



**OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V),
SPECIAL INVESTIGATION & INTELLIGENCE BRANCH (IMP),
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
DIST- RAIGAD, MAHARASHTRA - 400 707.**

F. No. SG/Inv-173/2022-23/E-Cell/SIIB (I)/JNCH

Date: .05.2022

To,
The Pr. Commissioner of Customs,
Customs Broker Section, NCH,
Ballard Estate Mumbai,
Maharashtra.

Sir,

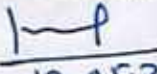
Subject: Action taken against Customs Broker M/s Cargo Concepts (Bombay) Pvt. Ltd. (AABCC5421HCH001)-reg.

With reference to the above mentioned subject, it is to inform you that this office has investigated a case of importer M/s Kash International Trade Co. (IEC- 0516960768) wherein CB, M/s Cargo Concepts (Bombay) Pvt. Ltd. (PAN No. AABCC5421HCH001) violated the regulation 10(d), 10(e) & 10(n) of CBLR, 2018.

In this regard, Investigation Report is being forwarded to your office to take appropriate action as per CBLR against CB, M/s Cargo Concepts (Bombay) Pvt. Ltd.

This issues with the approval of the Commissioner of Customs, NS-V, JNCH.

Yours Sincerely,


12.05.2023

(Kamlesh Kumar)

Joint Commissioner of Customs
SIIB (I), NS-V, JNCH.

Enc: As Above





**OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V),
MUMBAI ZONE-II, SIIB IMPORT,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
DIST-RAIGAD, MAHARASHTRA - 400 707.
Tel. Nos. 27241055, 27244739, Fax: 27241828**

F.No. SG/Inv-173/2022-23/E Cell/SIIB (I)/JNCH

Date: .05.2023

To,
The Addl. Commissioner of Customs,
Group-3
JNCH, Nhava Sheva.

Sir,

Subject: Investigation into the import of shoes by M/s Kash International Trade Co. (IEC-0516960768) vide B/E No. 2823097 dated 11.10.2022 – reg.

M/s. Kash International Trade Co (hereinafter referred to as 'the Importer') having their address at A-27B, 3rd Floor, Vishwakarma Colony, Mehrauli Badarpur Road, Delhi South, Delhi - 110044, filed Bill of Entry No. 2823097 dated 11.10.2022 for the goods contained in the Container No. PCIU8674977 through their authorized Custom Broker M/s Cargo Concepts (bombay) Pvt. Ltd. having CB Pan no. (AABCC5421HCH001). The subject container was put on hold by SIIB (I) in order to check whether the importer has mis-declared the goods in terms of description, quantity and under valuation. Thereafter, the container was examined by SIIB officers under Panchnama dated 13.10.2022 (RUD-1) at M/s Allcargo Logistics Limited CFS. Representative Sealed samples of the goods were drawn for further examination. The details of the items declared in the B/E. No. 2823097 dated 11.10.2022 by the importer is given in Table A below:-

TABLE- A						
SR No.		DESCRIPTION	QTY	QNT PCS/KGS	Declare Unit Price (Rs.)	Assessable value
1		Men's Casual Shoes	13404	Pairs	116.72	1564630

2. Total Assessable Value declared in the Bill of Entry was Rs. 15,64,630/- (Rupees Fifteen Lakhs Sixty Four Thousand and Six Hundred and Thirty only) and the total duty declared for the said Bill of Entry was Rs. 8,62,425/- (Rupees Eight Lakhs Sixty Two Thousand Four Hundred and Twenty Five Only).

3. The importer has declared the goods as per Table-A above. Thereafter, during the course of examination, the goods were found to be shoes of various brands such as 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan', 'New Balance' & 'Airstyle' of various sizes and types. Further, importer has declared 13404 pairs of 'Men's Casual Shoes', whereas a total of 13468 pairs of shoes were found during examination. Therefore, it appear that the goods were grossly mis-declared in respect of both descriptions and quantity. The details of the goods found are as per Table-B below.

Table-B		
Sr. No.	Name	Quantity Found during examination
1	Nike Brand Shoes	4608
2	Adidas Brand Shoes	2124
3	Puma Brand Shoes	972
4	Asics Brand Shoes	468
5	Onitsuka Tiger Brand Shoes	1116
6	Converse Brand Shoes	396
7	Nike/ Air Jordan Brand Shoes	330
8	Adidas Brand Shoes	234
9	New Balance Brand Shoes	720
10	Nike Brand Shoes	280
11	Shoes without brand marking	468
12	Air Style marked Shoes	1752
Total		13468

