

1. Questionnaire No. 25 of notice dated 28.08.2019

1.1. In this point, your good self has alleged that at the time of search, there was difference in stock physically found and as recorded in books of the assessee. On the basis of the same, you good self has asked about the excess stock of Rs.6,26,27,800/-.

1.2. Further, it is submitted that as per our understanding, the difference in stock at the time of search is as under:

Table: 1				
S. No.	Quality of Stock	Stock as per books of accounts as on 23.08.2017	Stock physically found as on 23.08.2017	Difference in Stock vis-à-vis physical
		(A)	(B)	(C)
Part - A				
1.	Mustard	32,130 (in Qtl.)	33,563 (in Qtl.)	(+) 1433 (in Qtl.) Excess
2.	Khal	785 (in Qtl.)	562 (in Qtl.)	(-)223 (in Qtl.) Short
3.	Mustard Oil	5100 (in kg.)	12096 (in kg.) (at 3.30 PM)	(+)6,996 (in kg.) Excess
4.	Guar	901 (in Qtl.)	1373 (in Qtl.)	(+) 472 (in Qtl.) Excess
Part - B				
5.	Bardana	-	16740 (Nos.)	(+)16,740 (Nos.) Excess

1.3. In respect of above, item wise explanation is provided as under:

1.3.1. **Mustard:** In this regard, it is submitted that the assessee maintains stock of mustard in different ways such as stock in his Godown/ factory and stock with bank. These stocks are separately recorded in his books of accounts in respect of each category. Before the search date (i.e. 23.08.2017), the assessee has released Mustard of 1800 Qtls. From SBI on 19.08.2017 and kept the same in his factory. However, the stock of 1800 Qtls. was deducted by the search team while considering the stock at bank. Also, the stock at bank was not physically verified. Hence, the major difference is due to release of impugned quantity. To substantiate the same, I am hereby enclosing, **signed release-**

cum-delivery form of SBI Bank dated 19.08.2019, for your kind perusal at Page No.....147.....

Also, it is submitted that this fact was also explained by Sh. ABC (supervisor of XYZ) during his statement recorded at the time of search. **The copy of statement of Sh. ABC dated 23.08.2017 is enclosed at Page No...137-146.....(Refer Relevant Question No. 22 at Page No.....144-145.....)**

Moreover, it is submitted that at the time of inventory count by the search team, the mustard of 224 Qtls. was consumed on the same day for production of Mustard Oil.

Hence, the net position after considering of above transaction would be as under:

Table: 2 (Mustard)		
S. No.	Particulars	Quantity (in Qtl.)
A	Stock as per books on 23.08.2017	32,130
B	Less: Stock used for production on 23.08.2017	(224)
C	Correct stock as per books as on 23.08.2017 after recording of above transaction (A-B)	31,906
D	Stock physically found as on 23.08.2017 calculated by department (without verification of stock a bank)	33,563
E	Less: release of stock by SBI signed release-cum-delivery form of SBI Bank dated 19.08.2019, enclosed at Page No...147.....	(1,800)
F	Stock physically found as on 23.08.2017 should be (has been the stock at bank was verified correctly)	31,763
G	Net Difference in stock (F-D) [weighing difference]	(143) [Short]

Thus, on the basis of above table 2, it can be observed that the difference in Mustard stock was even less than 1% of total quantity recorded in books i.e. quantity of stock found during the search was short by 143 Kg only, compare to the quantity recorded in the books.

In respect of difference in quantity of stock, it is submitted that the complete inventory was counted on single day on the basis of number of bags in the godown and there is possibility that all bags were not completely filled as estimated by the search team. **As such, there could be different reasons for**

such minor shortage such as wastage due to maintenance, production, and measuring techniques etc.

1.3.2. **Khal:** In this regard, it is submitted that the assessee sold Khal of 227.25 Qtls. on 23.08.2017 at 8:00 PM i.e. on the date of search. It is also submitted that at the time of Inventory Count, a truck was loaded with this quantity (i.e.227.25 Qtls.) and it was also informed to the search team, however, the same was not considered by them while recording the sale as per books of accounts. Further, the sale entry was not passed in the books as the sale was made just before the inventory count i.e. early in the morning, as apparent from the bill. **(Copy of bills is enclosed for your kind perusal at Page No...148.....)** Therefore, the net position after considering of above transaction would be as under:

Table: 3 (Khal)		
S. No.	Particulars	Quantity (in Qtl.)
A	Stock as per books on 23.08.2017	785
B	Less: sale of Khal as on 23.08.2017 (on 8.00 AM)	(227.250)
C	Correct stock as per books as on 23.08.2017 after recording of sale in books (A-B)	557.75
D	Stock physically found as on 23.08.2017	562
E	Net Difference in stock (D-C) [weighing difference]	4.25 <i>[Excess]</i>

In respect of above table:3, it is submitted that there is net difference of only 4.25 Qtls. excess stock found at the time of search. In this regard, please appreciate the fact that the difference could be due to observational error or measurement error.

