सत्यमेव जयते	*भारत सरकार/ Government of India* *वित्तमंत्रालय /Ministry of Finance* *आयुक्त सीमाशुल्क एन.एस.-II कार्यालय* *Office of Commissioner of Customs NS-II* *जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा,* *जिला- रायगढ़, महाराष्ट्र- 400 707* *Jawaharlal Nehru Custom House, Nhava Sheva,* *Dist- Raigad, Maharashtra – 400 707.*	

F.No. CUS/ASS/MISC/995/2024-CEAC-JNCH **Date of SCN: 11 .11.2025**
Date of issue: 14 .11.2025

DIN: 20251178NT000041944C
SCN No.: 1314 **/2025-26/ADC/CEAC/NS-II/CAC/JNCH**

SHOW CAUSE NOTICE

Subject: Investigation into Overvaluation and misclassification of goods covered under Shipping Bill No. 2976672 dated 05.08.2024 attempted to be Exported by M/s. Evergreen Trading Co. (IEC- DOJPP4337F) to avail illegitimate Export incentives fraudulently.

....

On the basis of Specific Intelligence, regarding Export of suspicious consignment of M/s. Evergreen Trading Co. (IEC- DOJPP4337F) covered under Shipping Bill No. 2976672 dated 05.08.2024 (hereinafter referred to as "Shipping Bill") **(RUD-I)** filed through their Customs Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) at JWR CFS, the goods covered in the Shipping Bill No. 2976672 dated 05.08.2024 were declared as "Polyester Printed Fabrics GSM : 115 +/-10%", were put on hold vide Hold No. 51/2024-25 SIIB(X) issued vide File No. CUS/SIIB/ALT/462/2024-SIIB(E)-JNCH dated 09.08.2024 for Examination of the same as the supply chain of the Exporter appeared to be fake/manipulated and the declared value of the goods appeared to be very highly overvalued and mis-declared to avail illegitimate claim of drawback and other Export incentives. Hence the case was taken up by this unit for detailed investigation.

2. M/s. Evergreen Trading Co. (IEC- DOJPP4337F) having its office at Bassi Police Station, Plot No. 48, R K Puram Colony, SH 22, Bassi, Jaipur, RAJASTHAN, 303301 has filed the following Shipping Bills for Export of following items destined to UAE. The details are as under:

TABLE-I

SB No./ Date	Description	Quantity (SQM)	FOB (INR)	DBK (INR)	RoDTEP (INR)
2976672 DATED 05.08.2024	Polyester Printed Fabrics GSM : 115 +/-10%	44875	₹ 15,98,694.31	₹ 44,763.44	₹ 11,190.86

3. Consequently, the subject goods pertaining to Shipping Bill No. 2976672 dated 05.08.2024 were examined 100% vide Panchanama dated 19.08.2024 **(RUD-II)** in the presence of two independent Panchas, Representatives of Customs Broker and Exporter. During the Examination, the subject goods were found as declared in the said Shipping Bill, their corresponding Invoice and Packing List w.r.t. declared quantity and description. However, it appeared that the valuation of the goods covered in above said Shipping Bill is overvalued. Representative Sealed Samples (RSS) of the goods from the Shipping Bill was drawn for the purpose of further investigation.

4. Further, letter dated 21.08.2024 was forwarded to DYCC, JNCH along with RSS for testing in order to determine exact characteristics, nature and composition of the subject goods. DYCC tested the RSS and forwarded the test Reports vide DYCC Reports No. 654/SIIB(X) dated 12.09.2024 **(RUD-III).** The details of test report are as under:

Item No	Item Description	RITC	Drawback Sr. No.	RODTEP RATE	DYCC Test Report
1	Polyester Printed Fabrics GSM : 115 +/-10%	54077400	540702B	0.7	Report: The sample is in the form of a cut piece of white knitted fabric. It is wholly composed of spun yarns of polyester. It is other than printed fabric.

	भारत सरकार/ Government of India वित्तमंत्रालय /Ministry of Finance आयुक्त सीमाशुल्क एन.एस.-II कार्यालय Office of Commissioner of Customs NS-II जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा, जिला- रायगढ़, महाराष्ट्र- 400 707 Jawaharlal Nehru Custom House, Nhava Sheva, Dist- Raigad, Maharashtra – 400 707.	
सत्यमेव जयते		

F.No. CUS/ASS/MISC/995/2024-CEAC-JNCH **Date of SCN: 11 .11.2025**
Date of issue: 11 .11.2025

DIN:
SCN No.: /2025-26/ADC/CEAC/NS-II/CAC/JNCH

SHOW CAUSE NOTICE

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On the basis of Specific Intelligence, regarding Export of suspicious consignment of M/s. Evergreen Trading Co. (IEC- DOJPP4337F) covered under Shipping Bill No. 2976672 dated 05.08.2024 (hereinafter referred to as "Shipping Bill") **(RUD-I)** filed through their Customs Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) at JWR CFS, the goods covered in the Shipping Bill No. 2976672 dated 05.08.2024 were declared as "Polyester Printed Fabrics GSM : 115 +/-10%", were put on hold vide Hold No. 51/2024-25 SIIB(X) issued vide File No. CUS/SIIB/ALT/462/2024-SIIB(E)-JNCH dated 09.08.2024 for Examination of the same as the supply chain of the Exporter appeared to be fake/manipulated and the declared value of the goods appeared to be very highly overvalued and mis-declared to avail illegitimate claim of drawback and other Export incentives. Hence the case was taken up by this unit for detailed investigation.

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3. Consequently, the subject goods pertaining to Shipping Bill No. 2976672 dated 05.08.2024 were examined 100% vide Panchanama dated 19.08.2024 **(RUD-II)** in the presence of two independent Panchas, Representatives of Customs Broker and Exporter. During the Examination, the subject goods were found as declared in the said Shipping Bill, their corresponding Invoice and Packing List w.r.t. declared quantity and description. However, it appeared that the valuation of the goods covered in above said Shipping Bill is overvalued. Representative Sealed Samples (RSS) of the goods from the Shipping Bill was drawn for the purpose of further investigation.

4. Further, letter dated 21.08.2024 was forwarded to DYCC, JNCH along with RSS for testing in order to determine exact characteristics, nature and composition of the subject goods. DYCC tested the RSS and forwarded the test Reports vide DYCC Reports No. 654/SIIB(X) dated 12.09.2024 **(RUD-III)**. The details of test report are as under:

Item No	Item Description	RITC	Drawback Sr. No.	RODTEP RATE	DYCC Test Report
1	Polyester Printed Fabrics GSM : 115 +/-10%	54077400	540702B	0.7	Report: The sample is in the form of a cut piece of white knitted fabric. It is wholly composed of spun yarns of polyester. It is other than printed fabric.

The subject goods were found mis-declared in terms of composition and description in the above-mentioned Shipping Bills. The subject goods were declared as Polyester Printed fabrics, whereas as per DYCC Report, the goods found as Polyester knitted fabric other than printed fabric. Accordingly, the RITC declared in the Shipping Bill appears to be changed from 54077400 to 60063100. Hence, the drawback rate claimed for the said goods is redetermined as below.

Table-II

Item No	Item Description	DECLARED			REDETERMINED		
		RITC	Drawback SR. NO.	DBK Rate	RITC	Drawback SR. NO.	DBK Rate
1	Polyester Printed Fabrics GSM : 115 +/- 10%	54077400	540702B	2.8	60063100	600602B	1.9

5. To ascertain prevailing Market Value of the goods, the Market Enquiry of the goods covered under the subject Shipping Bills was required to be conducted, therefore this office had requested to the Exporter to represent them during the said Market Enquiry. The Market Enquiry was conducted on 21.08.2024 **(RUD-IV)** along with Authorized Representative of the Exporter. As per the Market Enquiry the value of the goods has been re-determined and accordingly the Export incentives have been re-determined. On the basis of Panchanama dated 19.08.2024 and Market Enquiry Report dated 21.08.2024, it is observed that the subject goods have been mis-declared in terms of description, classification and valuation. The re-determined FOB value of the goods and corresponding Export incentives under the Shipping Bills would be as below:

Table-III

Sl No.	Shipping Bill No. & Date	Description of goods	Declared				Re-determined		
			Quantity (SQM)	FOB (INR)	Drawback (INR)	RODTEP (INR)	FOB	Drawback (INR)	RODTEP
1	2976672 DATED 05.08.2024	Polyester Printed Fabrics GSM : 115 +/-10%	44875	₹ 15,98,694.31	₹ 44,763.44	₹ 11,190.86	₹ 12,23,802.74	₹ 23,252.25	₹ 8,566.62

Table-IV

Re-determined FOB (in Rs.)	Differential Drawback (in Rs.)	Differential RODTEP (in Rs.)	Total excess Export benefits (in Rs.)
₹ 12,23,802.74	₹ 21,511.19	₹ 2,624.24	₹ 24,135.43

6. As can be seen from the Table above, based on the Report received by the DYCC, JNCH and Market Enquiry conducted on 21.08.2024, it appears that the goods declared by the Exporter in the Shipping Bill No. 2976672 dated 05.08.2024 have been mis-declared in terms of their description, classification and valuation. The value of the goods has been re-determined based on the DYCC Report 654/SIIB(X) dated 12.09.2024 & Market Enquiry Report dated 21.08.2024. The Export incentive such as drawback & RoDTEP are therefore to be re-determined with respect to the new re-determined FOB of the goods as mentioned in the Table above. Hence, the declared value i.e. Rs. 15,98,694.31 appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the Provisions of the said Rules. For the purpose of Customs Tariff Act, 1975, valuation of Export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the Provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of value of Export Goods) Rules, 2007. Prima facie on Examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the CVR and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. In the instant case, the Exporter is Merchant Exporter and hence, transaction value of the impugned goods under Export could not be determined under Rule 4 & 5 of the Customs Valuation Rules, 2007. Hence the value of all the items could be ascertained from the wholesale Market.

7. **<u>Re-determination of Valuation</u>**

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

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

7.3 The Exporter has neither produced any cost of production details, manufacturing or processing of Export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In absence of complete cost data details, value cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

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

RULE 6. Residual Method. –"Subject to the Provisions of Rule 3, where the value of the Export goods cannot be determined under the Provisions of Rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and the general Provisions of these Rules provided that local Market Price of the Export goods may not be the only basis for determining the value of Export goods".

As per the Provisions of Rule 6 ibid, the assessable value of the goods is proposed to be re-determined under Rule 6 ibid, i.e. as per the Residual Method. Accordingly, Market Survey was conducted by the officers of SIIB (Export) on 21.08.2024. Value of the goods was taken from 3 different shops/dealers and average of their prices was taken as Market value of the same. The details of the determination of the value is summarized in the Market Survey Report dated 21.08.2024.

8. Past Exports:

In order to investigate past consignments, the data was retrieved from the date of issuance of IEC i.e. 15.09.2022 till 31.12.2024 for Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F). However, the Exporter had filed a total No. of 09 Shipping Bills only from 01.03.2024 to 30.09.2024 in past. During further investigation, ICES data was scrutinized, on perusal of the past Export data, no foreign remittance has been received as per FEMA regulations. The details of the Shipping Bills are as under where no BRC/foreign remittance has been realized yet against this IEC.

Table-V

Sr.No.	SB No.	SB Date	LEO Date	Expected Realization Date	Drawback Amount (in INR)	RoSCTL	RoDTEP	FOB to be realised (In FC)
1.	8728188	29-03-2024	06-04-2024	31-01-2025	45,844	96766	0	20,600
2.	9109819	13-04-2024	22-04-2024	31-01-2025	24,963	44836	0	11,263
3.	9282687	20-04-2024	26-04-2024	31-01-2025	35,977	58928	0	15,001
4.	9500468	29-04-2024	06-05-2024	28-02-2025	41,304	67654	0	17,222
5.	9795165	11-05-2024	27-05-2024	28-02-2025	41,399	61746	0	17,363
6.	1209825	27-05-2024	03-06-2024	31-03-2025	37,248	83623	0	18,263
7.	1693714	15-06-2024	20-06-2024	31-03-2025	85,722	109674	0	30,524
8.	2208287	05-07-2024	18-07-2024	30-04-2025	27,633	82493	0	24,060
9.	2794876	29-07-2024	01-08-2024	31-05-2025	28,075	0	7,019	12,110
TOTAL					**3,68,165**	**605720**	**7019**	**1,66,406 (In FC)**

As the prescribed timeline for realization of foreign remittance is 09 months as per RBI Master Circular No.14/2014-15 dated 01.07.2014, which states," it has been decided in consultation with the Government of India that the period of realization and repatriation of Export proceeds shall be nine months from the date of Export for all Exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs & BTPs until further notice. As per Table-V, there are 34 Shipping Bills mentioned in the table above from Sr. No. 01 to 05 for which FOB has not been realized despite completion of expected realization time period as mandated by RBI. Accordingly, the Drawback is liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bills mentioned in Table-V under Section 75 and 75A of the Customs Act 1962 read with Rule 17 &18 of the drawback Rules, 2017 along with applicable interest. Also, ROSCTL & RoDTEP are liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bills mentioned in Table-V in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962. Also, Shipping Bills from Sr. No. 06 to 08, expected realization time period for FOB realization has not been completed yet. Total drawback claimed in 05 Shipping Bills in which FOB not realized despite completion of time period is Rs. 1,89,487/-, RoSCTL claimed is Rs. 3,29,930/-.

Also, the Export incentive i.e. drawback in the Shipping Bill mentioned at Sr. No. 09 of the above Table-V may not be demanded back from the Exporter as same was not disbursed to the Exporter due to insertion of Alert.

9. Further, an alert to withhold the Export incentives against the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F) was inserted during the investigation.

