed 01 Bill of Entry No. 8732004 dated 11.11.2023 for clearance of Fresh Kiwi fruit through their authorized Customs Broker, M/s. Peejaycee and Company declaring COO as Chile and re-exported from UAE. The total assessable value declared on the Bill of Entry 8732004 dated 11.11.2023 is ₹32,02,359/-, with duty of ₹10,56,779/-and the corresponding container numbers are CAIU5414345 and TRIU8617769.

2.2 The details like the assessable value, customs duty, declared country of origin, container numbers, etc., pertaining to the subject Bill of Entry are tabulated in Table 1 for easy reference.

Table 1

Bill of Entry No. & Date.	8732004 dated 11.11.2023
Importer Name and Address.	M/s Shree Krishna Udyog (IEC-3013017031) Address: 78, Shakti Nagar, Jalandhar, Punjab – 144001 Contact no. 9888402659
Customs Broker Name.	M/s. Peejaycee and Company
Description of Goods.	Fresh Kiwi Fruit
Total Assessable Value	Rs. 32,02,359/-
Total Duty	Rs. 10,56,779/-
Supplier/Consignor	M/s Rising Ventures LLC

Declared Country of Origin	Chile
Port of Loading	Jebel Ali, UAE.
Container Details	2x40": - i. CAIU5414345 ii. TRIU8617769
BE Assessment	100% examination order given by RMS

3. The importer/CB uploaded the Phytosanitary Certificate in e-Sanchit issued from the UAE, which mentions the country of origin as Chile with references of Chilean Phytosanitary Certificates No. as 2323101 and 2335328. However, the attested country of origin certificate from Chile Certificates (No. 2323101 and 2335328) and was not uploaded in e-Sanchit. The copies of Chilean Phytosanitary Certificate No. 2323101 and 2335328 were obtained during investigation. On reconciliation of Chilean Phytosanitary Certificate w.r.t UAE Phytosanitary Certificate, discrepancies were also noticed which are tabulated below:

Table 2

Sr. No.	Content	Detail in Chilean Phytosanitary Certificate		Detail in UAE Phytosanitary Certificate for re-export
1	Phytosanitary Certificate No.	2323101 dated 05.04.2023	2335328 dated 28.04.2023	SHJ-APH-02415-2425860 245-0357 dated 31.10.2023
2	Container No.	CHIU9021438	MWCU5262694	TRIU8617769, CAIU5414345
3	Total No. of Pkgs.	2400	2400	4800
4	Total quantity (kgs)	24000	24000	47040
5	Exporter	M/s Comercializadora Fruka Spa, Chile	M/s Mace S.A., Chile	M/s Rising Ventures LLC
6	Consignee	M/s Al Bakrawe General Trading LLC, UAE	M/s Abuseedo Trading LLC, UAE	M/s Shree Krishna Udyog
7	Scientific name of the product	Actinidia deliciosa	Actinidia Chinensis	Actinidia deliciosa

Therefore, it is noticed that the consignee mentioned in the Chilean Phytosanitary do not match with the exporter mentioned in the UAE Phytosanitary Certificate. Also, the fact that Container no. and scientific name in the Chilean Phytosanitary Certificates do not match with those in the UAE Phytosanitary certificates raised doubt about the authenticity of the Phytosanitary Certificates.

4. DETAILS OF THE PHYTOSANITARY CERTIFICATES

During investigation, it is found that in the present case the Chilean Phytosanitary Certificates No. 2323101 and 2335328 mentioned in the UAE Phytosanitary Certificate is figuring at Sr. No. 8 & Sr. No. 1 of annexure-1 respectively of the Modus Operandi Circular dated 05/12/2023. The Chilean Phytosanitary Certificates having Nos. 2323101 & 2335328 were used multiple times in the following BEs:

Table 3

Sr. BE & date	No.	Importer	CHA	Chile PQ
1. 8913931 dt.		M/s Bhargav Global	M/s Peejaycee & Company	2323101
2. 8924908 dt.		M/s Khatu Shyam Enterprises	M/s Sunway Logistics	
3. 8771606 dt.		M/s Aadvik Traders	M/s Razvi Shipping Agency	
4. 8684837 dt.				
5. 8602560 dt.				
6. 8560546 dt.		M/s Taj Pawan Exports Co.	M/s Eiffel Logistics Pvt. Ltd.	
7. 8559310 dt.		M/s Aadvik Traders	M/s Razvi Shipping Agency	
8. 8560025 dt.				
9. 8447240 dt.				
10. 8473105 dt.		M/s Hammali Export	M/s PT Shipping Pvt. Ltd.	
11. 8360349 dt.		Import Company	M/s PT Shipping Pvt. Ltd.	
12. 7694028 dt.				
13. 7675525 dt.				
14. 7594858 dt.		M/s Oasis Exim	M/s Vee Win Logistics	2335328
15. 7465203 dt.				
16. 7894816 dt.				
17. 8022588 dt.		M/s Hammali Export	M/s PT Shipping Pvt. Ltd.	
18. 8058975 dt.				
19. 8180015 dt.				
20. 8234650 dt.				
21. 8328501 dt.				
22. 8363437 dt.				
23. 8428446 dt.				
24. 8449104 dt.				
25. 8502574 dt.				
26. 8560514 dt.				
27. 7668475 dt.				

28.	8693656 dt. 09.11.2023			
29.	8709890 dt. 10.11.2023	M/s Taj Pawan Export	M/s PT Shipping Pvt. Ltd.	
30.	8794902 dt. 16.11.2023			
31.	8838104 dt. 19.11.2023			
32.	7675526 dt. 04.09.2023	M/s Cosmique Pvt. Ltd.	M/s Sai Siddhi Forwarders	
33.	8235356 dt. 10.10.2023			
34.	8485586 dt. 26.10.2023	M/s Khatu Shyam Enterprises	M/s Sunway Logistics	
35.	8560842 dt. 01.11.2023	M/s Honest World Agro	M/s Sunway Logistics	
36.	8678866 dt. 08.11.2023	M/s Aadvik Traders	M/s Razvi Shipping Agency	
37.	8368986 dt.19.10.2023	M/s TKI Global INC.	M/s Vee Win Logistics	2323101, 2335328

This indicates that the Chilean Phytosanitary Certificates No. 2323501 and 2335328 associated with the impugned Bill of Entry along with the country-of-origin certificate has been forged and used multiple times. This indicates that the importer and CB were aware of the fact and had knowingly uploaded only UAE Phytosanitary Certificate and suppressed Chilean Phytosanitary Certificate in e-Sanchit with the malafide intention to clear restricted/prohibited goods by fraudulent means. Thus, it is evident that the Phytosanitary Certificate submitted by the importer and Customs Broker is manipulated fraudulently.

4.1 Details regarding the Phytosanitary Certificates for both the country of origin (Chile) and the importing country (UAE), along with specifics of the country-of-origin Phytosanitary Certificate submitted in the Bill of Entry are outlined in the table below.

Table 4

BE No. & date	Importer	Chilean Phyto sanitary Certifi cate No.	UAE Phy tosanitary y No.	Quantit y Decla red (Kg)	FSSAI/ PQ Ovey rride	NOC waiver verification b y Regional Plant Quarant ine over email.
8732004 dated 11. 11.2023	M/s. Shree Kr ishna Udyog (I EC No. 30130 17031)	2323101	SHJ-APH -02415- 2425860	47040	Yes	RPQS verified over email dt. 09.01.2024 that no a pplication was filed (RUD -2)
		2335328				

4.2 The Chilean and UAE Phytosanitary certificates used in the subject Bill of Entry are enclosed for reference **(RUD-3)**.

5. STATEMENTS OF CONCERNED PERSONS: -

5.1 Statement of Shri Manmohan Gupta authorized by Shri Ashish Gupta, Director of M/s Shree Krishna Udyog (IEC-3013017031) was recorded under Section 108 of the Customs Act, 1962 on 10.09.2024 (RUD-4), wherein he inter-alia stated that:

- He was working in Shree Krishna Udyog as a manager in Accounts department since the year 2011. Their Company is in the business of import of spices like black pepper, cloves, cassia from Sri Lanka, Vietnam and Madagascar since 2019 and also in import of metal scrap since 2011.
- At first, they were not aware of kiwi fruit as it was not available in the domestic market and there was no demand for kiwi in the domestic market but after the pandemic, it came into great demand as it was one of the vital source of vitamin C during COVID-19. As this was his first order placed against import of Kiwi

Fruit from Dubai. He contacted Shri Dilip, Owner of Rising Ventures L.L.C having Ph. No. +971522416745 registered in Dubai. He had enquired about Kiwi Fruit from Shri Dilip who replied that Chile Origin Kiwi fruit was available at his cold storage at the rate of \$0.8 per Kg.