4. The Shoes found during the examination as per above mentioned table included Shoes of various brand i.e. 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan', 'New Balance' & 'Air Style'. Importation of such Branded items requires verification of infringement of IPR of various right holders. Accordingly, the matter was referred to IPR section vide this office letter dated 26.10.2022 to verify whether brands namely 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan', 'New Balance' & 'Air Style' are registered under IPR Enforcement Rules, 2007 or not. The IPR section vide letter dated 21.11.2022 informed that 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan' are registered with Customs under IPR Enforcement Rules, 2007. The Brand 'New Balance' and 'Air Style' are not registered with Customs under IPR Enforcement Rules, 2007. They further informed that the right holder of these brands joined the proceedings and submitted inspection report stating that the goods are counterfeit and requested for submission of valuation of these items for onward submission of Bond/Bank Guarantees. Accordingly, vide this office letter dated 08.12.2022, valuation of the subject goods was forwarded to the IPR Section for submission of Bond/Bank Guarantees. Further, IPR section vide letter dated 19.01.2023 informed that all the concerned right holders have forwarded Bond and Bank Guarantee in the matter through E-mail.

5. **Seizure:** Since, the goods were found to be mis-declared in terms of description and quantity and contained IPR infringing goods, the goods appear to be liable for confiscation under Section 111(d) (l) & (m) of the Customs Act, 1962. As there is a reason to believe that the said goods covered under Bill of Entry No. 2823097 dated 11.10.2022 are liable for confiscation under Section 111(d) (l) & (m) of the Customs Act, 1962, accordingly, the goods were placed under as per Section 110 of Customs Act, 1962 vide Seizure Memo No. 111/2022-23 dated 21.11.2022 issued with DIN- 20221178NX0000116691. The Seizure Memo was sent to the importer on registered address of IEC vide speed post (EM035727244IN). However, the same is returned with remarks "Addressee left without instructions".

6.1 The importer was Summoned vide CBIC DIN-20221178NX000000B70F dated 21.11.2022 to appear in this office to record the statement. Summon was posted vide speed post no EM086756925IN on the registered address of IEC. However, the same was returned with remarks "Addressee left without instructions". On being informed through Custom Broker, the importer appeared for statement on 30.11.2022 even after non delivery of Summon.

6.2 Thereafter, Statement of Shri Rajeev Kumar, proprietor and IEC Holder of M/s Kash International Trade Co. was recorded in this office on 30.11.2022 under Section 108 of Customs Act, 1962 in respect of Bill of Entry 2823097 dated 11.10.2022, wherein he inter-alia stated that

- i. His name is Rajeev Kumar and he was graduate in commerce from Delhi. He was proprietor, IEC holder of M/s Kash International Trade Co. The firm Kash International Trade Co was started in 2015, in his name and he started import business. He started importing consignment in 2015 and since then he had been doing this business continuously. Before that, he was doing job as a commission agent.
- ii. He was aware that he appeared before Customs to give submissions and documents in connection with a case of mis-declaration of goods being imported by M/s Kash International Trade Co. Vide Bill of Entry 2823097 dated 11.10.2022.
- iii. The said IEC No. 0516960768 pertain to M/s Kash International Trade Co. and it was in the name of him i.e. Rajeev Kumar.
- iv. He was handling all the business of the firm M/s Kash International Trade Co which includes trading of multiple products such as shoes, garments etc.
- v. He had seen copy of Bill of entry no. 2823097 dated 11.10.2022, and put his dated signature on the same, in token of seen the same. The said bill of entry was in the name of M/s Kash International Trade Co.
- vi. On being asked about the no of imports he had made in the name of M/s Kash International Trade Co, he stated that to the best of his knowledge, they had made around 10 to 15 shipments in the name of M/s Kash International Trade Co since 2015 from different ports. In Nhava Sheva port, this was his first import.
- vii. In the container imported vide B/E 2823097 dated 11.10.2022, the goods were declared as Men's Casual shoes. However, during examination the goods were found to be mis-declared. On being asked to comment on this he stated that he ordered the shoes for the said consignment over telephone whatsapp no. The supplier showed him the various brand shoes and accordingly, he ordered.
- viii. On being asked whether he had any purchase order for importing the said consignment he stated that he ordered the said consignment over whatsapp and didn't generate the purchase order.
- ix. On being showed the copy of the report forwarded by the IPR cell which stated the shoes imported vide B/E 2823097 dated 11.10.2022 were counterfeit, he stated that he agreed that the shoes found were counterfeit. But, he ordered only for Men's Casual various brands shoes (original). However, the supplier packed counterfeit goods along with unbranded shoes.