1.3.3. **Mustard Oil:** In this regard, it is submitted that the opening stock as per books on 23.08.2017 was 50.74 Qtls. (i.e. Approx. 51.00 Qtls.), and the inventory was counted on 23.08.2017 at 3:00 PM. In this regard, it is submitted that by the time of counting, total production of Mustard Oil was approx. 70.00 Qtls.

Also, it is submitted that this fact was also explained by Sh. T (supervisor of Shri B Oil) during his statement recorded at the time of search. **The copy of statement of Sh. T dated 23.08.2017 is enclosed at Page No...137-146.....(Refer Relevant Question No. 22 at Page No.....144-145.....).**

However, the search team did not consider the same while recording the stock as per books.

Therefore, the net position after considering of above transaction would be as under:

Table: 4 (Mustard Oil)		
S. No.	Particulars	Quantity (in Qtls.)
A	Stock as per books on 23.08.2017	51.00
B	Add: production of mustard oil on 23.08.2017 till the time of inventory count (i.e. on 3:00 PM)	70.00
C	Correct stock as per books as on 23.08.2017 after passing of relevant entries for recording of production (A+B)	121.00
D	Stock physically found as on 23.08.2017	120.96
E	Net Difference in stock (D-C) [weighing difference]	(0.04) [Short]

In respect of above table:4, it is submitted that there is net difference of shortage of only 0.04 Qtls (i.e. 4 Kg.) stock found at the time of search. In this regard, please appreciate the fact that the difference could be due to observational error or measurement error.

1.3.4. **Guar:** In this regard, it is submitted that the 1373 Qtl. Guar was lying on 23.08.2017, however, out of that Guar of 470 Qtls. belonged to farmers and was given to assessee for sale at requisite price (after taking confirmation for the same). As such, the guar of 470 Qtls. does not belong to assessee and was merely lying in his factory on behalf of those farmers. **To substantiate the same, we are hereby giving the affidavit of those farmers for evidencing that the quantity of 470 Qtls of Guar belongs to 5 different farmers, kindly refer Page No...149-153.....**

Also, it is submitted that this fact was also explained by Sh. T (supervisor of Shri B Oil) during his statement recorded at the time of search. **The copy of statement of Sh. T dated 23.08.2017 is enclosed at Page No.....137-146.....(Refer Relevant Question No. 22 & 23 at Page No.....144-145.....)**

Therefore, the net position after considering of above facts would be as under:

Table: 5 (Guar)		
S. No.	Particulars	Quantity (in Qtls.)
A	Stock physically found as on 23.08.2017	1,373.00
B	Less: Stock related to farmers (i.e. Sh. V – 140 Qtls., Sh. VP – 80 Qtls. Sh. J – 100 Qtls., Sh. R – 80 Qts. Sh. Ak – 70 Qtls.) (Affidavit of above farmers is enclosed at Page No.....149-153.....)	(470.00)
C	Correct Stock found as per books as on 23.08.2017 after passing of relevant entries for recording of production (A+B)	903.00
D	Stock as per books on 23.08.2017	901.00
E	Net Difference in stock (C-D) [weighing difference]	2.00 [Excess]

Thus, the quantity of Guar in the books of assessee as on 23.08.2017 is same as owned by him at the time of search. there is hardly difference of 2 Qtls. which could be due to observation error.

1.3.5. **Bardana:** In respect of this item, it is submitted that the search team recorded in the inventory count that Bardana of 16740 Nos. was found at the time of search. Bardana are empty bags and generally used internally for storage purposes and as packaging material. Assesse is not dealing in trading of Bardana. **(Refer copy of financial statement of assessee as on 31.03.2018 at Page No.....129-136.....),** where in it is evident that the assessee is not involved in sale of Bardana.