- iii. W.r.t. visiting Dubai as his business is mainly from Sri Lanka, Vietnam and Madagascar; he stated that he wanted to add fresh fruit business like kiwi and other fruits to his business.
- iv. He met Shri Dilip, Owner of Rising Ventures L.L.C. at Dubai for the first time in October 2023. After that he met him in Delhi at Azadpur Market in November 2023 before the arrival of the consignment.
- v. His authorised CB had informed him about import of kiwi fruit and he asked him about the necessary documents required for it and was told that only Phytosanitary Certificate issued by the Dubai and Chile authorities is mandatory for import of kiwi fruit and no other documents are mandatory.
- vi. The shelf life of kiwi fruit is 3-6 months as per his knowledge.
- vii. Payment for the said consignment has been done in advance by swift. He submitted a duly signed copy of remittance swift copy for the said shipment from HDFC Bank Ltd.
- viii. W.r.t. Multiple time usage of the said Phytosanitary Certificates having No. 2323101 and 2335328, he stated that he did not know about the multiple usage of the said Phytosanitary Certificates. Further, the said Phytosanitary Certificates has only been provided by the supplier. He submitted duly signed copy of the said Chilean Phytosanitary Certificates and Dubai Phytosanitary Certificate.
- ix. W.r.t. FSSAI License being issued and renewed but no products being mentioned for doing import-export were added on FSSAI License, he stated that they have FSSAI license having license no. 10019063001537 renewed on 15-07-2023. He did not have any idea about the mentioning of the products in FSSAI License and he had never noticed this on the License. He submitted duly signed copy of the said FSSAI License.
- x. W.r.t. the SW Manual NOC override print copy for the said BE No. 8732004 dated 11.11.2023 from SSO ID 10019904, he stated that he had no knowledge about the clearance part of the consignment and all was handled by CHA M/s Peejaycee and company.
- xi. He visited Dubai, Sri Lanka for business purpose. Also, he visited Singapore, Malaysia, and Thailand for vacations.
- xii. They have not done any export yet to Iran and Dubai.
- xiii. He had made the pre-payment against the said shipment of kiwi fruit. Also, he had done the pre-payment of \$39,200 as per the Proforma invoice but he had received kiwi of \$37,632 as per actual invoice. He submitted duly signed copies of all the invoices and remittance available with him related to the above shipment.

5.2 Further, Statement of Shri Manmohan Gupta authorized by Shri Ashish Gupta, Director of M/s Shree Krishna Udyog (IEC-3013017031) was recorded under Section 108 of the Customs Act, 1962 on 11.12.2024 (RUD-5), wherein he inter-alia stated that:

- i. They had ordered Chilean kiwi from the supplier (Rising Ventures LLC-UAE) and on the basis of documents provided by the supplier, they assumed it to be of Chile Origin but it might be Iranian origin. Further, he added that he had no knowledge of restrictions on the import Conditions of kiwi fruit from Iran.
- ii. He was not aware of condition for import of kiwi fruit. This was his first consignment of import of Kiwi. As it was a profit making business in India to import kiwi fruit, they had placed an order for Chilean Kiwi from UAE but the supplier might have supplied them Iranian kiwi to maximize its profit.

- iii. They asked their authorized Custom Broker about the necessary documents required for import of Kiwi Fruit and the Custom Broker had replied that only Phytosanitary Certificate issued by the Chilean and Dubai Authorities are mandatory for import of kiwi.
- iv. W.r.t. the said Phytosanitary Certificates having No. 2323101 & 2335328 of Chilean authorities used multiple times, he stated that the said Phytosanitary Certificates have been provided by the supplier to them. As shown by CIU officials regarding multiple usage of the above Phytosanitary Certificates, he accepted that the supplier had used the same Phytosanitary Certificate multiple times. It might be possible that he had done to hide the identity of the origin (Iran) of kiwi fruit. They failed to verify the multiple use of Phytosanitary Certificate as they were unaware of that.
- v. The shelf life of kiwi fruit is around 3-6 months as per his knowledge and experience.
- vi. W.r.t. issuance of Phytosanitary Certificates by Chilean Authority in April 2023 and by UAE Authority in October 2023, he stated that the supplier had provided them the Chilean & Dubai Phytosanitary Certificate but they failed to verify the issuance date of both the Phytosanitary Certificates. Also, he accepted that there is difference of 6-7 months between the issuance dates of both the Phytosanitary Certificates.
- vii. They had sold the Kiwi at price of 80 to 150 per kg (submitted 03 sales invoices). They had sold the kiwi fruit in Delhi Azadpur Market.