- x. On being asked did he know that the importing counterfeit goods is an infringement of IPR rules, he stated that he knew the IPR rules and he agreed that importing counterfeit shoes is an infringement of IPR rules.
- xi. On being asked how many imports he had made from China based supplier M/s Yiwu Zhuanmei Import and Export co., he stated that from that supplier, this was his first import. Before that, he used to import from different suppliers.
- xii. On being asked about the details of payment made to the supplier and mode of payment after the import goods received, he stated that the payment had not been made for the current consignment. Usually they do payments through J&K Bank from account no 0319010100004080.
7. Statement of Shri Ram Ashish Singh, Representative & 'G' card holder (Kardex No./Card No. S-4251) of Customs Broker Firm M/s. Cargo Concepts (Bombay) Pvt. Ltd. (11/917) was recorded in this office in respect of Bill of Entry 2823097 dated 11.10.2022 under Section 108 of the Customs Act on 27.02.2023, wherein he inter-alia stated that
- i. Their Customs Broker firm, M/s. Cargo Concepts (Bombay) Pvt. Ltd. (11/917) is registered at Mumbai. He looks after filing of import documents since 2016.
- ii. There were 07 employees who had Customs Pass in their CB Firm at present in Mumbai.
- iii. He confirmed that he was the G-Card holder vide Card No. S-4251 of CB Firm M/s. Cargo Concepts (Bombay) Pvt. Ltd. (11/917).
- iv. He looks after the import clearance in this CB firm M/s. Cargo Concepts (Bombay) Pvt. Ltd. (11/917). He had been working with that firm since last 07 years.
- v. On being asked how did they know the importer M/s. Kash International (IEC No. 0516960768) and since how long had they been clearing their consignments, he stated that they had been filing the import documents of M/s Kash International at Mundra Port since last 5-6 years. First time the importer contacted them through telecommunication. In Nhava Sheva, this was the first consignment they had filed for M/s Kash International.
- vi. On being asked how did they verify the KYC details of M/s Kash International (IEC No. 0516960768), he stated that they received the copies of KYC documents such as Aadhar Card, IEC, GST and Pan card through mail. However they did not verify the documents and address of the importer M/s Kash International.
- vii. They had been authorized by the importer M/s Kash International (IEC No. 0516960768) to file Bill of Entry No. 2823097 dated 11.10.2022 on their behalf.
- viii. Mr. Rajeev Kumar, Proprietor, M/s Kash International (IEC No. 0516960768) had provided the documents for the import clearance of the said consignment by hand.
- ix. On being asked how did they receive the original copy of import documents such as Invoice, BL, Packing List etc, he stated that he received copy of these import documents by hand from Mr. Rajeev Kumar, the proprietor of M/s Kash International (IEC No. 0516960768).
- x. On being asked did they know that the goods imported vide Bill of Entry 2823097 dated 11.10.2022 were counterfeit shoes/ prohibited goods, he stated that they filed Bill of

Entry 2823097 dated 11.10.2022 on the basis of import documents given to them by the Importer. In the import documents only Men's Casual Shoes were mentioned. So they filed the documents accordingly.

- xi. On being asked about the kind of goods imported by the Importer M/s Kash International (IEC No. 0516960768) at Mundra Port, he stated that in the past, the importer had imported the goods such as leggings from Munda Port.

7.1 Summon and Seizure Memo were not delivered on the registered address of the IEC which indicates that the address is not genuine. The importer could not have been traced had the CHA not intimated about issuing of Summons. During the statement, CB has admitted that they didn't verify the address. In view of above and from the statement of CB firm, it appears that they have not verified the KYC properly. In the instant case, he aided/abated the importer by not verifying the KYC and has not exercised due diligence while filing the Bill of Entry, thus, rendered himself liable for penal action under Customs Act, 1962.

7.2. Further, obligations to be fulfilled by Customs Brokers are defined in provisions of CBLR, 2018. The relevant provisions are mentioned below:

"Regulation 10:

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

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

(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identify 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, the Customs Broker M/s Cargo Concepts (Bombay) Pvt. Ltd. (AABCC5421HCH001) failed to verify the KYC details of the importer, thus, violated the provisions of Regulations 10(d), 10(e) and 10(n) of CBLR,2018.

In view of above, since the Customs Broker thus failed to carry out statutory work in terms of provisions contained in CBLR, 2018, the adjudicating authority may sent one copy of O-i-O to the Customs Broker Sections, NCH to take the necessary action against CB M/s Cargo Concepts (Bombay) Pvt. Ltd. (AABCC5421HCH001).

8. **Re-determination of Value & Duty:** From data available in open source it appeared that the goods have been mis-declared in respect of value too. Therefore, their declared values are liable to be rejected in terms of Rule 12 of Customs Valuation (Determination of value of imported Goods) Rules 2007 (CVR, 2007). The value of the imported goods needs to be re-