The stock of assessee (such as mustard, guar) arrives in Bardana bags and similarly the assessee used Bardana bags as packing material at the time of sale. As such, it is basically scrap/ waste material. Hence, the same are not specifically recorded in books in numbers and only maintained manually in stock count.

1.4. **Thus, on the basis of above, the correct analysis of difference in stock is given in below table, as under:**

Table: 6

S. No.	Quality of Stock	Correct Stock as per books of accounts as on 23.08.2017	Stock physically found and owned as on 23.08.2017	Difference in Stock	Difference in %
		(A)	(B)	(C)	(D)
1.	Mustard	33,706 (in Qtl.)	33,563 (in Qtl.)	(-) 143 (in Qtl.) Short	0.42%
2.	Khal	557.75 (in Qtl.)	562 (in Qtl.)	(+) 4.25 (in Qtl.) Excess	0.76%
3.	Mustard Oil	12100 (in kg.)	12096 (in kg.) (at 3.30 PM)	(-) 4 (in kg.) Short	0.03%
4.	Guar	901 (in Qtl.)	903 (in Qtl.)	(+) 2 (in Qtl.) Excess	0.22%
5.	Bardana	-	-	Nil (As assessee does not deal in trading/sale of Bardana, it is merely a packaging and storing material)	-

1.5. On the basis of above table, please appreciate the fact that the difference in each stock was even less than 1% of total quantity recorded in books.

1.6. It is further submitted that the process industry is about mixing, grinding, heating and changing of forms. There's a certain amount of waste incurred during the manufacturing process that cannot be avoided; for e.g., weight lost, material left stuck in the equipment, damaged raw material over the period, and a number of such kinds. **Thus, the occurrence of wastage/shortage during manufacturing process is an important aspect which should not be overlooked while valuing yield and production capacity. Thus, the difference of 1% is nominal while considering the manufacturing activities assessee is involved into.**

1.7. Moreover, without prejudice to above, it is submitted that as per our calculation, the amount in difference of stock is (Rs.5,02,010.00), the detail is provided as under:

S.	Quality	Correct Stock	Stock	Difference	Rate	Amount
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No.	of Stock	as per books of accounts as on 23.08.2017	physically found and owned as on 23.08.2017	in Stock (Kg.)	(in Rs.)	(Rs.)
		(A)	(B)	(C)	(D)	(E)
1.	Mustard	33,706 (in Qtl.)	33,563 (in Qtl.)	(-) 143 (in Qtl.) Short	3,600 (Per Qtl.)	(5,14,800)
2.	Khal	557.75 (in Qtl.)	562 (in Qtl.)	(+) 4.25 (in Qtl.) Excess	1480 (Per Qtl.)	6,290.00
3.	Bardana	-	-	-	0	0.00
4.	Mustard Oil	12100 (in kg.)	12096 (in kg.) (at 3.30 PM)	(-) 4 (in kg.) Short	75 (Per kg.)	(300.00)
5.	Guar	901 (in Qtl.)	903 (in Qtl.)	(+) 2 (in Qtl.) Excess	3400(Per Qtl.)	6,800.00
Total						(4,92,010.00)

1.8. During the investigation proceedings, the 'rate of item' was provided orally, as under:

S. No.	Quality of Stock	Rate (per quintal)	Rate (per kg.)
1.	Mustard	3600	36
2.	Khal	1480	14.80
3.	Mustard Oil	7500	75
4.	Guar	3400	84

S. No.	Quality of Stock	Rate (in nos.)
1.	Bardana	10 to 12 per bag

1.9. As calculation of difference in stock, in case of some items were measured in 'kg', hence, average rate per kg is considered by dividing the rate per quintal by 100. (as 1 Quintal = 100 Kg). Therefore, without prejudice, it is submitted that the maximum amount of difference in stock is Rs. (5,02,010.00) i.e. shortage. As such, there is no unexplained investment in stock by the assessee and therefore no addition should be made in the hands of the assessee.

1.10. In view of the above facts and submissions, it is humbly submitted that the difference of quantity of stock has not been calculated correctly and the data found during the course of search is not final as the respective transactions were not recorded in the books for the relevant period. Therefore, no adverse inference may please be drawn on the basis of same. Your good self is requested not to make addition of Rs.6,26,27,800/- to the income of assessee. However, in case your good self is not in agreement with the above submissions and wish to draw any adverse inference against the assessee, you are requested to give an opportunity of being heard to the assessee and also provided the detail of calculation of excess stock of Rs.6,26,27,800/-, to comment upon.