10. The Exporter vide their letter dated 21.08.2024 requested for Provisional Release of the goods for **Export.** The request of the Exporter was accepted by the Adjudicating Authority as per the Provisions of Board Circular No. 01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013 and the goods were released Provisionally for **Export** under section 110A of the Customs Act, 1962 on execution of Bond equivalent to FOB value of the subject goods and on submission of Bank Guarantee HCM No. 405 dated 09.09.2024 amounting to Rs. 50,000/- (Rupees Fifty Thousand Only) on 09.09.2024 **(RUD-V).**

11. Further, letters dated 24.10.2024, 20.11.2024 and 11.12.2024 was also sent to jurisdictional State GST of Rajasthan to verify genuineness of the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F). Reply letter of the Assistant Commissioner - First Circle - E Division vide F.No. Misc / 391/2004 - CGST-Range-25-DIV-E-JPR-COMMRTE-JAIPUR Dated 12.09.2024 **(RUD-VI)** received in this office wherein it is stated that the declared business place of the said firm - Evergreen Trading Co. was visited. A shop (Durga Medical Provision Store) was found at the declared business place. On inquiring with the person present there, he introduced himself as Arvind Sharma. On further inquiry, Mr. Arvind Sharma stated that he was the owner of the declared business place and also informed that he had purchased this place 5-6 years ago from Mr. Kamalkant Dholi and Mr. Ram Karan Dholi, but the electricity connection has not been transferred. Therefore, the current electricity bill is also in the name of Shri Kamalkant Dholi. Shri Arvind Sharma informed that in August 2022, he rented out Plot No. 48 to a person named Shri Dwarka Prasad (S/o Jannu Lal) for 11 months by making a lease agreement, but Dwarka Prasad took the lease agreement after paying only one month's rent and never came to this Plot (Plot No. 48) again, nor did he conduct any business here.

When the phone number mentioned on the portal for the said firm, 9887496947, was contacted, Shri Kamalkant Dholi also confirmed the sale of the said property to Shri Arvind Sharma, but he said that he was not aware of any business operations of the firm. Several attempts were made to contact the phone number mentioned on the portal, 3209583045, but no contact could be established.

Therefore, on the basis of the **non-existence** of the physical presence of the said firm - Evergreen Trading Co, it is recommended to declare the firm as **suspicious and bogus**.

SUMMONS & STATEMENT

12. Further, in order to record the statement of M/s. Evergreen Trading Co. (IEC-DOJPP4337F) , under section 108 of Customs Act, 1962 04 Summons have been issued vide DIN- 20241178NT000000D985 dated 21.11.2024 to appear on 09.12.2024, DIN-20250178NT0000510585 dated 14.01.2025 to appear on 20.01.2025, DIN-20250178NT0000414477 dated 21.01.2025 to appear on 27.01.2025 & DIN-20250278NT000000A5E4 dated 14.02.2025 to appear on 21.02.2025 **(RUD-VII)** in the name of M/s. Evergreen Trading Co. (IEC- DOJPP4337F) to appear before the office of SIIB(X), 6th floor, C-604, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, Dist: Raigad, Maharashtra-400707 u/s Section 108 of the Customs Act, 1962. However, the summons sent via speed post returned to this office with the remark that the **'Item returned due to insufficient address'**. Also, Summonses have been sent through the e-mail address provided by the exporter in their official correspondence with this office. However, the exporter did not turn up for deposing their statement.

13. Further, on receipt of spot Summons CBIC-DIN- 20250178NT0000717981 dated 17.01.2025 to appear on 17.01.2025, Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) present himself for the recording of the Statement under section 108 of the Customs Act, 1962 on 17.01.2025 **(RUD-VIII)** wherein he inter-alia stated that;

On being asked about the summons dated 17.01.2025; he responded that he summoned in relation to the Export through JNPT by M/s. Evergreen Trading Co. (IEC DOJPP4337F). He further added that he is the authorized person, holding a G-Card on behalf of CB M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484), was present to give a statement before Customs.

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

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

On being asked to explain the procedure followed during the filing of a Shipping Bill, he stated that exporters were guided verbally to send all necessary documents as per the exporting commodity via email. It was further stated that exporters were also asked whether they intended to claim export benefits. After receiving the necessary documents, a checklist was created and sent to the exporter for approval. Upon receiving approval, the Shipping Bill was filed on ICEGATE on behalf of the exporter.

On being asked for how many years he and his CB firm had been in the Customs Broker business, he stated that he had been employed in the CB firm for the last sixteen years, and the firm had also been in business for approximately sixteen years.

On being asked whether Shipping Bill No. 2976672 dated 05.08.2024 was filed on behalf of M/s. Evergreen Trading Co (IEC DOJPP4337F), he stated that the mentioned Shipping Bill had been filed by his subordinates under his supervision on behalf of the exporter.

On being asked how the shipment from M/s. Evergreen Trading Co (IEC DOJPP4337F) was received, he stated that the order for the shipment had been received through the official email of the exporter. Since they were a new client, all related documents for Customs clearance were thoroughly checked before filing.

On being asked whether he was aware of the case booked against M/s. Evergreen Trading Co (IEC DOJPP4337F) for misdeclaration in Shipping Bill No. 2976672 dated 05.08.2024, particularly regarding value, he stated that he was aware of the case and that during a market inquiry, the goods had been found to be overvalued.

On being asked how he came into contact with M/s. Evergreen Trading Co (IEC DOJPP4337F), he stated that the exporter had been introduced through a forwarding agent.

On being asked whether the KYC of M/s. Evergreen Trading Co (IEC DOJPP4337F) had been verified, he stated that KYC verification had been conducted every time. It was stated that the exporter had a valid IEC issued by DGFT, and KYC documents were verified through the DGFT online portal as per CBLR 2018, with signed/certified copies being submitted.

On being asked how much money had been promised for the clearance of goods, he stated that the usual agency charges of Rs. 1500/- per export shipment had been levied.

On being asked whether the address of M/s. Evergreen Trading Co (IEC DOJPP4337F) had been verified, he stated that the verification had been conducted at the time of KYC before the Shipping Bills were filed.

On being asked whether verifiable documentation, such as geotagged photographs or inspection reports, could be provided to confirm the address verification, **he stated that such proof was not readily available**.

On being asked since when the export clearance of M/s. Evergreen Trading Co (IEC DOJPP4337F) was being handled, he stated that the present consignment was the 7th or 8th shipment processed through their CB firm.

On being asked whether the first Shipping Bill for the exporter had been filed by the firm and if the KYC procedure for first-time exporters had been conducted, he stated that the KYC procedure for first-time exporters had been duly completed at CEAC in accordance with prescribed guidelines.

On being asked whether documentary evidence of the first-time export KYC conducted on behalf of M/s. Evergreen Trading Co (IEC DOJPP4337F) could be provided, he stated that all documents were retained by CEAC, and **only a slip acknowledging the KYC process was issued, which was not readily available**.

On being asked why M/s. Evergreen Trading Co (IEC DOJPP4337F) had not responded to the summons issued under Section 108 of the Customs Act, 1962, he stated that there had been no contact with the exporter for a considerable period, and thus, the reason for their non-appearance was unknown.

On being asked about the jurisdictional GST Commissionerate's report stating that the principal place of business of M/s. Evergreen Trading Co (IEC DOJPP4337F) was found non-existent, he stated that due to the lack of recent contact with the exporter, he was unaware of this matter.

On being asked about the responsibility of Customs Brokers under CBLR 2018 to classify goods correctly, he stated that classification was conducted based on documents provided by the exporter, and after checklist preparation, verification was sought from the exporter before proceeding with the Shipping Bill filing.

On being asked whether he suspected that the proprietor/exporter might be a frontman, he stated that the credentials of the exporter were verified, and KYC was conducted as per CBLR 2018.

On being asked about the overvaluation of goods found during the investigation, he stated that the valuation was based on invoices submitted by the exporter, and once verified, the Shipping Bill was filed accordingly.

On being asked whether the tax invoice could be provided, he stated that it was not readily available.

On being asked about compliance with Regulation 10 of the CBLR, 2018, he stated that physical verification of the exporter's premises had been conducted. It was further stated that the exporter had informed them that the subject goods under Shipping Bill No. 2976672 dated 05.08.2024 were locally procured for export, and the Shipping Bill was filed based on the provided KYC documents.

On being asked why it should not be considered that he was aware of the misdeclaration regarding the non-existent supply chain, he stated that Shipping Bills were filed based on the exporter's provided documents, and no violations under the GST Act were known.

On being asked whether the CB firm or the exporter had been penalized by any government agency, he stated that, to his knowledge, neither had been penalized as of that date.

On being asked if he had anything further to add, he stated that their firm was a genuine Customs Broker with nationwide operations, and due diligence was exercised in all shipments. He further stated that full cooperation would be extended to the Customs authorities in the ongoing investigation.

14. RELEVANT LEGAL PROVISIONS
A. Customs Act, 1962

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

Section 50: Entry of goods for Exportation. –
(1) The Exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be Exported in a vessel or aircraft, a Shipping Bill, and in the case of goods to be Exported by land, a bill of Export [in such form and manner as may be prescribed]:
Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.]
(2) The Exporter of any goods, while presenting a Shipping Bill or bill of Export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The Exporter who presents a Shipping Bill or bill of Export under this section shall ensure the following, namely:-
(a) the accuracy and completeness of the information given therein;
(b) the authenticity and validity of any document supporting it; and
(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

SECTION 113(i): any goods entered for Exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77, shall be liable to confiscation;

Section 113(ia): Any goods entered for Exportation under claim for drawback which do not correspond in any material particular with any information furnished by the Exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75, shall be liable to confiscation;
Section 113(ja): any goods entered for Exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the Provisions of this Act or any other law for the time being in force;

Section 114(iii): Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, in the case of any other goods, to a penalty not exceeding the value of the goods as declared by the Exporter or the value as determined under this Act, whichever is the greater;
114AA. Penalty for use of false and incorrect material. -
If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

Section 114AC: Penalty for fraudulent utilisation of input tax credit for claiming refund. -
Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for Exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

[114AB. Penalty for obtaining instrument by fraud, etc.—Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.
Explanation.—For the purposes of this section, the expression "instrument" shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.]

Section 28AAA. Recovery of duties in certain cases.-(1) Where an instrument issued to a person has been obtained by him by means of-
(a) collusion; or
(b) willful mis-statement; or
(c) Suppression of facts,
for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilized under the Provisions of this Act or the Rules or regulations made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relatable to such utilization of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

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

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

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other Provision of this Act or the Rules made there under, the person, who is liable to pay duty in accordance with the Provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.
(2) Interest at such rate not below ten per cent. And not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.
(3) Not withstanding anything contained in sub-section (1), no interest shall be payable where,
(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

Section 75A(2) of Customs Act, 1962: Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the Rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

B. Customs and Central Excise Duties Drawback Rules, 2017.
Rule 17: Repayment of erroneous or excess payment of drawback and interest. - Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962.

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

Customs Brokers Licensing Regulations, 2018:
10. Obligations of Customs Broker— A Customs Broker shall —
(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

Foreign Trade (Development and Regulation) Act, 1992.
Section 11:(1) No Export or import shall be made by any person except in accordance with the Provisions of this Act, the Rules and orders made there under and the foreign trade policy for the time being in force.

Foreign Trade (Regulation) Rules, 1993

Rule 11: On the importation into, or Exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of Exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the Export contract entered into with the buyer or consignee in pursuance of which the goods are being Exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

Whereas, from the investigation, the following facts emerge that:
15. M/s. Evergreen Trading Co. (IEC- DOJPP4337F) having its registered office address at Bassi Police Station, Plot No. 48, R K Puram Colony, SH 22, Bassi, Jaipur,

RAJASTHAN, 303301 had filed Shipping Bill No. 2976672 dated 05.08.2024 through their Customs Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484). The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 12,23,802.74 as against the declared FOB value of Rs. 15,98,694.31. By inflating the FOB value, the Exporter was attempting to claim Drawback of Rs. 44,763.44 and RoDTEP of Rs. 11,190.86 whereas they were eligible for Drawback of Rs. 23,252.25 and RoDTEP of Rs. 8,566.62 respectively. (as tabulated in Table-III above).

15.2 As can be seen from the Table-III above, based on the Market Enquiry conducted on 21.08.2024, it appears that the goods declared by the Exporter in the Shipping Bill No. 2976672 dated 05.08.2024 have been mis-declared in terms of their description, classification and valuation. During the Market Enquiry it was found that the value of the goods filed under the said Shipping Bills were inflated and hence needed to be re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The Export incentive such as drawback & RoDTEP are therefore are re-determined with respect to the re-determined FOB as mentioned in the Table-III above. It is thus cogent and clear that the Exporter M/s. Evergreen Trading Co. (IEC-DOJPP4337F) had (i) mis-declared the impugned goods in terms of their description, classification and valuation (ii) attempted to defraud the Government by claiming undue higher amount of Drawback and (iii) RODTEP and thereby acted in a manner which rendered the said goods under Table-I above liable for confiscation in terms of the Provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962 respectively.

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

15.4 As the Exporter had not made declaration truthfully in the said Shipping Bill, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it appears that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods, on the part of the Exporter with mala-fide intention to claim undue Export benefits not legitimately payable to them. The Exporter had declared the FOB value in the Shipping Bill as Rs. 15,98,694.31 whereas the re-determined FOB value after conducting the Market Survey was Rs. 12,23,802.74 only and hence higher Drawback & RoDTEP and other Export incentives were attempted to be claimed. Thus, it appeared that the said goods were attempted to be Exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development &Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as Exporter had furnished wrong declaration to the Custom Authorities.