determined in accordance with Rule 4 to 9 of the CVR, 2007. Now, Rule 4 and Rule 5 of CVR, 2007 stipulates valuation based on the contemporaneous import data of identical and similar goods respectively. However, due to the nature of the goods, the concrete data of the goods was not found. So, the valuation could not be done under Rule 4 & 5 of CVR, 2007. Further, the greatest aggregate quantity of the similar/identical goods for sale was not available in domestic market, therefore the Rule 7 cannot be made applicable. Further, also, since the production cost and other expenses/profits etc. in relation to the impugned goods were not known, hence, value of the same could not be ascertained as per Rule 8 of CVR 2007. As the value of subject goods could not be determined under Rule 3 to 8 of CVR 2007, the value of the goods needs to be re-determined under Rule 9 of CVR 2007. The interpretative notes of Rule 9 stipulates that the methods of valuation to be employed under Rule 9 may be those laid down in Rules 3 to 8, inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Rule 9. Therefore, the deductive method under Rule 7 of CVR, 2007 after being flexibly interpreted under Rule 9 *ibid* is used for the valuation purpose. The market survey was carried out in the presence of authorised representative of the CB. The price quoted by the shopkeeper vide their estimates were containing the component such as wholesale profit margin (approx. 10 %), Importer's profit (approx. 10 %), Commission agent profit (approx. 5%), transportation expenses and other miscellaneous expenses (approx. 20 %), Customs duty (BCD@35%, SWS@10%, IGST@12%), (Effective rate of duty, 55.12% in this case). The total deduction of aforesaid components is calculated as illustrated below and comes approximately 55.60% of the average selling price.

Selling price	After deducting whole sale profit (10 %)	After deducting Importer profit (10 %)	After deducting transport charges, handling & misc charges (20 %)	effective rate of duty (BCD@35%, SWS@10%, IGST@12%)	After deducting effective rate of duty ()	Effective Deduction in %
100	90.91	82.64	68.87	55.12	44.40	55.60

The same was deducted from the average market price to arrive at the unit price of the impugned goods using deductive methods of Rule-7 of the CVR, 2007. Therefore, the prices have been arrived as described in Annexure A and Annexure B. The items mentioned at Sr. No. 9,11 & 12 of table B above were not counterfeit shoes. The total Assessable Value in respect of these unbranded shoes mentioned in Annexure-A is re-determined to Rs. 5,97,393/- and the total re-determined duty of items mentioned in Annexure-A works out to be Rs. 3,29,283/-. Further, the goods mentioned in Annexure-B were found as branded counterfeit shoes which infringes IPR, 2007. Based upon above, assessable value of these branded counterfeit shoes as detailed in Annexure-B was re-determined to Rs. 34,06,143/- (Rupees Thirty Four lakh six thousand one hundred and forty three only).

9.Relevant provisions of law applicable:-

C. SECTION 28: Recovery of duties not levied or not paid or short-levied or short- paid] or erroneously refunded

.....

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded by reasons of, -

(a) collusion;

(b) any willful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

D. SECTION 28AA- 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 thereunder, 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.

.....

(i) Section 46(4) of the Customs Act, 1962 reads as under:

"The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods".

(ii) Section 111(d) of the Customs Act, 1962 reads as under:

"any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force"

(iii) Section 112 of the Customs Act, 1962 reads as under:

"Penalty for improper importation of goods, etc- Any person, -

(a) 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 111, or abets the doing or omission of such an act, or

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

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten per cent Of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-Section (8) of Section 28 and the interest payable thereon under Section 28AA is paid within thirty days from the date of communication of

the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent Of the penalty so determined;]

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

(v) SECTION 114A of the Customs Act, 1962 read as follows:

" Penalty for short-levy or non-levy of duty in certain cases. - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 22[sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:]

23[Provided that where such duty or interest, as the case may be, as determined under 22[sub-section (8) of section 28], and the interest payable thereon under section 24[28AA], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 25[28AA], and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation. - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;*

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

(vi)Section 114AA of the Customs Act, 1962 reads as follows:

“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 124. Issue of show cause notice before confiscation of goods, etc.

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person –

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Provided further that notwithstanding issue of notice under this Section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

INVESTIGATION FINDINGS

10. In view of the above, it appears that the goods imported vide Bill of Entry 2823097 dated 11.10.2022 have been mis-declared in terms of value for evading Customs duty. Further, the goods mentioned in Annexure-B were found to be mis declared in respect of description and quantity and contained IPR infringing goods. Therefore, goods covered under subject Bill of Entry are liable for confiscation under section 111(d) (l) & (m) of Customs Act, 1962 as discussed in para 4 and 8 above. Therefore, the subject goods have been seized under Section 110(1) of Customs Act, 1962 vide Seizure Memo 111/2022 dated 21.11.2022.