5.3 03 Summonses dated 13.08.2024, 06.11.2024 and 29.05.2025 were issued to CB M/s Peejaycee and Company to appear for recording of statement under Section 108 of the Customs Act, 1962. The postal authorities returned the summons with remarks "Door Locked", "No such person in the Address".

6. INVESTIGATION FINDINGS:

During investigation, it has come to notice that the importer in collusion with Customs Broker has crafted a unique modus operandi of using improper Phytosanitary Certificates which were used multiple times earlier by other importers also, evading the compliance conditions imposed by the Customs from time to time. Each of these violations is discussed in detail in the following paragraphs.

6.1 Repeated use of a declared country of origin (COO) Phytosanitary Certificate.

- i. A Phytosanitary Certificate is an official document required for shipping regulated items such as fruits, plant products, plants or other regulated articles. It is generated from the exporting country's department of horticulture, agriculture, food, or water resources. Each Phytosanitary Certificate is unique to each import or consignment and attests that the items intended for import meet the Phytosanitary import requirements of importing countries and are in conformity with the certifying statement. It can only be issued by an authorized officer from a government department that is authorized by the National Plant Protection Organization (NPPO). The agency is mandated to prevent the threat of spreading pests, contamination, or diseases into the importing country.
- ii. In the Annex to the International Plant Protection Convention (IPPC), there are two types of certificates: a "Phytosanitary Certificate for export purposes" and a "Phytosanitary Certificate for re-export purposes". A Phytosanitary Certificate for export is usually issued by the NPPO of the country of origin. A Phytosanitary Certificate for export describes the consignment through a certifying statement, additional declarations and treatment records. It declares that the consignment meets Phytosanitary import requirements. A Phytosanitary Certificate for export may also be issued in certain re-export situations for plants, plant products, and other regulated articles originating in countries other than the country of re-export if compliance with the Phytosanitary import requirements can be attested by the country of re-export (e.g., by inspection).

- iii. A Phytosanitary Certificate for re-export may be issued by the NPPO of the re-exporting country in the case where the commodity in the consignment was not grown or processed to change its nature in that country and only where an original Phytosanitary Certificate for export or a certified copy is available. The Phytosanitary Certificate for re-export provides the link to a Phytosanitary Certificate issued in the country of export and takes into account any changes in Phytosanitary status that may have occurred in the country of re-export. Procedures for managing the issuance of the two types of Phytosanitary Certificates and the systems that ensure their legitimacy are the same. The IPPC model Phytosanitary Certificates provide standardized wording that shall be followed for the preparation of Phytosanitary Certificates. The standardization of the Phytosanitary Certificates is necessary to ensure consistency that they are easily recognized and that essential information is reported. Phytosanitary Certificates are not valid until all requirements have been met and they are dated, signed, stamped, sealed, marked, or completed by the NPPO of the exporting or re-exporting country.
- iv. In the subject case, the Chilean Phytosanitary Certificate may be classified as a Phytosanitary Certificate for export purposes and the United Arab Emirates Phytosanitary Certificate can be classified as a Phytosanitary Certificate for re-export. Accordingly, upon thorough analysis of these certificates used in the said consignments of the importer, it was noticed that same Chilean Phytosanitary Certificates have been used multiple times to clear the import consignments fraudulently. The usage of the Chilean Phytosanitary Certificate multiple times exceeding the quantity limitation by other importers. It is worth mentioning that as per the International Plant Protection Convention (IPCC), each Phytosanitary Certificate is unique to every import. The IPCC clearly mandates that the Phytosanitary Certificate for re-export provides the link to a Phytosanitary Certificate issued in a country of export and considers any changes in phytosanitary status that may have occurred in the country of re-export. The United Arab Emirates (UAE) Phytosanitary Certificate links the Chilean Phytosanitary Certificates; however, since those are repetitive, the UAE Phytosanitary Certificate itself becomes invalid.