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

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

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

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

15.9 The Exporter has neither produced any cost of production details, manufacturing or processing of Export details and correct transport details nor produced cost design or brand or an amount towards profit etc, to derive computed value of the goods. In absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

15.10 The value of the impugned goods is, therefore, proposed to be re-determined under the residual Rule 6 of CVR (Export) Rules, 2007. This Rule stipulates that subject to the Provisions of Rule 3, where the value of the Export goods cannot be determined under the Provisions of Rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general Provisions of these Rules. Therefore, in order to arrive at the correct value of the impugned goods the same was required to be done on the basis of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, the total value of the goods has been re-determined from Rs. 15,98,694.31 to Rs. 12,23,802.74 as per the DYCC Report and Market Enquiry conducted of the subject goods.

15.11 With respect to the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F), this office sent letters dated 24.10.2024, 20.11.2024 and 11.12.2024 to jurisdictional State GST of Rajasthan to verify genuineness of the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F). Vide reply letter of the Assistant Commissioner - First Circle - E Division vide F.No. Misc / 391/2004 - CGST-Range-25-DIV-E-JPR-COMMRTE-JAIPUR Dated 12.09.2024 received in this office states that the physical premises of the said Exporter is **non-existent** at the PPOB. Therefore, the firm is **suspicious and bogus.** Also, Summonses to the Exporter have been dispatched to Exporter's address mentioned in the IEC by this office. However, the summonses sent via speed post returned to this office with the remark that the **'Item returned due to insufficient address'.** Also, Summonses have been sent through the e-mail address provided by the Exporter in their official correspondence with this office. However, the exporter did not turn up for deposing their statement nor submitted any written submission. The GST status of the Exporter was ascertained from the GST Portal that Exporter filed the GSTR-1 and GSTR-3B up to August-2024. As per GST BO Portal, the GST registration was obtained on 07.09.2022 and the same was suspended on 25.09.2024. Consequently, the live shipping bill filed by the Exporter were put on hold by SIIB(X), subsequently, the Exporter had stopped filing the GST Returns. From the above facts, it appears that the Exporter appears to be **non-genuine**. Thus, from the above facts, it appears that the Exporter is a fly by night operator/Paper-based firm and was established only to Export inferior goods to claim higher export incentives. Therefore, it appears that the Exporter connived with their supplier to obtain invoice by fraud and collusion to utilize input tax credit on the basis of such invoice for discharging tax on goods which have been entered for exportation under the Shipping Bill filed by them.

It further appears that the Exporter M/s. Evergreen Trading Co. (IEC-DOJPP4337F) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration in terms of description, classification and value of the impugned goods. The Exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with malafide intent to avail undue/excess export benefits in form of Drawback, Rosctl and other export benefits. Therefore, the Exporter also liable for penalty u/s 114 AA of Customs Act, 1962 for this intentional mis-declaration. Further, the Exporter appears to be non-existent and non-genuine. Thus, the ITC claimed appears wrongly claimed and claimed by fraud etc. and, hence the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F) have rendered themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962.

15.12 It further appears that the Exporter M/s. Evergreen Trading Co. (IEC-DOJPP4337F) have rendered themselves liable to penalty in terms of section 114(iii) of the Customs Act, 1962 on account of mis-declaration in terms of description, classification and valuation of the impugned goods. The Exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the Exporter with malafide intent to avail undue/excess Export benefits in form of Drawback, RoDTEP and other Export benefits. Therefore, M/s. Evergreen Trading Co. (IEC- DOJPP4337F) also liable for penalty in terms of Section 114 AA of Customs Act, 1962 for this intentional mis-declaration.

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

(N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

15.14 As above discussed, the Exporter has obtained Drawback & RoSCTL/RoDTEP by fraud, collusion, willful misstatement or suppression of facts without realizing the BRC for the Past Shipping Bills mentioned in Table-V. Hence, it appears that the M/s. Evergreen Trading Co. (IEC- DOJPP4337F) have rendered themselves liable to penalty in terms of section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bills filed by the Exporter as mentioned at Table-V above.

15.15 The Custom Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) failed to ascertain the veracity and genuineness of the Exporter firm M/s. Evergreen Trading Co. (IEC- DOJPP4337F). The regulation 10 (n) of the CBLR, 2018 has mandated that the CB has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. In the instant case, as stated by the CB, they have merely taken copies of the IEC and GST registration from the Exporter and started filing Shipping Bills on their behalf. Though, the CB stated that they conducted verification of address of the Exporter, no evidence has been produced in support of their claim. The CB has to verify the antecedents of the Exporter by using reliable, independent, authentic documents, data or information, which the CB has failed to do in this case. It appears that the CB is not disclosing the truth since the Exporter is non-existent and non-genuine as per GST verification Report from the concerned jurisdictional Authorities. The CB in their voluntary statement has submitted that they had verified the address of the Exporter, but had furnished only photographs of the place. No evidence has been put forth by the CB to corroborate their claim of actually verifying the principal place of business of the Exporter. The role of the CB in this fraudulent export of a non-existent and non-genuine firm is not ruled out. Had the CB confirmed the veracity and genuineness of the Exporter through their own independent and reliable sources, he could have easily known that the Exporter and their supply chain is dubious. The CB has thereby violated regulation 10(n) of the CBLR, 2018 and have rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962.

16. Now, M/s. Evergreen Trading Co. (IEC- DOJPP4337F) having its registered office at Bassi Police Station, Plot No. 48, R K Puram Colony, SH 22, Bassi, Jaipur, RAJASTHAN, 303301 are hereby called upon to Show Cause to the Additional Commissioner of Customs, CEAC, NS-II, JNCH, having office at Jawaharlal Custom House, Nhava Sheva, Tal-Uran, Dist-Raigad, Maharashtra, within 30 days of receipt of this notice as to why:

i. The declared FOB value of Rs. 15,98,694.31/- covered under the Shipping Bill No. 2976672 dated 05.08.2024 should not be rejected and re-determined to Rs. 12,23,802.74 under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
ii. The drawback of Rs. 44,763.44 and RoDTEP of Rs. 23,252.25 claimed in the Shipping Bill No. 2976672 dated 05.08.2024 should not be re-determined to drawback of Rs. 23,252.25 and RoDTEP of Rs. 8,566.62 respectively since the FOB value of the goods is re-determined.
iii. The said impugned Export goods covered under the Shipping Bill No. 2976672 dated 05.08.2024 having total declared FOB value of Rs. 15,98,694.31 which appear to be mis-declared in terms of description, classification and valuation, should not be confiscated under the Provisions of Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.
iv. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC- DOJPP4337F) under Section 114(iii) and 114AA of the Customs Act, 1962 for the above violation.
v. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC- DOJPP4337F) under Section 114AC of the Customs Act, 1962 for the above violation.
vi. The goods pertaining to Shipping Bill Nos. from Sr. No, 01 to 05 mentioned in Table-V totally valued at Rs. 67,23,824.35/- should not be held liable for confiscation under the Provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962 since the Export benefits of Drawback and RoSCTL have been availed and taken by the Exporter without realising the Export proceeds i.e. on account of non-receipt of the foreign remittance of the value of Export.

vii. The drawback of Rs. 1,89,487/- claimed in Shipping Bills from Sr. No. 01 to 05 mentioned at Table-V above should not be recovered on account of non-receipt of remittance in and should not be demanded from the Exporter along with applicable interest under Section 75 and 75A of the Customs Act 1962 read with Rule 17 & 18 of the Drawback Rules, 2017.

viii. The RoSCTL of Rs. 3,29,930/- claimed in Shipping Bills from Sr. No. 01 to 05 mentioned at Table-V above should not be recovered on account of non-receipt of remittance in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

ix. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114(iii) and 114AA of the Customs Act, 1962 on account of non-receipt of the foreign remittance in Shipping Bills Nos. mentioned in Table-V filed by the Exporter.

x. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114AC of the Customs Act, 1962.

xi. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bills Nos. mentioned in Table-V filed by the Exporter.

xii. The Bond should not be enforced and Bank Guarantee HCM No. 405 dated 09.09.2024 of Rs. 50,000/- (Rupees Fifty Thousand Only) at the time of Provisional release of the goods for Export, should not be appropriated against Export incentives, applicable interest, redemption fine and penalty etc. arising out of this order.

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

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

19. In case the notice is eligible to avail the facility of settlement of the case as per the Chapter XIVA of the Customs Act, 1962, and interested in the same, he may apply to the Settlement Commission as per prescribed procedure and also inform the same to the Adjudicating Authority

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

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

22. This show cause notice is issued without prejudice to any other action that may be taken against the persons/firms mentioned herein or any other person under the Customs Act, 1962 or any other law for the time being in force.

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

11/11/25

(RAGHU KIRAN B.)
Additional Commissioner of Customs,
CEAC, NS-II, JNCH

To,

1. M/s. Evergreen Trading Co. (IEC- DOJPP4337F)
   Bassi Police Station, Plot No. 48, R K Puram Colony,
   SH 22, Bassi, Jaipur, RAJASTHAN, 303301.

2. M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484)
   Raheja Arcade, 4th Floor, Office No. 408, Plot No. 61,
   Sector-11, CBD Belapur, Navi Mumbai.

Copy to:

1. The Asstt. Commissioner of Customs,
   SIIB (X) & IRMC, JNCH.

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

3. Office Copy.

Annexure – I

Sr. No.	List of Relied Upon Documents
RUD-I	Shipping Bill No. 2976672 dated 05.08.2024
RUD-II	Panchanama dated 19.08.2024
RUD-III	Test Reports from DYCC
RUD-IV	Copy of Market Enquiry dated on 21.08.2024
RUD-V	Letter of Provisional Release for Export dated 09.09.2024.
RUD-VI	Reply letter dated 12.09.2024 for verification of genuineness of the Exporter from GST.
RUD-VII	Summons dated 21.11.2024, 14.01.2025, 21.01.2025 and 14.02.2025 in the name of M/s. Evergreen Trading Co. (IEC- DOJPP4337F).
RUD-VIII	Copy of statement of Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) dated 17.01.2025.

सत्यमेव जयते	भारत सरकार/ Government of India वित्तमंत्रालय /Ministry of Finance आयुक्त सीमाशुल्क एन.एस.-II कार्यालय Office of Commissioner of Customs NS-II जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा, जिला- रायगढ़, महाराष्ट्र - 400 707 Jawaharlal Nehru Custom House, Nhava Sheva, Dist- Raigad, Maharashtra – 400 707.	

F.No. CUS/ASS/MISC/995/2024-CEAC-JNCH **Date of SCN: .11.2025**
Date of issue: .11.2025

DIN:
SCN No.: /2025-26/ADC/CEAC/NS-II/CAC/JNCH

SHOW CAUSE NOTICE

Subject: Investigation into Overvaluation and misclassification of goods covered under Shipping Bill No. 2976672 dated 05.08.2024 attempted to be Exported by M/s. Evergreen Trading Co. (IEC- DOJPP4337F) to avail illegitimate Export incentives fraudulently.

....

On the basis of Specific Intelligence, regarding Export of suspicious consignment of M/s. Evergreen Trading Co. (IEC- DOJPP4337F) covered under Shipping Bill No. 2976672 dated 05.08.2024 (hereinafter referred to as "Shipping Bill") **(RUD-I)** filed through their Customs Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) at JWR CFS, the goods covered in the Shipping Bill No. 2976672 dated 05.08.2024 were declared as "Polyester Printed Fabrics GSM : 115 +/-10%", were put on hold vide Hold No. 51/2024-25 SIIB(X) issued vide File No. CUS/SIIB/ALT/462/2024-SIIB(E)-JNCH dated 09.08.2024 for Examination of the same as the supply chain of the Exporter appeared to be fake/manipulated and the declared value of the goods appeared to be very highly overvalued and mis-declared to avail illegitimate claim of drawback and other Export incentives. Hence the case was taken up by this unit for detailed investigation.

2. M/s. Evergreen Trading Co. (IEC- DOJPP4337F) having its office at Bassi Police Station, Plot No. 48, R K Puram Colony, SH 22, Bassi, Jaipur, RAJASTHAN, 303301 has filed the following Shipping Bills for Export of following items destined to UAE. The details are as under:

TABLE-I

SB No./	Description	Quantity	FOB	DBK	RoDTEP
Date		(SQM)	(INR)	(INR)	(INR)
2976672 DATED 05.08.2024	Polyester Printed Fabrics GSM : 115 +/-10%	44875	₹ 15,98,694.31	₹ 44,763.44	₹ 11,190.86

3. Consequently, the subject goods pertaining to Shipping Bill No. 2976672 dated 05.08.2024 were examined 100% vide Panchanama dated 19.08.2024 **(RUD-II)** in the presence of two independent Panchas, Representatives of Customs Broker and Exporter. During the Examination, the subject goods were found as declared in the said Shipping Bill, their corresponding Invoice and Packing List w.r.t. declared quantity and description. However, it appeared that the valuation of the goods covered in above said Shipping Bill is overvalued. Representative Sealed Samples (RSS) of the goods from the Shipping Bill was drawn for the purpose of further investigation.

4. Further, letter dated 21.08.2024 was forwarded to DYCC, JNCH along with RSS for testing in order to determine exact characteristics, nature and composition of the subject goods. DYCC tested the RSS and forwarded the test Reports vide DYCC Reports No. 654/SIIB(X) dated 12.09.2024 **(RUD-III).** The details of test report are as under:

Item No	Item Description	RITC	Drawback Sr. No.	RODTEP RATE	DYCC Test Report
1	Polyester Printed Fabrics GSM : 115 +/-10%	54077400	540702B	0.7	Report: The sample is in the form of a cut piece of white knitted fabric. It is wholly composed of spun yarns of polyester. It is other than printed fabric.