11. From the above investigation, it appears that:-

- i. The Importer, M/s. Kash International Trade Co, has indulged in mis-declaration of description, value and quantity of goods imported vide Bill of Entry No. 2823097 dated 11.10.2022.
- ii. Therefore, the goods imported as detailed in Annexure-A are liable for confiscation under the provisions of Section 111(m) and Section 119 of the Customs Act, 1962. Also, the goods imported as detailed in Annexure-B are liable for confiscation under the provisions of Section 111(d), (l) & (m) of the Customs Act, 1962.
- iii. Consequent to the said mis-declaration in respect of goods as detailed in Annexure-A, the assessable value of items is re-determined to Rs. 5,97,393/- and the total re-determined duty of items mentioned in Annexure-A works out to be Rs. 3,29,283/-.
- iv. Consequent to the said mis-declaration in respect of goods as detailed in Annexure-B, the assessable value is re-determined to Rs. 34,06,143/- (Rupees Thirty Four lakh six thousand one hundred and forty three only). The same are liable for confiscation under the provisions of Section 111(d), (l) and (m) of the Customs Act, 1962. The said goods

have been imported which attract IPR violation and are not amenable to be released for Home Consumption, so duty estimates of leviable duty on these goods has not been made.

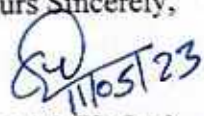
- v. By the acts of omission & commission on the part of the Importer as mentioned above, the Importer has rendered himself liable for penal action under Section 112(a) of the Customs Act, 1962.
- vi. From the statement of Mr. Rajeev Kumar, proprietor of M/s. Kash International Trade Co, it appeared that he knew that the goods were counterfeit and goods having logo of various brands imported is an infringement of IPR Rules, therefore, knowingly and intentionally made the false declaration in Bill of Entry by declaring goods as unbranded shoes. Hence, he rendered himself liable for penal action under Section 114AA of the Customs Act, 1962.
- vii. By the acts of omission & commission on the part of the Customs brokeras mentioned above, the Customs Broker has rendered himself liable for penal action under Section 112(a) of the Customs Act, 1962.
- viii. Since the Customs Broker M/s Cargo Concepts (Bombay) Pvt. Ltd. (AABCC5421HCH001) failed to verify the KYC details of the importer, thus, violated the provisions of Regulations 10(d), 10(e) and 10(n) of CBLR, 2018, the adjudicating authority may send one copy of O-i-O to the Customs Broker Sections, NCH to take the necessary action against CB M/s Cargo Concepts (Bombay) Pvt. Ltd. (AABCC5421HCH001).

12. At the request of importer, grounds on which it is proposed to confiscate goods or to impose penalty has been orally explained to the importer. The importer has admitted the case of the department and has further requested vide letter dated Nil for waiver of the Show Cause Notice and the Personal Hearing (PH) for the said consignment. Accordingly, in terms of first provision of Section 124 of the Customs Act, 1962, written notice has not been given to the importer.

13. In view of the above, it is requested that the subject case may be adjudicated by the competent authority, Group, 3, JNCH on the basis of above finding of the investigation in terms of Section 122 of the Customs Act, 1962.

This issues with the approval of the Commissioner of Customs, NS-V, JNCH.

Yours Sincerely,


(Manish Yadav)

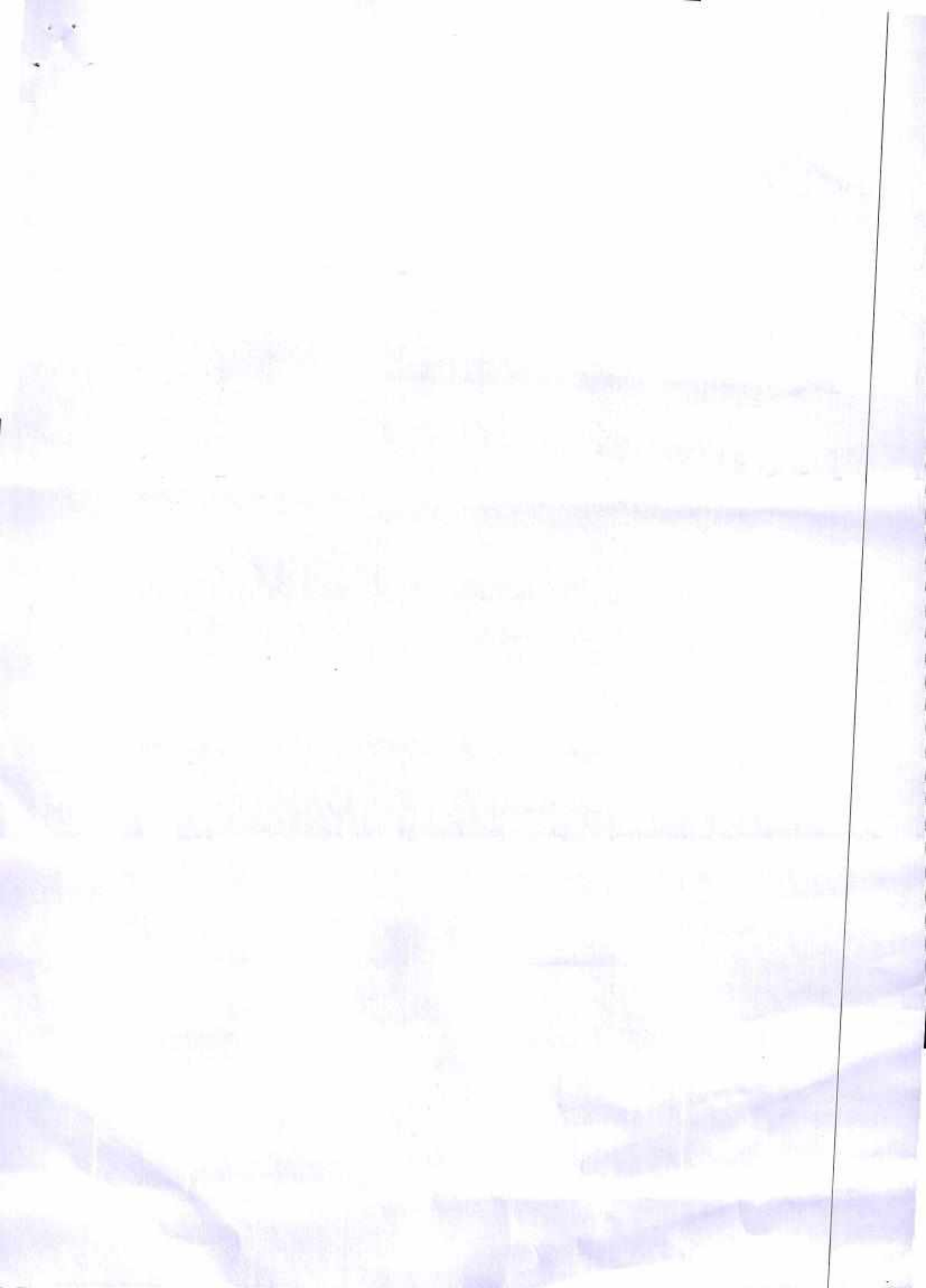
Dy. Commissioner of Customs,
SIIB (I)/JNCH