6.2 Mis-declaration in terms of Country of Origin to bypass the restrictions imposed on Iranian Kiwi.

- i. The Plant Protection Division of the Ministry of Agriculture and Family Welfare, Department of Agriculture and Farmers Welfare, Government of India, vide letter No. 18-23/2015-PP. II dated 25.09.2023 permitted the *resumption of the export of Iranian origin "Kiwi Fruit"* from Seven Packhouses that will procure fresh Kiwi Fruit from registered sixteen orchards with packhouses. The Phytosanitary Certificates in such cases will be issued as per the revised phytosanitary conditions stipulated in Gazette Notification No. S.O 3945(E) dated 04.09.2023. Also, the seven packhouses are to follow signed work plan for the export of kiwi fruits from Iran to India including the maintenance of records by packhouses and orchards associated with registered packhouses for annual Audit.
- ii. In light of the importer's admission of the kiwis to be of Iranian origin rather than Chilean origin as declared appear to be an attempt to conceal the original country of origin of Iran so as to bypass the restriction imposed.
- iii. It is also evident that such kiwi fruits consignments are aimed to evade the procedural requirements or restrictions on imports of Iranian origin kiwi fruit imposed by the Plant Protection Division of the Ministry of Agriculture and Family Welfare, Department of Agriculture and Farmers Welfare, Government of India. It has also been observed that the harvest season for Kiwi fruit in Iran is from October to December. Hence, the consignments of Kiwi fruits being imported into India in the months of October-November, accompanied by the

Chilean Phytosanitary Certificates issued in the months of April-May (harvest season in Chile), appear to be modus to bypass the compliances on such import from Iran.

6.3 Violation of Special Conditions of Import, Plant Quarantine Order 2003.

- i. Chapter III of the Special Conditions of Import, Plant Quarantine Order 2003 may be referred. The relevant portion of the same is reiterated as below:

'10. Special conditions for import of plant species –

(1) In addition to the general conditions listed above in Chapter-II, the plant species hereinafter mentioned in Schedule-V, VI and VII shall not be permitted to be imported except when specifically authorized or covered under import permit issued by an appropriate issuing authority and subject to such restrictions and conditions specified in this Chapter.

(2) Every consignment of plant species herein specified in Schedule-V and VI shall be accompanied by a Phytosanitary Certificate issued by the authorized officer at country of origin or Phytosanitary Certificate re-export issued by the country of re-export along with attested copy of original Phytosanitary Certificate, as the case may be, with the additional declarations being free from pests mentioned under Schedule-V and VI of this order or that the pests as specified do not occur in the country or state of origin as supported by documentary evidence thereof.

(3) General conditions shall apply to all consignments including in respect of those mentioned in Schedule V, VI and VIII'.

- ii. The fresh kiwi fruit falls under Schedule VI of the Plant Quarantine Order, 2003. Para 2 of the special import conditions mandates the importer to submit the Phytosanitary Certificate for re-export issued by the country of re-export along with an attested copy of the original Phytosanitary Certificate. In the present case, the importer has failed to submit the original Phytosanitary Certificate and submitted only re-export Phytosanitary Certificate which was linked with multiple used Chilean Phytosanitary Certificate to clear multiple consignments fraudulently. In the context of the above, goods were imported in violation to the special condition of Plant Quarantine Order, 2003.
- iii. It is important to ensure that the trade is carried across borders within the limits of the law. Considering the consignments of fresh fruits, which are in high demand are being imported fraudulently without valid Phytosanitary Certificates without declaring the correct country of origin bypassing the mandate of Plant Quarantine and FSSAI by an organised syndicate, there are wider repercussions on the health of the larger public and the generation of illegal profits that may be channelized into other criminal activities.

6.4 International probe by the Chilean authorities.

- i. The Agriculture Office of Chile in India has taken cognizance of the modus operandi circular vide their email dated 11.01.2024 communicated that an action has been initiated and a meeting was held from the Chilean Embassy in the UAE with Emirati counterparts for the necessary investigation at the diplomatic level. As the said matter is highly sensitive and involves a bio-security threat to countries, it has been actively investigated at the international forum (**RUD-6**). The active cognizance of the Chilean authorities on this issue states that 21 fraudulently used Phytosanitary Certificates by UAE, particularly for Kiwi shipment re-export to India and validates the fact that the kiwis were not of Chilean origin and the Chilean government is investigating the larger repercussions of this modus followed by unscrupulous elements.