The subject goods were found mis-declared in terms of composition and description in the above-mentioned Shipping Bills. The subject goods were declared as Polyester Printed fabrics, whereas as per DYCC Report, the goods found as Polyester knitted fabric other than printed fabric. Accordingly, the RITC declared in the Shipping Bill appears to be changed from 54077400 to 60063100. Hence, the drawback rate claimed for the said goods is redetermined as below.

Table-II

Item No	Item Description	DECLARED			REDETERMINED		
		RITC	Drawback SR. NO.	DBK Rate	RITC	Drawback SR. NO.	DBK Rate
1	Polyester Printed Fabrics GSM : 115 +/- 10%	54077400	540702B	2.8	60063100	600602B	1.9

5. To ascertain prevailing Market Value of the goods, the Market Enquiry of the goods covered under the subject Shipping Bills was required to be conducted, therefore this office had requested to the Exporter to represent them during the said Market Enquiry. The Market Enquiry was conducted on 21.08.2024 **(RUD-IV)** along with Authorized Representative of the Exporter. As per the Market Enquiry the value of the goods has been re-determined and accordingly the Export incentives have been re-determined. On the basis of Panchanama dated 19.08.2024 and Market Enquiry Report dated 21.08.2024, it is observed that the subject goods have been mis-declared in terms of description, classification and valuation. The re-determined FOB value of the goods and corresponding Export incentives under the Shipping Bills would be as below:

Table-III

Sl No.	Shipping Bill No. & Date	Description of goods	Declared				Re-determined		
			Quantity (SQM)	FOB (INR)	Drawback (INR)	RODTEP (INR)	FOB	Drawback (INR)	RODTEP
1	2976672 DATED 05.08.2024	Polyester Printed Fabrics GSM : 115 +/-10%	44875	₹ 15,98,694.31	₹ 44,763.44	₹ 11,190.86	₹ 12,23,802.74	₹ 23,252.25	₹ 8,566.62

Table-IV

Re-determined FOB (in Rs.)	Differential Drawback (in Rs.)	Differential RODTEP (in Rs.)	Total excess Export benefits (in Rs.)
₹ 12,23,802.74	₹ 21,511.19	₹ 2,624.24	₹ 24,135.43

6. As can be seen from the Table above, based on the Report received by the DYCC, JNCH and Market Enquiry conducted on 21.08.2024, it appears that the goods declared by the Exporter in the Shipping Bill No. 2976672 dated 05.08.2024 have been mis-declared in terms of their description, classification and valuation. The value of the goods has been re-determined based on the DYCC Report 654/SIIB(X) dated 12.09.2024 & Market Enquiry Report dated 21.08.2024. The Export incentive such as drawback & RoDTEP are therefore to be re-determined with respect to the new re-determined FOB of the goods as mentioned in the Table above. Hence, the declared value i.e. Rs. 15,98,694.31 appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the Provisions of the said Rules. For the purpose of Customs Tariff Act, 1975, valuation of Export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the Provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of value of Export Goods) Rules, 2007. Prima facie on Examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the CVR and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. In the instant case, the Exporter is Merchant Exporter and hence, transaction value of the impugned goods under Export could not be determined under Rule 4 & 5 of the Customs Valuation Rules, 2007. Hence the value of all the items could be ascertained from the wholesale Market.

7. <u>Re-determination of Valuation</u>

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

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

7.3 The Exporter has neither produced any cost of production details, manufacturing or processing of Export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In absence of complete cost data details, value cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

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

RULE 6. Residual Method. –"Subject to the Provisions of Rule 3, where the value of the Export goods cannot be determined under the Provisions of Rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and the general Provisions of these Rules provided that local Market Price of the Export goods may not be the only basis for determining the value of Export goods".

As per the Provisions of Rule 6 ibid, the assessable value of the goods is proposed to be re-determined under Rule 6 ibid, i.e. as per the Residual Method. Accordingly, Market Survey was conducted by the officers of SIIB (Export) on 21.08.2024. Value of the goods was taken from 3 different shops/dealers and average of their prices was taken as Market value of the same. The details of the determination of the value is summarized in the Market Survey Report dated 21.08.2024.

8. Past Exports:

In order to investigate past consignments, the data was retrieved from the date of issuance of IEC i.e. 15.09.2022 till 31.12.2024 for Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F). However, the Exporter had filed a total No. of 09 Shipping Bills only from 01.03.2024 to 30.09.2024 in past. During further investigation, ICES data was scrutinized, on perusal of the past Export data, no foreign remittance has been received as per FEMA regulations. The details of the Shipping Bills are as under where no BRC/foreign remittance has been realized yet against this IEC.

Table-V

Sr.No.	SB No.	SB Date	LEO Date	Expected Realization Date	Drawback Amount (in INR)	RoSCTL	RoDTEP	FOB to be realised (In FC)
1.	8728188	29-03-2024	06-04-2024	31-01-2025	45,844	96766	0	20,600
2.	9109819	13-04-2024	22-04-2024	31-01-2025	24,963	44836	0	11,263
3.	9282687	20-04-2024	26-04-2024	31-01-2025	35,977	58928	0	15,001
4.	9500468	29-04-2024	06-05-2024	28-02-2025	41,304	67654	0	17,222
5.	9795165	11-05-2024	27-05-2024	28-02-2025	41,399	61746	0	17,363
6.	1209825	27-05-2024	03-06-2024	31-03-2025	37,248	83623	0	18,263
7.	1693714	15-06-2024	20-06-2024	31-03-2025	85,722	109674	0	30,524
8.	2208287	05-07-2024	18-07-2024	30-04-2025	27,633	82493	0	24,060
9.	2794876	29-07-2024	01-08-2024	31-05-2025	28,075	0	7,019	12,110
TOTAL					**3,68,165**	**605720**	**7019**	**1,66,406 (In FC)**

As the prescribed timeline for realization of foreign remittance is 09 months as per RBI Master Circular No.14/2014-15 dated 01.07.2014, which states," it has been decided in consultation with the Government of India that the period of realization and repatriation of Export proceeds shall be nine months from the date of Export for all Exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs & BTPs until further notice. As per Table-V, there are 34 Shipping Bills mentioned in the table above from Sr. No. 01 to 05 for which FOB has not been realized despite completion of expected realization time period as mandated by RBI. Accordingly, the Drawback is liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bills mentioned in Table-V under Section 75 and 75A of the Customs Act 1962 read with Rule 17 &18 of the drawback Rules, 2017 along with applicable interest. Also, ROSCTL & RoDTEP are liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bills mentioned in Table-V in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962. Also, Shipping Bills from Sr. No. 06 to 08, expected realization time period for FOB realization has not been completed yet. Total drawback claimed in 05 Shipping Bills in which FOB not realized despite completion of time period is Rs. 1,89,487/-, RoSCTL claimed is Rs. 3,29,930/-.

Also, the Export incentive i.e. drawback in the Shipping Bill mentioned at Sr. No. 09 of the above Table-V may not be demanded back from the Exporter as same was not disbursed to the Exporter due to insertion of Alert.

9. Further, an alert to withhold the Export incentives against the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F) was inserted during the investigation.

10. The Exporter vide their letter dated 21.08.2024 requested for Provisional Release of the goods for **Export.** The request of the Exporter was accepted by the Adjudicating Authority as per the Provisions of Board Circular No. 01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013 and the goods were released Provisionally for **Export** under section 110A of the Customs Act, 1962 on execution of Bond equivalent to FOB value of the subject goods and on submission of Bank Guarantee HCM No. 405 dated 09.09.2024 amounting to Rs. 50,000/- (Rupees Fifty Thousand Only) on 09.09.2024 **(RUD-V).**

11. Further, letters dated 24.10.2024, 20.11.2024 and 11.12.2024 was also sent to jurisdictional State GST of Rajasthan to verify genuineness of the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F). Reply letter of the Assistant Commissioner - First Circle - E Division vide F.No. Misc / 391/2004 - CGST-Range-25-DIV-E-JPR-COMMRTE-JAIPUR Dated 12.09.2024 **(RUD-VI)** received in this office wherein it is stated that the declared business place of the said firm - Evergreen Trading Co. was visited. A shop (Durga Medical Provision Store) was found at the declared business place. On inquiring with the person present there, he introduced himself as Arvind Sharma. On further inquiry, Mr. Arvind Sharma stated that he was the owner of the declared business place and also informed that he had purchased this place 5-6 years ago from Mr. Kamalkant Dholi and Mr. Ram Karan Dholi, but the electricity connection has not been transferred. Therefore, the current electricity bill is also in the name of Shri Kamalkant Dholi. Shri Arvind Sharma informed that in August 2022, he rented out Plot No. 48 to a person named Shri Dwarka Prasad (S/o Jannu Lal) for 11 months by making a lease agreement, but Dwarka Prasad took the lease agreement after paying only one month's rent and never came to this Plot (Plot No. 48) again, nor did he conduct any business here.

When the phone number mentioned on the portal for the said firm, 9887496947, was contacted, Shri Kamalkant Dholi also confirmed the sale of the said property to Shri Arvind Sharma, but he said that he was not aware of any business operations of the firm. Several attempts were made to contact the phone number mentioned on the portal, 3209583045, but no contact could be established.

Therefore, on the basis of the **non-existence** of the physical presence of the said firm - Evergreen Trading Co, it is recommended to declare the firm as **suspicious and bogus**.

SUMMONS & STATEMENT

12. Further, in order to record the statement of M/s. Evergreen Trading Co. (IEC-DOJPP4337F) , under section 108 of Customs Act, 1962 04 Summons have been issued vide DIN- 20241178NT000000D985 dated 21.11.2024 to appear on 09.12.2024, DIN-20250178NT0000510585 dated 14.01.2025 to appear on 20.01.2025, DIN-20250178NT0000414477 dated 21.01.2025 to appear on 27.01.2025 & DIN-20250278NT000000A5E4 dated 14.02.2025 to appear on 21.02.2025 **(RUD-VII)** in the name of M/s. Evergreen Trading Co. (IEC- DOJPP4337F) to appear before the office of SIIB(X), 6th floor, C-604, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, Dist: Raigad, Maharashtra-400707 u/s Section 108 of the Customs Act, 1962. However, the summons sent via speed post returned to this office with the remark that the '**Item returned due to insufficient address'**. Also, Summonses have been sent through the e-mail address provided by the exporter in their official correspondence with this office. However, the exporter did not turn up for deposing their statement.

13. Further, on receipt of spot Summons CBIC-DIN- 20250178NT0000717981 dated 17.01.2025 to appear on 17.01.2025, Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) present himself for the recording of the Statement under section 108 of the Customs Act, 1962 on 17.01.2025 **(RUD-VIII)** wherein he inter-alia stated that;

On being asked about the summons dated 17.01.2025; he responded that he summoned in relation to the Export through JNPT by M/s. Evergreen Trading Co. (IEC DOJPP4337F). He further added that he is the authorized person, holding a G-Card on behalf of CB M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484), was present to give a statement before Customs.

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

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

On being asked to explain the procedure followed during the filing of a Shipping Bill, he stated that exporters were guided verbally to send all necessary documents as per the exporting commodity via email. It was further stated that exporters were also asked whether they intended to claim export benefits. After receiving the necessary documents, a checklist was created and sent to the exporter for approval. Upon receiving approval, the Shipping Bill was filed on ICEGATE on behalf of the exporter.

On being asked for how many years he and his CB firm had been in the Customs Broker business, he stated that he had been employed in the CB firm for the last sixteen years, and the firm had also been in business for approximately sixteen years.

On being asked whether Shipping Bill No. 2976672 dated 05.08.2024 was filed on behalf of M/s. Evergreen Trading Co (IEC DOJPP4337F), he stated that the mentioned Shipping Bill had been filed by his subordinates under his supervision on behalf of the exporter.

On being asked how the shipment from M/s. Evergreen Trading Co (IEC DOJPP4337F) was received, he stated that the order for the shipment had been received through the official email of the exporter. Since they were a new client, all related documents for Customs clearance were thoroughly checked before filing.

On being asked whether he was aware of the case booked against M/s. Evergreen Trading Co (IEC DOJPP4337F) for misdeclaration in Shipping Bill No. 2976672 dated 05.08.2024, particularly regarding value, he stated that he was aware of the case and that during a market inquiry, the goods had been found to be overvalued.

On being asked how he came into contact with M/s. Evergreen Trading Co (IEC DOJPP4337F), he stated that the exporter had been introduced through a forwarding agent.

On being asked whether the KYC of M/s. Evergreen Trading Co (IEC DOJPP4337F) had been verified, he stated that KYC verification had been conducted every time. It was stated that the exporter had a valid IEC issued by DGFT, and KYC documents were verified through the DGFT online portal as per CBLR 2018, with signed/certified copies being submitted.

On being asked how much money had been promised for the clearance of goods, he stated that the usual agency charges of Rs. 1500/- per export shipment had been levied.

On being asked whether the address of M/s. Evergreen Trading Co (IEC DOJPP4337F) had been verified, he stated that the verification had been conducted at the time of KYC before the Shipping Bills were filed.

On being asked whether verifiable documentation, such as geotagged photographs or inspection reports, could be provided to confirm the address verification, **he stated that such proof was not readily available**.

On being asked since when the export clearance of M/s. Evergreen Trading Co (IEC DOJPP4337F) was being handled, he stated that the present consignment was the 7th or 8th shipment processed through their CB firm.

On being asked whether the first Shipping Bill for the exporter had been filed by the firm and if the KYC procedure for first-time exporters had been conducted, he stated that the KYC procedure for first-time exporters had been duly completed at CEAC in accordance with prescribed guidelines.