Enc:-

- i. Annexure-A & B--Calculation Sheet
- ii. RUD-1- Copy of Panchnama dated 03.03.2022/04.03.2022.
- iii. RUD-2- Copies of Seizure Memo dated 25.04.2022.
- iv. Waiver Letter for SCN of the Importer

Annexure - 'B'

Sr. No.	Name	UQC	Quantity declared	Quantity Found	Total Assessed value	Wholesale price/unit at shop No.1	Wholesale price/unit at shop No.2	Wholesale price/unit at shop No.3	Average wholesale price	value by deduction	Declared price UQC	Reassessed total value
1	Nike Brand Shoes	pairs		4608		700	720	750	723.33	321.16		1479905
2	Addas Brand Shoes	pairs		2124		700	720	750	723.33	321.16		682143.8
3	Puma Brand Shoes	pairs		972		750	720	750	740.00	328.56		319360.3
4	Asics Brand Shoes	pairs		468		800	780	820	800.00	355.2		166233.6
5	Onitsuka Tiger Brand Shoes	pairs	13404	1116	1564630	800	780	820	800.00	355.2	116.729	396403.2
6	Converse Brand Shoes	pairs		396		470	500	450	473.33	210.16		83223.36
7	Nike/ Air Jordan Brand Shoes	pairs		330		750	800	780	776.67	344.84		113797.2
8	Addas Brand Shoes	pairs		234		700	720	750	723.33	321.16		75151.44
10	Nike Brand Shoes	pairs		280		700	720	750	723.33	321.16		89924.8
10528												3406143



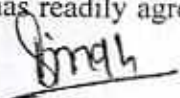
Panchanama dated 13.10.2022 drawn at M/s Allcargo Logistics Ltd., Container Freight Station, Village-Khopta, Taluka-Uran, District-Raigad, Maharashtra-410212 for the examination of the goods imported, vide Bill of Entry No. 2823097 dated 11.10.2022 filed on behalf of M/s Kash International Trade Co.(IEC – 0516960768) by Custom Broker, M/s. Cargo Concepts (Bombay) Pvt. Ltd.(AABCC542IHCH001), contained in Container No. PCIU8674977 (40').

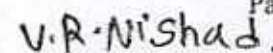
	Pancha 1	Pancha 2
Name	Mahesh Mishra	Virendra Rajesh Nishad
Age	29 Years	21 Years
Mobile No.	9665555085	9619106526
Occupation	Service	Service
Address	S/o Surendra Kumar Mishra, Room No. 4981, Buvapada Ladinaka, Near Hanuman Mandir, Ambernath West, Thane- 421505	S/o Rajesh Hiralal Nishad C/o Jagdish Hasuram Nishad, H.No. 55, Room No. 5, Navghar, Raigarh- 400 707
Aadhar No.	3590 6093 5289	5741 2271 4120

On being called upon by a person who identified himself as Shri Haider Khan, Intelligence Officer (I.O.), Special Investigation and Intelligence Branch Import (SIIB Import), JNCH by showing his Identity Card, we the above-mentioned Panchas presented ourselves at 11:00 AM on 13.10.2022 at CFS, All Cargo Logistics Ltd., Village-Khopta, Taluka-Uran, District-Raigad, Maharashtra -410212. Here, we were introduced to Shri Kaushlendra Singh, AO, SIIB (Import) and he introduced himself by showing his Identity Card. We were also introduced to Shri Ramashish S. Singh, Customs Broker (CB) having G-Pass (Kardex no. S-4251, valid upto 31.12.2025) of M/s Cargo Concepts (Bombay) Pvt. Ltd., the authorized representative of the importer.