6.5 Failure to exercise due diligence on the part of Customs Broker.

The Custom Broker M/s. Peejaycee & Company failed in due diligence during the customs clearance of the Kiwi fruit. The Customs Broker did not advise M/s. Shree Krishna Udyog on compliance with relevant regulations and had not verified himself critical documents like the Phytosanitary Certificate, neglecting essential checks,

including the e-Sanchit submission of key certificates. Despite knowing the importer was new, he did not request complete purchase or sale documents, which could have clarified the transaction's legitimacy. This failure on the part of Customs Broker resulted in submission of the forged certificates, exposing them to legal scrutiny.

6.6 It is evident that the goods covered under the subject Bills of Entry are not imported from the declared country of origin but from Iranian origin. Iranian origin Kiwis are permitted only from the designated orchards and packhouses. Thus, by making an improper declaration of the country of origin, the importer has violated the restrictions imposed on Iranian kiwis. Thus, restrictions, when violated have rendered the goods prohibited. In this regard the following Supreme Court Judgements may be referred which are indicative that restrictions when violated become prohibition.

•In *Sheikh Mohd Omer Vs. Collector of Customs, Calcutta & Ors* (1971 AIR 293) clearly laid down that, for the purpose of Section 111(d) of the Customs Act, 1962, the term "Any prohibition" means every prohibition. In other words, all types of prohibitions. Restriction is one type of prohibition. Prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition.

•In the case of *M/s Om Prakash Bhatia vs. Commissioner of Customs, Delhi* (2003 (155) ELT 423(SC)), the Hon'ble Supreme Court of India had held that "If the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods."

•Further, in the case of *Union of India & Ors vs. M/s Raj Grow Impex LLP & Ors* (2021-TIOL-187-SC-CUS-LB), the Hon'ble Supreme Court of India had followed the judgements in *Sheikh Mohd Omer* (supra) and *Om Prakash Bhatia* (supra) to hold that "any restriction on import or export is to an extent prohibition; and the expression "prohibition" in Section 111(d) of the Customs Act includes restrictions"

7. SEIZURE

As the goods were already given out-of-charge and were not physically available for seizure, the goods were not seized under the provisions of Customs Act, 1962.

8. LEGAL PROVISIONS:

The relevant provisions of law relating to import and valuation of goods in general, the Policy and Rules relating to imports, the liability of the goods to confiscation and the persons concerned are liable to penalty for illegal importation under the provisions of the Customs Act, 1962 and the other laws for the time being in force are summarized as under:

i. As per the provisions of Section 46(4) of the Customs Act, 1962,

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].*

[(4A) The importer who presents a bill of entry shall ensure the following, namely: -

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

ii. **Section 111(d) of the Customs Act 1962** states that *any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, are liable to confiscation.*

iii. **Section 111(m) of the Customs Act 1962** states that [any goods which do not correspond in respect of value or in any other particular] with the entry made under this act are liable to confiscation.

iv. Section 111(o) of the Customs Act 1962 states that *any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.*

v. Section 112 of the Customs Act 1962 provides that

Any person –

(a) *who in relation to any goods, does or omits to do an act which act or omission would render such goods liable for confiscation under Section 111, or abets the doing or omission of such Act, or*

(b) *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable for confiscation under Section 111,*
shall be liable,-

(i) *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;*

(ii) *In the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;*

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;

(iii) *in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;*

iv. *in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;*

v. *in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.*

vi. Section 114AA of the Customs Act, 1962 states that penalty for use of false and incorrect material. -

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

vii. Regulation 10 of Customs Brokers Licensing Regulations, 2018.

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

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

(f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;

(g) Co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees

9. From the foregoing investigation, it appears that the importer, M/s. Shree Krishna Udyog, in collusion with the intermediary and Customs Broker, crafted conspiracy to import kiwi fruits into India fraudulently by reusing a Phytosanitary Certificate claiming Chilean origin. This organized effort disregarded legal and regulatory safeguards, posing significant threats to public health, environmental integrity, and biodiversity. Moreover, the lack of proper verification of critical import documents, including mismatched consignee and exporter details on the Phytosanitary Certificates, underscores serious compliance failures and raises doubts about their authenticity.