On being asked whether documentary evidence of the first-time export KYC conducted on behalf of M/s. Evergreen Trading Co (IEC DOJPP4337F) could be provided, he stated that all documents were retained by CEAC, and **only a slip acknowledging the KYC process was issued, which was not readily available**.

On being asked why M/s. Evergreen Trading Co (IEC DOJPP4337F) had not responded to the summons issued under Section 108 of the Customs Act, 1962, he stated that there had been no contact with the exporter for a considerable period, and thus, the reason for their non-appearance was unknown.

On being asked about the jurisdictional GST Commissionerate's report stating that the principal place of business of M/s. Evergreen Trading Co (IEC DOJPP4337F) was found non-existent, he stated that due to the lack of recent contact with the exporter, he was unaware of this matter.

On being asked about the responsibility of Customs Brokers under CBLR 2018 to classify goods correctly, he stated that classification was conducted based on documents provided by the exporter, and after checklist preparation, verification was sought from the exporter before proceeding with the Shipping Bill filing.

On being asked whether he suspected that the proprietor/exporter might be a frontman, he stated that the credentials of the exporter were verified, and KYC was conducted as per CBLR 2018.

On being asked about the overvaluation of goods found during the investigation, he stated that the valuation was based on invoices submitted by the exporter, and once verified, the Shipping Bill was filed accordingly.

On being asked whether the tax invoice could be provided, he stated that it was not readily available.

On being asked about compliance with Regulation 10 of the CBLR, 2018, he stated that physical verification of the exporter's premises had been conducted. It was further stated that the exporter had informed them that the subject goods under Shipping Bill No. 2976672 dated 05.08.2024 were locally procured for export, and the Shipping Bill was filed based on the provided KYC documents.

On being asked why it should not be considered that he was aware of the misdeclaration regarding the non-existent supply chain, he stated that Shipping Bills were filed based on the exporter's provided documents, and no violations under the GST Act were known.

On being asked whether the CB firm or the exporter had been penalized by any government agency, he stated that, to his knowledge, neither had been penalized as of that date.

On being asked if he had anything further to add, he stated that their firm was a genuine Customs Broker with nationwide operations, and due diligence was exercised in all shipments. He further stated that full cooperation would be extended to the Customs authorities in the ongoing investigation.

14. RELEVANT LEGAL PROVISIONS

A. Customs Act, 1962

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

Section 50: Entry of goods for Exportation. –
(1) The Exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be Exported in a vessel or aircraft, a Shipping Bill, and in the case of goods to be Exported by land, a bill of Export [in such form and manner as may be prescribed]:
Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.]
(2) The Exporter of any goods, while presenting a Shipping Bill or bill of Export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The Exporter who presents a Shipping Bill or bill of Export under this section shall ensure the following, namely:-
(a) the accuracy and completeness of the information given therein;
(b) the authenticity and validity of any document supporting it; and
(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

SECTION 113(i): any goods entered for Exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77, shall be liable to confiscation;

Section 113(ia): Any goods entered for Exportation under claim for drawback which do not correspond in any material particular with any information furnished by the Exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75, shall be liable to confiscation;
Section 113(ja): any goods entered for Exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the Provisions of this Act or any other law for the time being in force;

Section 114(iii): Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, in the case of any other goods, to a penalty not exceeding the value of the goods as declared by the Exporter or the value as determined under this Act, whichever is the greater;
114AA. Penalty for use of false and incorrect material. -
If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

Section 114AC: Penalty for fraudulent utilisation of input tax credit for claiming refund. -
Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for Exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

[114AB. Penalty for obtaining instrument by fraud, etc.—Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.
Explanation.—For the purposes of this section, the expression “instrument” shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.]

Section 28AAA. Recovery of duties in certain cases.–(1) Where an instrument issued to a person has been obtained by him by means of-
(a) collusion; or
(b) willful mis-statement; or
(c) Suppression of facts,
for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilized under the Provisions of this Act or the Rules or regulations made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relatable to such utilization of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

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

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

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other Provision of this Act or the Rules made there under, the person, who is liable to pay duty in accordance with the Provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.
(2) Interest at such rate not below ten per cent. And not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.
(3) Not withstanding anything contained in sub-section (1), no interest shall be payable where,
(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

Section 75A(2) of Customs Act, 1962: Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the Rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

B. Customs and Central Excise Duties Drawback Rules, 2017.
Rule 17: Repayment of erroneous or excess payment of drawback and interest. - Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962.

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

Customs Brokers Licensing Regulations, 2018:
10. Obligations of Customs Broker— A Customs Broker shall —
(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

Foreign Trade (Development and Regulation) Act, 1992.
Section 11:(1) No Export or import shall be made by any person except in accordance with the Provisions of this Act, the Rules and orders made there under and the foreign trade policy for the time being in force.

Foreign Trade (Regulation) Rules, 1993

Rule 11: On the importation into, or Exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of Exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the Export contract entered into with the buyer or consignee in pursuance of which the goods are being Exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

Whereas, from the investigation, the following facts emerge that:
15. M/s. Evergreen Trading Co. (IEC- DOJPP4337F) having its registered office address at Bassi Police Station, Plot No. 48, R K Puram Colony, SH 22, Bassi, Jaipur,

RAJASTHAN, 303301 had filed Shipping Bill No. 2976672 dated 05.08.2024 through their Customs Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484). The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 12,23,802.74 as against the declared FOB value of Rs. 15,98,694.31. By inflating the FOB value, the Exporter was attempting to claim Drawback of Rs. 44,763.44 and RoDTEP of Rs. 11,190.86 whereas they were eligible for Drawback of Rs. 23,252.25 and RoDTEP of Rs. 8,566.62 respectively. (as tabulated in Table-III above).

15.2 As can be seen from the Table-III above, based on the Market Enquiry conducted on 21.08.2024, it appears that the goods declared by the Exporter in the Shipping Bill No. 2976672 dated 05.08.2024 have been mis-declared in terms of their description, classification and valuation. During the Market Enquiry it was found that the value of the goods filed under the said Shipping Bills were inflated and hence needed to be re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The Export incentive such as drawback & RoDTEP are therefore are re-determined with respect to the re-determined FOB as mentioned in the Table-III above. It is thus cogent and clear that the Exporter M/s. Evergreen Trading Co. (IEC-DOJPP4337F) had (i) mis-declared the impugned goods in terms of their description, classification and valuation (ii) attempted to defraud the Government by claiming undue higher amount of Drawback and (iii) RODTEP and thereby acted in a manner which rendered the said goods under Table-I above liable for confiscation in terms of the Provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962 respectively.

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

15.4 As the Exporter had not made declaration truthfully in the said Shipping Bill, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it appears that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods, on the part of the Exporter with mala-fide intention to claim undue Export benefits not legitimately payable to them. The Exporter had declared the FOB value in the Shipping Bill as Rs. 15,98,694.31 whereas the re-determined FOB value after conducting the Market Survey was Rs. 12,23,802.74 only and hence higher Drawback & RoDTEP and other Export incentives were attempted to be claimed. Thus, it appeared that the said goods were attempted to be Exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development &Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as Exporter had furnished wrong declaration to the Custom Authorities.

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

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

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

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

15.9 The Exporter has neither produced any cost of production details, manufacturing or processing of Export details and correct transport details nor produced cost design or brand or an amount towards profit etc, to derive computed value of the goods. In absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

15.10 The value of the impugned goods is, therefore, proposed to be re-determined under the residual Rule 6 of CVR (Export) Rules, 2007. This Rule stipulates that subject to the Provisions of Rule 3, where the value of the Export goods cannot be determined under the Provisions of Rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general Provisions of these Rules. Therefore, in order to arrive at the correct value of the impugned goods the same was required to be done on the basis of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, the total value of the goods has been re-determined from Rs. 15,98,694.31 to Rs. 12,23,802.74 as per the DYCC Report and Market Enquiry conducted of the subject goods.

15.11 With respect to the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F), this office sent letters dated 24.10.2024, 20.11.2024 and 11.12.2024 to jurisdictional State GST of Rajasthan to verify genuineness of the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F). Vide reply letter of the Assistant Commissioner - First Circle - E Division vide F.No. Misc / 391/2004 - CGST-Range-25-DIV-E-JPR-COMMRTE-JAIPUR Dated 12.09.2024 received in this office states that the physical premises of the said Exporter is **non-existent** at the PPOB. Therefore, the firm is **suspicious and bogus.** Also, Summonses to the Exporter have been dispatched to Exporter's address mentioned in the IEC by this office. However, the summonses sent via speed post returned to this office with the remark that the **'Item returned due to insufficient address'.** Also, Summonses have been sent through the e-mail address provided by the Exporter in their official correspondence with this office. However, the exporter did not turn up for deposing their statement nor submitted any written submission. The GST status of the Exporter was ascertained from the GST Portal that Exporter filed the GSTR-1 and GSTR-3B up to August-2024. As per GST BO Portal, the GST registration was obtained on 07.09.2022 and the same was suspended on 25.09.2024. Consequently, the live shipping bill filed by the Exporter were put on hold by SIIB(X), subsequently, the Exporter had stopped filing the GST Returns. From the above facts, it appears that the Exporter appears to be **non-genuine**. Thus, from the above facts, it appears that the Exporter is a fly by night operator/Paper-based firm and was established only to Export inferior goods to claim higher export incentives. Therefore, it appears that the Exporter connived with their supplier to obtain invoice by fraud and collusion to utilize input tax credit on the basis of such invoice for discharging tax on goods which have been entered for exportation under the Shipping Bill filed by them.

It further appears that the Exporter M/s. Evergreen Trading Co. (IEC-DOJPP4337F) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration in terms of description, classification and value of the impugned goods. The Exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with malafide intent to avail undue/excess export benefits in form of Drawback, Rosctl and other export benefits. Therefore, the Exporter also liable for penalty u/s 114 AA of Customs Act, 1962 for this intentional mis-declaration. Further, the Exporter appears to be non-existent and non-genuine. Thus, the ITC claimed appears wrongly claimed and claimed by fraud etc. and, hence the Exporter M/s. Evergreen Trading Co. (IEC- DOJPP4337F) have rendered themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962.

15.12 It further appears that the Exporter M/s. Evergreen Trading Co. (IEC-DOJPP4337F) have rendered themselves liable to penalty in terms of section 114(iii) of the Customs Act, 1962 on account of mis-declaration in terms of description, classification and valuation of the impugned goods. The Exporter has knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the Exporter with malafide intent to avail undue/excess Export benefits in form of Drawback, RoDTEP and other Export benefits. Therefore, M/s. Evergreen Trading Co. (IEC- DOJPP4337F) also liable for penalty in terms of Section 114 AA of Customs Act, 1962 for this intentional mis-declaration.

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

(N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

15.14 As above discussed, the Exporter has obtained Drawback & RoSCTL/RoDTEP by fraud, collusion, willful misstatement or suppression of facts without realizing the BRC for the Past Shipping Bills mentioned in Table-V. Hence, it appears that the M/s. Evergreen Trading Co. (IEC- DOJPP4337F) have rendered themselves liable to penalty in terms of section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bills filed by the Exporter as mentioned at Table-V above.

15.15 The Custom Broker M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No. 11/1484) failed to ascertain the veracity and genuineness of the Exporter firm M/s. Evergreen Trading Co. (IEC- DOJPP4337F). The regulation 10 (n) of the CBLR, 2018 has mandated that the CB has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. In the instant case, as stated by the CB, they have merely taken copies of the IEC and GST registration from the Exporter and started filing Shipping Bills on their behalf. Though, the CB stated that they conducted verification of address of the Exporter, no evidence has been produced in support of their claim. The CB has to verify the antecedents of the Exporter by using reliable, independent, authentic documents, data or information, which the CB has failed to do in this case. It appears that the CB is not disclosing the truth since the Exporter is non-existent and non-genuine as per GST verification Report from the concerned jurisdictional Authorities. The CB in their voluntary statement has submitted that they had verified the address of the Exporter, but had furnished only photographs of the place. No evidence has been put forth by the CB to corroborate their claim of actually verifying the principal place of business of the Exporter. The role of the CB in this fraudulent export of a non-existent and non-genuine firm is not ruled out. Had the CB confirmed the veracity and genuineness of the Exporter through their own independent and reliable sources, he could have easily known that the Exporter and their supply chain is dubious. The CB has thereby violated regulation 10(n) of the CBLR, 2018 and have rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962.