We, the above mentioned panchas were informed that the said Customs Officers were here to examine the goods, which were imported vide Bill of Entry No. 2823097 dated 11.10.2022 filed on behalf of M/s Kash International Trade Co. (IEC – 0516960768) by Customs Broker, M/s. Cargo Concepts (Bombay) Pvt. Ltd.(AABCC542IHCH001), contained in Container No. PCIU8674977 (40').and the same were kept on hold by the SIIB (Import), JNCH vide Hold No. 285/2022-23 SIIB (Import) dated 11.10.2022 issued vide F. No. SG/Misc-01/2022-23/Admin/SIIB(I) JNCH. Thereafter, the above said Customs Officers requested both of us to witness the proceedings of the examination of the above-mentioned goods, for which we the above-mentioned panchas readily agreed to witness the examination procedure. Then




S-4251


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we were shown the copy of Bill of Entry No. 2823097 dated 11.10.2022 along with copy of Bill of Lading No. YZ2022305 dated 17.09.2022 Invoice No. 800/2022-23 dated 15.09.2022 and Packing List. As per the bill of entry no. 2823097 dated 11.10.2022 and invoice and packing list attached to it, one item namely Men's Casual Shoes were declared in the bill of entry no. 2823097 dated 11.10.2022. We, the panchas have put our dated signature on the copy of above-mentioned Bill of Entry, Bill of Lading, Invoice, Packing List and the Customs Hold letter dated 11.10.2022 as a token of having seen the same.

Thereafter, we along with the said officers and CB walked to trace the subject container and found the same near the Export Shed of the CFS. Then, we were again shown the copy of Bill of Lading pertaining to the subject container. The subject container was found to be sealed bearing seal no. CP0483961 which matched with seal no. mentioned on the BL and the said seal was found intact.

Thereafter, the said container was taken for the weighment at the CFS weighing bridge and the weighment of the container was done. We, as well as the CB, have put our dated signatures on the weighment slip as a token of having seen the same. The details of the weighment slip are as follows:

Table-I

Container no.	Gross weight in Kgs	Trailer Tare Weight in Kgs	Container Tare weight in Kgs	Net Weight in Kgs
PCIU8674977 (40')	10390	14430	3840	10590

Thereafter, the said container was placed at the destuff point at the export shed of the said CFS. Then, the said seal was cut in our presence and in the presence of CB. Then, the doors of the subject container were opened and prima facie, the goods were found packed in large size cartons covered with white and green colored plastic bags which were stacked one over another. Thereafter, the goods from the subject container were de-stuffed completely in the export shed area for examination. After de-stuffing of all the goods from the said container, Shri Haider Khan, Intelligence Officer left for the office work and Shri Venkatesh Mishra joined the further proceedings. Shri Venkatesh Mishra, Superintendent of Customs introduced himself by showing his identity card. After that, all the cartons were opened and examined by the said officers in the presence of Panchas, the CB, and we.



Singh
S-4251

V.R. Nishad Page 2 of 4

Thereafter, the officers opened one green colored plastic gunny bag and it was found to contain brown colored carton. On opening the said brown colored Carton it was found to contain branded Shoes of "Nike". Thereafter the officers instructed the labour to open all the packages for the purpose of 100% examination. The officers proceeded for the examination and examined the entire consignment, the said consignment was found to contain shoes of various Brands such as "NIKE", "ADIDAS", "PUMA", "ASICS", "Onitsuka Tiger", "New Balance" and "Converse" etc. of various sizes and colours. It was also observed that few of the cartons contained packaging material for shoes with markings of the said brands. The officers informed us the panchas that the goods appear to be branded in nature and hence the veracity of the same needs to be verified for IPR Infringement.