- i. The declarations made in the Bill of Entry and the supporting documents attached are indicative of the fraudulent intent of the importer and Customs Broker. The Phytosanitary Certificates of Chile (declared country of origin) appear to have been misused by the said importer to obtain Phytosanitary Certificates issued in the United Arab Emirates (re-exporting country); thereby fraudulently obtaining Customs Clearances with the help of an authorized Customs Broker by misleading the Indian Customs authorities and resorting to willful suppression of facts and mis-declaration. A valid Phytosanitary Certificate from the origin country and re-exporting country (in the case of re-export) is a mandatory document that is to be uploaded by the importer in Customs e-Sanchit for clearance of import. The importer is responsible for the correctness and genuineness of the said certificates as per **Section 46(4) and (4A)** of the Customs Act, 1962.
- ii. Non-compliance of general and special pre-import conditions imposed by the Plant Quarantine (Regulation of Import into India) Order, 2003 (Chapter-II, III, and Schedule-VI), notified by the Ministry of Agriculture (Department of Agriculture & Cooperation), itself makes the goods prohibited in terms of definition of prohibited goods under Section 2(33) of the Customs Act, 1962, thereby making them liable for confiscation under **Section 111(d), 111(m) & 111(o)** of the Customs Act, 1962.
- iii. It also appears that the importer M/s. Shree Krishna Udyog has intentionally made a declaration in the subject Bills of Entry which is found to be false or incorrect upon due verification. The submissions made by the importer himself and the documentary evidence gathered indicate the same, thereby rendering the said goods liable for confiscation under Section 111(d), 111(m), and 111(o) of the Customs Act, 1962, and also rendering the importer liable for **penalties under Section 112(a) and (b)** of the Customs Act, 1962.
- iv. It also appears that Shri Ashish Gupta, Director of M/s. Shree Krishna Udyog is knowingly, willfully, and deliberately concerned with the manipulation and misused the country-of-origin and Phytosanitary Certificates. The repetition of Phytosanitary Certificates and incorrect country of origin (COO) was an attempt to bypass the restrictions imposed on the Iranian Kiwi fruit. This act of the importer of submitting false documents intentionally in the transaction of any business in the Customs has rendered himself liable for penal action under **Section 114 AA of the Customs Act, 1962.**
- v. It appears that the Custom Broker M/s. Peejaycee & Company has in connivance with the importer has grossly mis-declared the goods in terms of

Country of Origin as well as failed to follow mandatory compliance of submission of Phytosanitary Certificate. Further, the Custom Broker has failed to exercise due diligence to ascertain the correctness of information that was being imparted to the department. Consequently, the Custom Broker has rendered himself liable for penal action under **Section 112(a), 112(b) of the Customs Act, 1962.**

- vi. It also appears that by the above acts of omission and Commission, the Custom Broker M/s Peejaycee & Company has not uploaded documents in e-sanchit in the subject Bill of Entry which were required to be uploaded rather uploaded the documents which are found to be false or incorrect upon due verification. The repetition of Phytosanitary Certificates and filing of declaration of incorrect country of origin (COO) was an attempt to bypass the restrictions imposed on Iranian kiwi fruit. Hence, the Customs Broker M/s Peejaycee & Company did not advise his client to submit Phytosanitary Certificate issued by Chilean Authorities also. Rather, he allied himself with his client and uploaded only UAE Phytosanitary Certificate in e-sanchit and avoided to upload Chilean Phytosanitary Certificate which was mentioned on UAE Phytosanitary Certificate. Also, he had used the same Phytosanitary certificate for other importers, therefore, he cannot plead ignorance that they were unaware that the Phytosanitary Certificate was being used multiple times. He also did not exercise due diligence in ascertaining the correctness of information and also intentionally submitting an incorrect Phytosanitary Certificate which is an essential document for import of Kiwi fruit in connivance with the importer, the Custom Broker has rendered themselves liable for penal action under **Section 114AA of the Customs Act, 1962.**
- vii. It also appears that the Custom Broker M/s. Peejaycee & Company has failed to comply with the obligations entrusted to him under the Customs Broker Licensing Regulations Act, 2018 as discussed in the forgoing paragraphs. Also, he did not co-operate in the investigation conducted by CIU. He did not give regard to the summons issued to him. Therefore, for his attempt to clear the present consignments of the importer, he is liable for penal action **under Regulation 10(d), (e), (f) & (q) of the Customs Broker Licensing Regulations Act, 2018.**

10. In view of above, now, the importer M/s. Shree Krishna Udyog (IEC-3013017031), Shri Ashish Gupta, Director of M/s. Shree Krishna Udyog and CHA, M/s. M/s. Peejaycee & Company) are hereby called upon to show cause to the Joint Commissioner of Customs, NS-I, having its office located at Jawaharlal Nehru Customs House, Nhav-Sheva, Raigad within thirty days of the receipt of this notice as to why:

- i. The goods covered under Bill of Entry No. 8732004 dated 11.11.2023 should not be confiscated under **Section 111(d), 111(m) & 111(o)** of the Customs Act, 1962;
- ii. Penalty should not be imposed on the importer M/s. Shree Krishna Udyog **under Section 112(a) and (b)** of the Customs Act, 1962;
- iii. Penalty should not be imposed on Shri Ashish Gupta, Director of M/s. Shree Krishna Udyog for penal action under **Section 114 AA of the Customs Act, 1962;**
- iv. Penalty should not be imposed on the Customs Broker M/s. Peejaycee & Company under Section 112(a), 112(b) of the Customs Act, 1962 read with para 10(d), (e), (f) & (q) of the Customs Broker Licensing Regulations Act, 2018;
- v. Penalty should not be imposed on the Customs Broker M/s. Peejaycee & Company under Section 114AA of the Customs Act, 1962 read with para 10(d), (e), (f) & (q) of the Customs Broker Licensing Regulations Act, 2018.

11. The importer M/s. Shree Krishna Udyog (IEC-3013017031), Shri Ashish Gupta, Director of M/s. Shree Krishna Udyog and Customs Broker M/s. Peejaycee & Company should file their written explanation/reply to the competent authority i.e. Joint Commissioner of Customs, NS-I, JNCH within 30 days of receipt of the Show Cause Notice and they should also indicate if they wish to be heard in person. If the importer fails to submit their written submission or if they fail to attend the personal hearing on the fixed date the case will be decided ex-parte on the basis of the evidence on record, without any further reference to the importer.

12. In case importer and Customs Broker wish to be heard in person, they should state specifically in their written explanation to the **Joint/Addl. Commissioner of Customs, NS-I, JNCH** Jawaharlal Nehru Custom House, Nhava Sheva, Taluka- Uran, District - Raigad, Maharashtra - 400707, for which a day and date will be fixed well in advance.

13. The Relied Upon Documents (RUDs) are listed as 'Annexure-A' to this Show Cause Notice.

14. This Show Cause Notice is issued without prejudice to any other action that may be taken in respect of the said goods / notices and /or against any other firm / person concerned covered or not covered under the provisions of the Customs Act, 1962 and/or any other law for the time being in force in the Union of India.

15. The department reserves its rights to add, alter, amend, modify or supplement this notice at any time on the basis of any evidence, material facts related to import of goods in question, which may come to the notice of the department after issuance of this notice and prior to the Adjudication of the case.

Digitally signed by
Jay Girijappa Waghmare
Date: 07-11-2025
16:34:31

(Jay G. Waghmare)
Joint Commissioner of Customs
Gr-1, NS-I, JNCH

Encl: Annexure-A (List of Relied Upon Documents (RUDs)) along with RUDs.

To,

1. M/s. Shree Krishna Udyog (IEC No. 3013017031),
78, Shakti Nagar, Jalandhar, Punjab- 144001,
2. Shri Ashish Gupta,
Director of M/s. Shree Krishna Udyog,
B-7 (A), Focal Point Extension,
G.T. Road Bye Pass, Jalandhar,
Punjab- 144004,
3. CHA M/s. Peejaycee & Company (CB Code: AAFFP5032QCH004)

Copy to: -

1. The Deputy Commissioner of Customs, CAC, JNCH, Nhava-Sheva (for Adjudication Please),
2. The Principal Commissioner of Customs, Group-I/IA, JNCH.

- 3. DC, CIU
- 4. CHS Section, JNCH (For display on Notice Board.)
- 5. EDI Section, JNCH (For publish on JNCH Website)
- 6. Office copy.

ANNEXURE-A

LIST OF RELIED UPON DOCUMENTS (RUDs)

RUD-1	Modus Operandi Circular dated 05.12.2023
RUD-2	E mail dated 09.01.2024 regarding PQ NOC verification
RUD-3	Phytosanitary Certificate
RUD-4	Statement of Shri Manmohan Gupta dated 10.09.2024
RUD-5	Statement of Shri Manmohan Gupta dated 11.12.2024
RUD-6	E mail dated 11.01.2024 regarding Fraudulent Phytosanitary Certificate-Kiwi