16. Now, M/s. Evergreen Trading Co. (IEC- DOJPP4337F) having its registered office at Bassi Police Station, Plot No. 48, R K Puram Colony, SH 22, Bassi, Jaipur, RAJASTHAN, 303301 are hereby called upon to Show Cause to the Additional Commissioner of Customs, CEAC, NS-II, JNCH, having office at Jawaharlal Custom House, Nhava Sheva, Tal-Uran, Dist-Raigad, Maharashtra, within 30 days of receipt of this notice as to why:

i. The declared FOB value of Rs. 15,98,694.31/- covered under the Shipping Bill No. 2976672 dated 05.08.2024 should not be rejected and re-determined to Rs. 12,23,802.74 under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
ii. The drawback of Rs. 44,763.44 and RoDTEP of Rs. 23,252.25 claimed in the Shipping Bill No. 2976672 dated 05.08.2024 should not be re-determined to drawback of Rs. 23,252.25 and RoDTEP of Rs. 8,566.62 respectively since the FOB value of the goods is re-determined.
iii. The said impugned Export goods covered under the Shipping Bill No. 2976672 dated 05.08.2024 having total declared FOB value of Rs. 15,98,694.31 which appear to be mis-declared in terms of description, classification and valuation, should not be confiscated under the Provisions of Section 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.
iv. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114(iii) and 114AA of the Customs Act, 1962 for the above violation.
v. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114AC of the Customs Act, 1962 for the above violation.
vi. The goods pertaining to Shipping Bill Nos. from Sr. No, 01 to 05 mentioned in Table-V totally valued at Rs. 67,23,824.35/- should not be held liable for confiscation under the Provisions of Section 113(ia) and 113(ja) of the Customs Act, 1962 since the Export benefits of Drawback and RoSCTL have been availed and taken by the Exporter without realising the Export proceeds i.e. on account of non-receipt of the foreign remittance of the value of Export.

vii. The drawback of Rs. 1,89,487/- claimed in Shipping Bills from Sr. No. 01 to 05 mentioned at Table-V above should not be recovered on account of non-receipt of remittance in and should not be demanded from the Exporter along with applicable interest under Section 75 and 75A of the Customs Act 1962 read with Rule 17 & 18 of the Drawback Rules, 2017.

viii. The RoSCTL of Rs. 3,29,930/- claimed in Shipping Bills from Sr. No. 01 to 05 mentioned at Table-V above should not be recovered on account of non-receipt of remittance in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

ix. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114(iii) and 114AA of the Customs Act, 1962 on account of non-receipt of the foreign remittance in Shipping Bills Nos. mentioned in Table-V filed by the Exporter.

x. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114AC of the Customs Act, 1962.

xi. Penalty should not be imposed on M/s. Evergreen Trading Co. (IEC-DOJPP4337F) under Section 114AB of the Customs Act, 1962 on account of claiming export incentives/benefits without receipt of the foreign remittance in Shipping Bills Nos. mentioned in Table-V filed by the Exporter.

xii. The Bond should not be enforced and Bank Guarantee HCM No. 405 dated 09.09.2024 of Rs. 50,000/- (Rupees Fifty Thousand Only) at the time of Provisional release of the goods for Export, should not be appropriated against Export incentives, applicable interest, redemption fine and penalty etc. arising out of this order.

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

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

19. In case the notice is eligible to avail the facility of settlement of the case as per the Chapter XIVA of the Customs Act, 1962, and interested in the same, he may apply to the Settlement Commission as per prescribed procedure and also inform the same to the Adjudicating Authority

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

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

22. This show cause notice is issued without prejudice to any other action that may be taken against the persons/firms mentioned herein or any other person under the Customs Act, 1962 or any other law for the time being in force.

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

(RAGHU KIRAN B.)
Additional Commissioner of Customs,
CEAC, NS-II, JNCH

To,

1. M/s. Evergreen Trading Co. (IEC- DOJPP4337F)
   Bassi Police Station, Plot No. 48, R K Puram Colony,
   SH 22, Bassi, Jaipur, RAJASTHAN, 303301.

2. M/s. Indo-Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484)
   Raheja Arcade, 4th Floor, Office No. 408, Plot No. 61,
   Sector-11, CBD Belapur, Navi Mumbai.

Copy to:

1. The Asstt. Commissioner of Customs,
   SIIB (X) & IRMC, JNCH.

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

3. Office Copy.

Annexure – I

Sr. No.	List of Relied Upon Documents
RUD-I	Shipping Bill No. 2976672 dated 05.08.2024
RUD-II	Panchanama dated 19.08.2024
RUD-III	Test Reports from DYCC
RUD-IV	Copy of Market Enquiry dated on 21.08.2024
RUD-V	Letter of Provisional Release for Export dated 09.09.2024.
RUD-VI	Reply letter dated 12.09.2024 for verification of genuineness of the Exporter from GST.
RUD-VII	Summons dated 21.11.2024, 14.01.2025, 21.01.2025 and 14.02.2025 in the name of M/s. Evergreen Trading Co. (IEC- DOJPP4337F).
RUD-VIII	Copy of statement of Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) dated 17.01.2025.

3.	Office Copy.

Annexure – I

Sr. No.	***List of Relied Upon Documents***
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RUD-VIII	Copy of statement of Mr. Gabaji M. Gunjal G-card 2114/2021 of CB firm M/s. Indo Foreign (Agents) Pvt. Ltd. (CHA License No.11/1484) dated 17.01.2025.

INDO-FOREIGN (AGENTS) PVT LTD

Indian Customs EDI System - Exports (ICES / E)
Shipping Bill For Export

…: INNSA1
…d on: 08/08/2024 12:47:45

Job: 597 Date: 05/08/2024 SB No: 2976672 Date: 05/08/2024

State Of Origin: RAJASTHAN

…orter's Name

…EC No : DOJPP4337F(0) **Type** : MERCHANT **PAN :** DOJPP4337F
EVERGREEN TRADING CO
PLOT NO 48, R K PURAM COLONY, SH 22
POLICE STATION, BASSI JAIPUR
JAIPUR 303301 RAJASTHAN
GST No : **GSN - 08DOJPP4337F1ZP**

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

Shed I
E-24

Port of Loading (INNSA1)	: NHAVA SHEVA SEA
Final Desitination Country (AE)	: UNITED ARAB EMIRATES
Final Desitination Port (AESHJ)	: SHARJAH
Port of Discharge (AESHJ)	: SHARJAH
Country of Discharge (AE)	: UNITED ARAB EMIRATES
Marks & Nos	: AS PER INVOICE
Forex Bank Account	: 0
Authorised Dealer Code	: 0202475
I.F.S. Code No	:
Drawback Account No	:
ST/Excise Regn	:

No of Packages	: 184 PKG
Net Weight	: 4711.000 KGS
Gross Weight	: 4730.000 KGS
No of Containers	: 0
Nature of Cargo	: C
Rotation No	:
FOB Value (Rs.)	: 1598694.31
RODTEP Amount	: 11190.86
Drawback Amount	: 44763.44
ROSCTL Amount	: 0.00

Invoice Details Serial No	: 1
Invoice Value (USD)	: 19296.25 (Rs. 1598694.31)
FOB Value (USD)	: 19296.25 (Rs. 1598694.31)
Nature of Contract	: FOB
Invoice No	: ETC/11/24-25 Date : 05/08/2024

Drawback Amount(Rs)	: 44763.44
Nature of Payment	: DA (180 Days)
Exporter Contract No	:
Exchange Rate	: USD 1 = Rs 82.85

	Rate	Currency	Amount
Insurance			
Freight			
Discount			
Commission			
Other Deduction			
Packing Charges			

Buyer's Name
MAHADEV INDUSTRIES FZC
400 M2 Q4-126 SAIF-ZONE SHARJAH U.A
0504644797 ZUBER SHEIKH
MAHADEVINDUSTRIES2025@GMAIL.COM

Sl.No	RITC Code / Quantity / Scheme Description / Manufacturer Details	Item Description / Unit	Rate	Per	Unit	Total Value(FC) / Declared PMV(INR)	FOB Value(INR) / Accepted PMV(INR)	Scheme Reward
1	54077400 44875 DRAWBACK (DBK)	POLYESTER PRINTED FABRICS GSM : 115 +/-10% SQM	0.43	Per 1	SQM	19296.25 39.19	1598694.31 1758563.74	19 NO

#Pkg	Transit Country	District	HAWB No	IGST Pymt	Tax Value (INR)	Tax Amount(INR)	End Use
#		JAIPUR		LUT@0%	0.00	0.00	GNX100

Total	Tax Amount	0.00	Invoice Value	19296.25	1598694.31 FOB
Total	GST Amount	0.00	S/B Invoice Value	19296.25	1758563.74 PMV

Drawback Details

Inv SlNo	Item SlNo	Drawback No	Custom Rate	Drawback Rate	Custom Special Rate	Drawback Special Rate	Drawback Quantity	Drawback Amount
1	1	540702B	2.8	21.8/KGS			4711 KGS	44763.44

Package Details

Package From	Package To	Type	Package From	Package To	Type	Package From	Package To	Type	Package From	Package To	Type
01	184	PKG									

Info Details

Inv SlNo	Item SlNo	SQC Quantity	RODTEP Claim Rate	RODTEP Amount	GST Amount	CCS Amount	District Name / State Name	Trade Type	Info Code
1	1	44875 SQM	YES 0.7%	11190.86			0102 JAIPUR 08 RAJASTHAN	NCPTI	

P1
19/8/24

design by www.ons.live - support@ons.live

P-2

19/8/24

INDO-FOREIGN (AGENTS) PVT LTD

Indian Customs EDI System - Exports (ICES / E)
Shipping Bill For Export

NNSA1
n: 08/08/2024 12:47:45   Job: 597 Date: 05/08/2024 SB No: 2976672 Date: 05/08/2024   State Of Origin: RAJASTHAN

Supporting Document Details

em	IRN DRN	Doc Type	Place of Issue	Issue Date	Expiry Date	Issuing Party Beneficiary Party
1	2024080500101216	380000		05/08/2024		EVERGREEN TRADING CO
1	2024080500036869	Commercial invoice				KRV GENERAL TRADING LLC
1	2024080500101217	271000		05/08/2024		EVERGREEN TRADING CO
1	2024080500036869	Packing list				KRV GENERAL TRADING LLC
1	2024080500101218	022CO1		05/08/2024		EVERGREEN TRADING CO
1	2024080500036869	Self-Declaration on Customs Cases				KRV GENERAL TRADING LLC

Statement Details

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

Following is the list of document attached

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

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

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

Signature of Exporter/CHA with Date

19/8/24

P-1
19/8/24

P-2
19/8/24

PANCHANAMA dated 19.08.2024 DRAWN AT CFS- JWR Logistics Pvt. Ltd., Village- Padeghar, Panvel, Navi Mumbai – 410206

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

We the above mentioned Panchas were called upon by a person who introduced himself as Shri Paramveer Singh Nain, an Intelligence Officer, SIIB(X), JNCH on 19.08.2024 at 13:05 hrs at JWR CFS, 15-23, National Highway 4B, Panvel-JNPT Highway, Village- Padeghar, Ulwe, Panvel, Navi Mumbai, Maharashtra-410206 to witness the examination of goods of exporter M/s Evergreen Trading Co. (DOJPP4337F) covered under 01 Shipping Bill No. 2976672 dtd 05.08.2024 kept inside JWR CFS, for confirmation of declaration in respect of description of goods, quantity and any other declaration thereof.

Here we were introduced to Shri Gabaji M Gunjal, G-card holder of M/s. Indo Foreign (Agents) Pvt Ltd (CHA License No.11/1484) having Kardex No. 2114/2021. Then the officer explained to us that the exporter M/s Evergreen Trading Co. (DOJPP4337F) having address at Plot No. 48, R K Puram Colony, SH 22 Police Station, Bassi Jaipur 303301 filed 01 Shipping Bill No. 2976672 dtd 05.08.2024 through their Customs Broker M/s. Indo Foreign (Agents) Pvt Ltd (CHA License No.11/1484) for export of their consignment.

We were shown a copy of Hold letter No. 51/2024-25/SIIB(X) issued vide F.No. CUS/SIIB/ALT/462/2024-SIIB (E) hold of 01 Shipping Bill No 2976672 dtd 05.08.2024 filed by exporter M/s Evergreen Trading Co. (DOJPP4337F) through their authorized Customs Broker M/s. Indo Foreign (Agents) Pvt Ltd their respective export invoice & packing list.

Further, the above-mentioned officer requested us to bear witness to the examination proceedings of the goods covered under 01 Shipping Bills No. 2976672 dtd 05.08.2024 to which we both voluntarily agreed.

Thereafter, all of us proceeded to the area/location inside JWR CFS where the goods were found placed inside Shed No. I at location E-24. A total of 184 packages of Sb No. 2976672 dtd 05.08.2024 found placed at the said location. The goods were found to be packed in white transparent sheet of polypropylene. There after each of these packages were opened by the laborers available in the CFS with the help of CHA and CFS staff and further the officer started examining the goods thoroughly.

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

Sr.No.	S/B No. & Date	Description of Goods	FOB (in Rs.)	Drawback (in Rs.)	RoDTEP (in Rs.)	IGST
1.	2976672 dtd 05.08.2024	Polyester printed fabrics	1598694	44763	11190	LUT

P-1 19/8/24 P-2 19/8/24 CO 19/8/24

		GSM 115+/- 10% RITC 54077400				

During 100% examination, goods covered under Shipping Bills No. 2976672 dtd 05.08.2024 were found as declared in terms of quantity as per checklist & shipping bill. The item description is polyester printed fabrics however, on visual appearance the fabric is white colored having knitted characteristics.

Thereafter, samples of the fabrics were drawn randomly in duplicate from the S/B No. 2976672 dtd 05.08.2024 in our presence. Further, the said samples as drawn above were sealed with wax seal and taken over for the purpose of further investigation by the said Customs Officer. We have put our dated signatures as a token of having seen the drawn samples and sealing of the same in the presence of Shri Gabaji M Gunjal G-card holder of M/s. Indo Foreign (Agents) Pvt Ltd (CHA License No.11/1484)

All the goods pertaining to Shipping Bills No. 2976672 dtd 05.08.2024 were re-packed in the same packages and kept back inside Shed-I at the same location E-24 inside JWR CFS in our presence and the same were handed over to Manager, JWR CFS for safe custody.

We have put our dated signatures on the Shipping Bills No. 2976672 dtd 05.08.2024, their respective Export Invoice and Packing List and other relevant documents as a token of having seen the same and being present during the examination.

The Panchanama running into 02 pages ended on the same place and same date i.e. 19.08.24 at 18:00 hrs. The Panchanama was carried out in our presence and in the presence of the authorized Customs Broker representative. The Panchanama was carried out in peaceful and systematic manner and no untoward event happened during the course of drawing the Panchanama and no damage was done to the subject goods.

Drawn by me, on the 19th day of August 2024.