A total of 399 cartons were found during the examination against the declared 399 cartons as per the packing list. Further, the details of the goods declared and found during the examination vis-à-vis the Packing List was tabulated and recorded as under:

Sr. No.	Description of the goods found during the examination	No. of Cartons	Qty/Ctn (Pairs)	Total no. of pairs
1	Nike Brand Shoes	128	36	4608
2	Adidas Brand Shoes	59	36	2124
3	Puma Brand Shoes	27	36	972
4	Asisc Brand Shoes	13	36	468
5	Onitsuka Tiger Brand Shoes	31	36	1116
6	Converse Brand Shoes	11	36	396
7	Nike/Air Jordan Brand Shoes	11	30	330
8	Adidas Brand Shoes	6	39	234
9	New Balance Brand Shoes	20	36	720
10	Nike Brand Shoes	7	40	280
11	Shoes Without brand Marking	13	36	468
12	Air style marked Shoes	73	24	1752
TOTAL		399		13468

my

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S-4251

During the examination, the said officers took photographs of which colored printout was take from CFS and we have signed along with G-Card holder of Custom Broker as a token of same being taken from the cargo covered under bill of entry no. 2823097 dated 11.10.2022.


Further, the said officers for further reference drew Representative Samples in duplicate in our presence and in the presence of CB. The subject container was then re-stuffed completely and sealed with Customs Bottle Seal No. Indian Customs Nhava Sheva 3653771 in our presence and in the presence of CB.

The Panchanama concluded at around 07:30 PM on 13.10.2022 at the same place without any untoward incident. The entire Panchanama was conducted in the peaceful manner without causing any damage to the goods and property therein. Further, no damage to any movable and immovable property was caused during the Panchanama. No religious sentiments were hurt during the Panchanama. We have read over the said proceedings of Panchanama, which is typed in Pages 01 to 04 and printed from the office of the said CFS. The Panchanama has been read over to us in Hindi as well and therefore, we find it to be correctly recorded and typed as per our say.

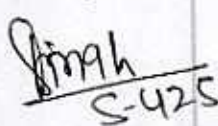
Drawn and typed by me on the office computer of the said CFS (As per panchas say)



(Kaushlendra Singh)
AO, SIIB (Import), JNCH.


13/10/22 Mahesh Mishra
1. Pancha I
V.R. Nishad
13/10/22 Vijayshya Nishad
2. Pancha II

In the presence of:


S-4251 13/10/2022

Shri Ramashish S. Singh,
Kardex No.- S-4251(valid upto 31.12.2025)
G-pass holder, Custom Broker, M/s. Cargo Concept (Bombay) Private Limited



सीमाशुल्क आयुक्त का कार्यालय) न्हावा शेवा- V
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V),
विशेष अन्वेषण एवं आसूचना शाखा) आयात
SPECIAL INVESTIGATION & INTELLIGENCE BRANCH (IMP),
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा JAWAHARLAL NEHRU CUSTOM HOUSE,
NHAVA SHEVA,

जिला रायगड DIST- RAIGAD, महाराष्ट्र MAHARASHTRA - 400707

F. No. SG/Inv-173/2022-23/E-Cell/ SIIB (I) JNCH

Date: .11.2022

CBIC- DIN-20221178NX0000116691

SEIZURE MEMO - 111/2022

The goods covered under Bill of Entry No. 2823097 dated 11.10.2022, imported vide container no. PCIU8674977(40) imported by M/s Kash International Trade Co. (IEC: 0516960768) were examined by officers of SIIB (I) under panchanama dated 13.10.2022 at M/s Allcargo Logistics Ltd. CFS, at present investigation in the subject matter is under process.

2. The impugned goods under Bill of Entry No. 2823097 dated 11.10.2022 have been found to be mis-declared in respect of description and quantity. Therefore, the impugned goods appear liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

3. In view of the foregoing and having reasonable belief that the impugned goods, are liable for confiscation under the provisions of Section 111 of the Customs Act, 1962, I, Neeraj Kumar (Superintendent of Customs(P)/SIIB-Import), hereby seize the goods imported vide Bill of Entry No. 2823097 dated 11.10.2022, under Section 110 of the Customs Act, 1962.



Neeraj
21/11/22

(Neeraj Kumar)

Superintendent of Customs
SIIB(I), JNCH, NHAVA SHEVA

To,

1. M/s Kash International Trade Co. (IEC: 0516960768),
A-27B, 3rd Floor, Vishwakarma Colony Mehrauli Badarpur Road Conta
Delhi - 110044.
2. The Manager, All Cargo Logistics Ltd.,
Village- Khopta, Taluka - Uran,
District - Raigad, Maharastra - 410212

- EMO 35727244 IN

- EMO 35727363 IN



Kash International Trade Co.

Sourcing, Indenting & Trading From Domestic & Overseas

Ref No.

Dated

To,
The Deputy Commissioner of Customs
SIIB (Import), JNCH
Nhava Sheva

Ref: B/E No.: M/S Kash International Trade Co. BOE No: 2823097 and
Date: 11/10/2022

Sub: Please waiver of PH & Show cause notice.

Respected Sir,

With reference to the above-mentioned subject, we do not require PH and SCN, so we request you for waiver of personal hearing & show cause notice.

Thanking you,

Yours faithfully,

For Kash International Trade Co.

Rajeev
Prop.

PA to Prelim
(Gen), Zone-I