19/8/24

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

In presence of:

Khunjal (Gm) 19/8/24

(Representative of CB)

Chetan Rohokale
19/8/24

Pancha-I

Navnath. B. Dade
19/8/24

Pancha-II

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

सत्यमेव जयते

F. No. CUS/SIIB/ALT/462/2024-SIIB(E) **21/08/2024**

To,

The Chemical Examiner
Grade- I (Incharge)
O/o Joint Director
JNCH Lab

Sub: Testing of sample pertaining to Shipping Bill No. 2976672 dated 05.08.2024 by M/s Evergreen Trading Co (IEC: DOJPP4337F) – reg.

Please find enclosed herewith sealed envelopes of samples of below mentioned goods from the consignment pertaining to SB No. **2976672 dated 05.08.2024** for testing purpose.

Sr.No.	S/B No. & Date	Declared Description	No. of RSS
1.	**2976672 dated 05.08.2024**	Polyester Printed Fabrics GSM : 115+/-10%	01

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

a. Detailed analysis of composition
b. Nature of the sample
c. Whether the samples are as per their respective declared description

Thanking you.

Yours sincerely,

Kapil 21/8/24
Appraiser
SIIB(X), JNCH

Encl: as above.

Lab No. 654/SIIB (X). dt. 21/08/24

S.B.No:- 2976672, Date:- 05.08.2024

Report:- The sample is in the form of cut piece of White knitted fabric. It is wholly composed of spun yarns of polyester.

It is other than printed Fabric.

Sealed remnant returned.

Umesh Kumar chaudhari
12.09.2024
(CA)

C.E-II

12.09.2024

Dr. ...
Chemical Examiner Gr II

Market Enquiry Report of M/s. Evergreen Trading Co conducted on 21/08/2024

As approved by the competent authority, the undersigned officer from SIIB(X) along with Shri Gabaji M Gunjal, Authorized representative of Exporter, conducted a market survey of goods covered under Shipping Bill No. 2976672 dated 05.08.2024 presented for export by M/s Evergreen Trading Co (IEC: DOJPP4337F). The officer carried representative samples of the goods which were drawn from the aforesaid consignment covered under the said Shipping Bill. Market enquiry was conducted on 21/08/2024 in the wholesale market near Masjid Bunder, Mumbai.

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

S/B No.	Item Description	Shop 1 A.K. Enterprises 13/17, Shop No. 3, Noorie House, Chakla Street, Mumbai-400003	Shop 2 R.D Fashion 16 Nagdevi Street, Nakhuda Mohallah, Mumbai 400003	Shop 3 Farida Fashions 51, Kolsa Street, near rapid heights Tower, Mumbai-400003	Average wholesale price	PMV
2976672 dated 05.08.2024	Polyester Printed Fabrics GSM 115 +/-10%	25	35	30	30.00	39.19

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

21/8/24

(Shri Gabaji M Gunjal)
Authorized representative of Exporter

Abhishek
21/08/24
(Abhishek Meena)
IO/SIIB(X)

प्राप्त किया/ RECEIVED
क्रम. संख्या/ Sr. No.........
2 6 AUG 2024
अपर आयुक्त सीमाशुल्क
ADDITIONAL COMMISSIONER OF CUSTOMS
एन.एस.NS-II, जेएनसीएच JNCH, न्हावा सेवा/ Nhava Sheva

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

F.No. CUS/SIIB/ALT/462/2024-SIIB(E) **Date: .08.2024**

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

Sir,

Sub: NOC for Provisional release of the goods for Export covered under Shipping Bill No. 2976672 dated 05.08.2024 of exporter M/s Evergreen Trading Co (IEC: DOJPP4337F) - reg.

Please refer to the subject mentioned above.

The Exporter M/s Evergreen Trading Co (IEC: DOJPP4337F) has filed 01 shipping bill No. 2976672 dated 05.08.2024 for export of Polyester Printed Fabrics. Based on the NCTC inputs, the same was hold by this unit vide hold letter dated 09.08.2024.

Red Flags by NCTC are as follows:

i. All the exporters are Proprietorship firms.

ii. All the exporters have obtained IEC in the past two financial years ie., FY2022-23, 2023-24.

iii. As per e-way bill portal, supply chain of all exporters appears to be dubious/non-existent.

iv. All of them, except Exceedo IT solutions, had filed nil GST returns, no inward ITC, nil zero rated supply (as per the GSTR3B). (Copies attached.). SK GLOBAL had filed NIL value returns except some minor clearances shown in September 2023 & October 2023. However, SBs are filed for IGST refund under LUT. It appears a genuine exporter will not file nil return as he would like to take refund of duties paid by him.

v. The details such as Description of the goods, Country of destination and consignee name are identical in case of all the exporters.

vi. The consigner/ buyer is 1) M/s KRV GENERAL TRADING LLC, U.A.E AND (2) MAHADEV INDUSTRIES FZC, SHARJAH, U.A.E in all the cases.

vii. The goods being exported is prone to mis-declaration and the country of destination is also sensitive.

viii. As the supply chain is non-existent, there is high possibility that the goods have been procured improperly without proper tax payment and the intent of the exporter is to avail undue ITC refund benefits.

ix. The goods under export could be locally procured, without proper payment

of taxes and may be of poor quality.
x. Given the above, there is high possibility of mis-declaration in terms of quality, quantity of goods, mis-classification, concealment and overvaluation to avail undue IGST / ITC refund for exports.
xi. Further, the possibility of a syndicate using the credentials of persons with meagre financial resources to create dummy entities with the intent to claim inadmissible export benefits cannot be ruled out.

Thereafter, the subject goods under 01 shipping bill were 100% examined by SIIB(X) under Panchanama dated 19.08.2024 wherein goods found as declared in terms of quantity as per checklist & shipping bill. The item description is Polyester printed fabrics however on visual appearance the fabric is white colored having knitted characteristics.

For valuation angle Market enquiry of the goods was conducted on 21/08/2024. After market enquiry the goods for which the value declared was on the higher side, FOB value is re-determined as given below:-

S/B No.	Item Description	Declared FOB	Re-determined FOB Value= Declared FOB * (Re-determined PMV/Declared PMV)	Declared DBK	RE-Determined DBK	Rodtep Amount	Redermined Rodtep Amount
2976672 dated 05.08.2024	Polyester Printed Fabrics GSM 115 +/-10 %	1598694.31	1223802.738	44763.44068	34266.5	11190.86017	8566.61917
			Difference		**10497**		**2624.24**

In view of the above, the value of the goods has been re-determined and it is observed that the exporter has attempted to claim excess/undue export incentives in the form of Duty Drawback to the tune of Rs. 10,497, RODTEP to the tune of Rs. 2624 by doing over-valuation of the goods. As further investigation is still pending with regard to DYCC test report,GST verification etc. Meanwhile, the exporter vide letter dated 21/08/2024 has requested for provisional release of the goods for Export purpose.

This office has no objection for provisional release of the goods for Export covered under shipping bill No. 2976672 dated 05.08.2024.

This is issued with the approval of the Joint Commissioner of Customs, SIIB(X), JNCH.

Yours Faithfully

Signed by Rahul Dhingra
Date: 23-08-2024 13:48:58

(Rahul Dhingra)
Dy. Commissioner of Customs
SIIB (X), JNCH

Encl:- Copy of shipping bills & packing list.

जाँच प्रतिवेदन

Firm - Evergreen Trading Co.

GSTIN - 08DOJPP4337F1ZP

Legal Name - DWARKA PRASAD

Principle place of Business - Plot NO. 48, R.K. Puram Colony
SH 22, Bassi Police station Bassi
Jaipur, Rajasthan, 303301

Date - 20.09.2024

श्रीमान् सहायक घट-प्रथम वृत-ई, संभाग- जयपुर द्वितीय के आदेशानुसार Central Goods and Services Taxes Range - XXV division - E के पत्र क्रमांक MISC/391/2024 - CGST - Range - 25 - DIV - E - JPR - COMMRTE - JAIPUR Date 12.09.2024 की अनुपालना के क्रम मे उक्त फर्म - Evergreen Trading Co. द्वारा GST पोर्टल पर घोषित व्यवसाय स्थल पर पहुँचे। उक्त घोषित व्यवसाय स्थल पर एक दुकान (दुर्गा मेडिकल प्रोविजन स्टोर) मिली जिस पर उपस्थित व्यक्ति से पूछने पर उसने स्वयं का नाम अरविन्द शर्मा बताया। विस्तृत मे पूछताछ करने पर श्री अरविन्द शर्मा ने उक्त घोषित व्यवसाय स्थल का मालिक होना बताया साथ ही अवगत कराया कि यह स्थल उसके द्वारा 5-6 वर्ष पूर्व श्री कमलकाँत ढोली S/O राम करण ढोली से खरीदा था परन्तु बिजली का कनेक्शन स्थानांतरण नही करवाने

Avinash
JLT01SIO
E-I jaipur-II

के कारण वर्तमान बिजली का बिल भी श्री कमलकांत ढोली के नाम से ही आता है। श्री अरविन्द शर्मा ने अवगत कराया कि अगस्त-2022 मे Plot No. 48 एक व्यक्ति (नाम- द्वारका प्रसाद S/o नाथू लाल) को 11 महीने के लिए किरायानामा बनवाकर किराये पर दिया था परन्तु उक्त व्यक्ति द्वारका प्रसाद ने 1 महीने का किराया दे कर किरायानामा ले लिया एवं बाद मे कभी उस Plot (Plot No. 48) पर नही आया ना ही यहां कोई व्यवसाय संचालित किया।

वक्त जॉच फर्म के द्वारा पोर्टल पर उपलब्ध कराये गये बिजली के बिल पर दिये गये दूरभाष नम्बर-9887496947 पर बात करने पर श्री कमलकांत ने भी उक्त संपत्ति श्री अरविन्द शर्मा को विक्रय करने की पुष्टि की परंतु ऐसी कोई भी फर्म के संचालन के बारे मे अवगत नही होना बताया। पोर्टल पर दिये गये दूरभाष नम्बर 8209583845 पर कई बार सम्पर्क करने का प्रयास किया गया परन्तु सम्पर्क नही हो पाया।

वक्त जॉच उक्त रिपोर्ट पर श्री अरविन्द शर्मा को अपने बयानों पर हस्ताक्षर करने के लिए कहा गया परन्तु श्री शर्मा ने हस्ताक्षर करने से साफ इनकार कर दिया गया।

अतः उक्त फर्म - Evergreen Trading Co की भौतिक अवस्थिति नही होने के आधार पर फर्म को संदिग्ध मानकर बोगस घोषित करने की अनुशंसा की जाती है एवं श्रीमान् जी को अग्रिम कार्यवाही करने हेतु रिपोर्ट प्रेषित की जाती है।

Avinash
JCT01 STO
E-I Jaipur-II

O/C

File No- CUS/SIIB/ALT/462/2024-SIIB(E)-JNCH

CBIC-DIN-20241178NT000000D985

SUMMONS

[under Section 108 of the Customs Act, 1962(52 of 1962)]

To,

Proprietor/Director/Partner of M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)

Bassi Police Station, Plot No 48 , R K Puram Colony, SH 22, Bassi, Bassi, Jaipur, , Bassi , JAIPUR , RAJASTHAN, 303301

EM082303748IN
22/11/2024

WHEREAS, I, **Milan** am making inquiry in connection with **Shipping Bills No. 2976672 dtd 05.08.2024 filed by M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)**
under the Customs Act, 1962.

AND WHEREAS, I consider your attendance to
(a) give evidence and / or
(b) produce documents or things of the following description in your possession or under your control:

1. **GSTR 1/2A and GSTR-2B, E-way Bill, Identity Card, BRC of the Previous Consignment**
2. **GST Purchase Tax Invoice, Bank Statement, E way bills**
3. **Company address proof and any other relevant documents related to export done against IEC DOJPP4337F**

NOW, THEREFORE, in exercise of powers vested in me under Section 108 of the Customs Act, 1962, I do hereby summon you to appear before me ☑ **in person** / or ☐ **by an authorised agent** on **2024-12-09** at **3:30:PM** at the office of **C-604, SIIB(X), JNCH**

Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 229 and section 267 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023) and non-complinace of this summon is an offence punishable under section 208 and section 210 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

Given under my hand and seal of office to-day the **21** day of **November, 2024** at **JNCH**

Name : **Milan**

Signature : 21/11/2024

Designation :
Superintendent / Appraiser / Senior Intelligence Officer

Seal of Office. विशेष अन्वेषण एवं आसूचना शाखा (निर्यात) SPECIAL INVESTIGATION & INTELLIGENCE BRANCH (EXPORT) सत्यमेव जयते (निर्यात)/SIIB न्हावा शेवा/NHAVA SHEVA

SUMMONS

[under Section 108 of the Customs Act, 1962(52 of 1962)]

To,

Proprietor/Director/Partner of M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)

[EM098819313IN]

Bassi Police Station, Plot No 48 , R K Puram Colony, SH 22, Bassi, Bassi, Jaipur, , Bassi , JAIPUR , RAJASTHAN, 303301

WHEREAS, I, **Milan** am making inquiry in connection with **Shipping Bill No. 2976672 dated 05.08.2024** under the Customs Act, 1962.

AND WHEREAS, I consider your attendance to
(a) give evidence and / or
(b) produce documents or things of the following description in your possession or under your control:

1. **GSTR 1/2A and GSTR-2B, E-way Bill, Identity Card**
2. **GST Purchase Tax Invoice, Bank Statement, E way bill and ITR**
3. **Company address proof, BRC of Past Export and any other relevant documents related to export done against IEC DOJPP4337F**

NOW, THEREFORE, in exercise of powers vested in me under Section 108 of the Customs Act, 1962, I do hereby summon you to appear before me ☑ **in person** / or ☐ **by an authorised agent** on **2025-01-20** at **11:30:AM** at the office of **C-604, SIIB(X), JNCH**

Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 229 and section 267 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023) and non-complinace of this summon is an offence punishable under section 208 and section 210 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

Given under my hand and seal of office to-day the **14** day of **January, 2025** at **JNCH**

Name : **Milan**

Signature : 14/01/2025

Designation :
Superintendent / Appraiser / Senior Intelligence Officer

Seal of Office.

File No- CUS/SIIB/ALT/462/2024-SIIB(E)-JNCH **CBIC-DIN-**20250178NT0000414477

mailed on 21/01/25

SUMMONS

[under Section 108 of the Customs Act, 1962(52 of 1962)]

To,

Proprietor/Director/Partner of M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)

Bassi Police Station, Plot No 48 , R K Puram Colony, SH 22, Bassi, Bassi, Jaipur, , Bassi , JAIPUR , RAJASTHAN, 303301

EM963121764IN
21/01/25

WHEREAS, I, **Milan** am making inquiry in connection with **Shipping bill No. 2976672 dated 05.08.2024 filed by M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)**
under the Customs Act, 1962.

AND WHEREAS, I consider your attendance to
(a) give evidence and / or
(b) produce documents or things of the following description in your possession or under your control:

1. **GSTR 1/2A and GSTR-2B and Identity Card**
2. **GST Purchase Tax Invoice, Bank Statement, E way bill and ITR**
3. **Company Address Proof, BRC of Past Export and any other relevant document**

NOW, THEREFORE, in exercise of powers vested in me under Section 108 of the Customs Act, 1962, I do hereby summon you to appear before me ☑ **in person** / or ☐ **by an authorised agent** on **2025-01-27** at **11:30:AM** at the office of **C-604, SIIB(X), JNCH**

Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 229 and section 267 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023) and non-complinace of this summon is an offence punishable under section 208 and section 210 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

Given under my hand and seal of office to-day the **21** day of **January, 2025** at **JNCH**

Name : **Milan**

Signature : 21/01/2025

Designation :
Superintendent / Appraiser / Senior Intelligence Officer

अन्वेषण एवं आसूचना शाखा (निर्यात) INVESTIGATION & INTELLIGENCE BRANCH (EXPORT) सत्यमेव जयते SIIB NHAVA SHEVA

Seal of Office

CBIC-DIN-20250278NT000000A5E4 403

File No- CUS/SIIB/ALT/462/2024-SIIB(E)-JNCH

SUMMONS

[under Section 108 of the Customs Act, 1962(52 of 1962)]

To,

Proprietor/Director/Partner of M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)

EM963855164IN (14.02.25)

Bassi Police Station, Plot No 48 , R K Puram Colony, SH 22, Bassi, Bassi, Jaipur, , Bassi , JAIPUR , RAJASTHAN, 303301

WHEREAS, I, **Milan** am making inquiry in connection with **Shipping bill No. 2976672 dated 05.08.2024 filed by M/s EVERGREEN TRADING CO. (IEC-DOJPP4337F)**
under the Customs Act, 1962.

AND WHEREAS, I consider your attendance to
(a) give evidence and / or
(b) produce documents or things of the following description in your possession or under your control:

1. **GSTR 1/2A and GSTR-2B, E-way Bill, Identity Card**
2. **GST Purchase Tax Invoice, Bank Statement, E way bill and ITR**
3. **Any other relevant documents related to export done against the IEC DOJPP4337F**

NOW, THEREFORE, in exercise of powers vested in me under Section 108 of the Customs Act, 1962, I do hereby summon you to appear before me ☑ **in person** / or ☐ **by an authorised agent** on **2025-02-21** at **11:30:AM** at the office of **C-604, SIIB(X), JNCH**

Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 229 and section 267 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023) and non-complinace of this summon is an offence punishable under section 208 and section 210 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

Given under my hand and seal of office to-day the **14** day of **February, 2025** at **JNCH**

Name : **Milan**

Signature : 14/02/2025

Designation :
Superintendent / Appraiser / Senior Intelligence Officer

विशेष आसूचना एवं अन्वेषण शाखा (निर्यात) / SPECIAL INTELLIGENCE & INVESTIGATION BRANCH (EXPORT) / सत्यमेव जयते / (निर्यात) / SIIB / न्हावा शेवा / NHAVA SHEVA

Seal of Office.

Statement of Shri. Gabaji Mahadu Gunjal, authorised representative and G-Card holder of M/s. Indo-Foreign (Agents) Pvt. Ltd. (11/1484), recorded under Section 108 of the Customs Act, 1962 in the office of Special Investigation and Intelligence Branch (Exports) situated at Room No. 604, C-Wing, 6th floor, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra – 400707 on 17.01.2025.

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In receipt of spot Summons CBIC-DIN-20250178NT0000717981 dated 17.01.2025 issued by Shri. Milan, Superintendent of Customs, Special Investigation and Intelligence Branch (Exports) from SIIB (X) office situated at Room No. 604, C-Wing, 6th floor, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra – 400707, I present myself for giving statement under section 108 of the Customs Act, 1962 on 17.01.2025. I have been explained the provisions of section 108 of the Customs Act, 1962; that giving false evidence under the said section of the said act is an offence under Section 174, 175 & 228 of the Indian Penal Code, 1860 and punishable under Section 193 of the Indian Penal Code, 1860; that this statement of mine can be used as evidence either against me or any other person in any court of law, anywhere in India. Having been explained the said provisions of the 108 of the Customs Act, 1962 & Sections of the Indian Penal Code, 1860 to me and understood the same; I am giving my true, correct and voluntary statement as follows:

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

Q. Do you know why you have been summoned? Are you the authorized person on behalf of CB M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484)?
Ans. I have come in response to the summons dated 17.01.2025 in relation to the export through JNPT by M/s. Evergreen Trading Co (IEC DOJPP4337F). I am the authorized person, holding a G-Card on behalf of CB M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484), to give a statement before Customs.

Q. What is your job profile in CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484)? Have you been authorized to give a statement on behalf of CB?
Ans. I am G-Card Holder with power of attorney in CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484). I supervise all work pertaining to exports and am fully authorized to give a statement.

Q. Who handles the documentation work in your CB firm?
Ans. I myself with my subordinate staff handle the documentation work in my CB firm.

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

Q. For how many years have you and your CB firm M/s Indo Foreign (Agents) Pvt. Ltd. (CHA: 11/1484) been in the Customs Broker business?
Ans. I have been an employee of this CB firm for the last sixteen years. My CB firm also has been in this business for around the last sixteen years.

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Q. Have you filed the Shipping Bill No. 2976672 dated 05.08.2024 on behalf of the exporter M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. Yes, my subordinates, under my supervision, filed the mentioned Shipping Bill on behalf of the exporter M/s. Evergreen Trading Co (IEC DOJPP4337F).

Q. How did you receive the shipment from M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. We received the order for the shipment from the official email of M/s. Evergreen Trading Co (IEC DOJPP4337F). As they were our new client, we thoroughly checked all documents before filing, related to Customs clearance.

Q. Are you aware of the case booked against the exporter M/s. Evergreen Trading Co (IEC DOJPP4337F) for the said Shipping Bill No. 2976672 dated 05.08.2024 for misdeclaration, especially regarding value?
Ans. Yes, I am aware of the case booked against the exporter. During the market enquiry, the goods were found overvalued.

Q. How did you come into contact with the exporter M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. We came in contact with the exporter through our forwarder friend.

Q. Do you have the KYC of the exporter M/s Evergreen Trading Co (IEC DOJPP4337F)?
Ans. Yes, Sir, we verified the KYC of the customer every time. The exporter has a valid IEC issued by DGFT. We verified the KYC documents from the DGFT online website as per CBLR 2018 and submitting their signed/certified copy.

Q. How much money had the exporter promised to give you for the clearance of goods?
Ans. We usually charge Rs. 1500/- for each export shipment as agency charges.

Q. Have you verified the address of M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. Yes Sir, we have verified the address at the time of KYC before filing Shipping Bills.

Q. Can you provide verifiable documentation, such as geotagged photographs, or inspection reports, to confirm the address of the exporter as part of the verification process?
Ans. No sir, there is not such proof readily available.

Q. Since when are you handling the export clearance of M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. This was the 7th or 8th shipment of the exporter, M/s. Evergreen Trading Co (IEC DOJPP4337F) through our CB firm.

Q. It appears that the first shipping bill in respect of the exporter was filed by your firm. Do you know about the KYC procedure for first-time exporters? Have you conducted the first-time exporter KYC procedure for M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. Yes, Sir. The KYC procedure for first-time exporters has been duly completed at CEAC. We have conducted and finalized the KYC procedure for M/s. Evergreen Trading Co (IEC DOJPP4337F) in accordance with the prescribed guidelines.

Q. You mentioned that you have conducted the KYC procedure for the first-time exporter. Can you provide a copy or any documentary evidence of the first-time export KYC conducted by you on behalf of M/s. Evergreen Trading Co (IEC DOJPP4337F)?
Ans. No, Sir. All documents related to the KYC procedure are retained by CEAC during the process. Only a slip is issued by CEAC as acknowledgment, which is not readily available at the moment.

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Q. I will now show you the summons issued under Section 108 of the Customs Act, 1962, to the exporter M/s. Evergreen Trading Co (IEC DOJPP4337F). However, no one has appeared before this office to date. Can you explain the reason for this?
Ans. Sir, we have not been in contact with the exporter for a considerable period of time. Therefore, I am unaware of the reason for their non-appearance.

Q. As per the reply received from the concerned jurisdictional GST Commissionerate, the principal place of business of the exporter, M/s. Evergreen Trading Co (IEC DOJPP4337F), was found non-existent when their premises were visited. Are you aware of this, or can you explain?
Ans. Sir, as I have already stated, we have not been in contact with the exporter for a considerable period of time. Therefore, I am not aware of this matter either.

Q. As per the investigation, it has been observed that the goods were misclassified. Under the provisions of CBLR 2018, it is the responsibility of the Customs Broker to classify goods correctly. What do you have to say about this?
Ans. Sir, the classification of goods is done based on the documents provided by the exporter. Additionally, after the preparation of the checklist, it is sent to the exporter for verification. Only after the exporter verifies the checklist do we proceed to file the shipping bill.

Q. The exporter is not responding to summons. Is the exporter's company still in existence? What is your opinion?
Ans. Sir, we are not in contact with the exporter. We filed the documents with the classification as provided by the exporter and without any violation of the existing export policy, adhering to the guidance under CBLR 2018.

Q. In this case, did you not suspect that the proprietor/exporter might be a frontman and someone else was the actual owner? How would they finance such activities?
Ans. Never, Sir. As a Customs Broker, we always verify the exporter's credentials and conduct KYC verification as per CBLR 2018.

Q. During the course of the investigation, it has been observed that the goods have been overvalued. What do you have to say about this?
Ans. Sir, the valuation of the goods is determined based on the invoices submitted by the exporter. Furthermore, once the checklist is prepared, it is forwarded to the exporter for verification. Upon receiving confirmation from the exporter, the Shipping Bill is filed accordingly.

Q. Can you provide the tax invoice for the same?
Ans. No, Sir, the tax invoice is not readily available.

Q. Regulation 10 of the CBLR, 2018 mandates that the CB shall advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. Have you diligently followed the regulation w.r.t. the shipment under Shipping Bill No. 2976672 dated 05.08.2024?
Ans. We had done physical verification of the premise(s)/addresse(s) of the exporter. The exporter informed us that the subject goods covered under Shipping Bill bearing No. 2976672 dated 05.08.2024 were procured locally by them and they want to export, thus we filed Shipping Bill based on the KYC documents of the exporter.

Q. Why should it not be considered that you were aware of the misdeclaration by the exporter regarding the non-existent supply chain?
Ans. We filed the Shipping Bills as provided by the exporter, along with the KYC documents, invoices, and packing list. During the examination, the goods were found as declared in terms of

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quantity and marked description. We have no idea regarding the supply chain or violations under the GST Act.

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

Q. Do you have anything more to say/add in this case, apart from your submission above?
Ans. We would like to say that we are a genuine Custom Brokers having presence all over India. We work diligently in case of all the export shipment filed by us. I would like to assert that in future, we would co-operate with the customs authorities in the ongoing investigation.

The above statement of mine running into 04 pages has been given as my true, correct and voluntary without any force, threat, inducement or coercion. On my request, I have been understood by the officer before signing the said statement has been typed on the office computer of SIIB (X), JNCH, Nhava Sheva, Dist. Raigad, Maharashtra-400707 as per my say and as per my request. I certify, it has been recorded exactly as stated by me in response to questions raised to me during the proceedings. I therefore affix my dated signature on every page of the statement in token of having been recorded correctly as stated by me. I have nothing more to add. Statement of mine is correctly recorded as per my say.

The above statement of mine running 04 pages has been given as my true correct and voluntary without any force threat inducement or coercion. on my request I have been understood by the officer before signing the said statement has been typed on the office computer of SIIB JNCH Nhava Sheva, Dist Raigad Maharashtra 400707. as per my say and as per my request I certify it has been recorded exatly as stated by me in response to question raised to me during the proceedings. I therefore affix my dated signature on every page of the statement in token of having been recorded correctly as stated by me I have nothing more to add statement of mine is correctly recorded as per my say.

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

Typed by me

Neeraj Kumar
17/01/2025

(Neeraj Kumar Gupta)
IO /SIIB(X)
JNCH, NHAVA SHEVA

Before me

17/01/2025

(Milan)
SIO /SIIB(X)
JNCH, NHAVA SHEVA