

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62	
A. File No.	:	CUS/ASS/MISC/187/2025-EA-O/o Pr Commr-Cus-Mundra
B. Order-in- Original No.	:	MCH/ADC/MK/315/2024-25 dated 24.02.2025
C. Passed by	:	Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order /Date of issue	:	24.02.2025 / 25-02-2025
E. Show Cause Notice No. & Date	:	SCN and PH Waiver
F. Noticee(s)/Party/ Exporter	:	M/s Mansi International (IEC No. 0810030136), 3 rd Floor, A-311, Pramukh Arcade, Reliance Cross Road, Kudasan, Gandhinagar, Gujarat-382421.
G. DIN	:	20250271MO000000BA50

- यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 -में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त) अपील,
7वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

- उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.
- उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of ₹ 5/- under Court Fee Act it must accompanied by –

- उक्त अपील की एक प्रति और A copy of the appeal, and
- इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of ₹ 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क अन्य के ,अधिनियम शुल्क सीमा और 1982,अपील) नियम)। चाहिए जाना किया पालन का मामलों सभी तहत के प्रावधानों सभी

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 %भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief Facts of the Case

M/s. Mansi International (IEC No. 0810030136), 3rd Floor, A-311, Pramukh Arcade, Reliance Cross Road, Kudasani, Gandhinagar, Gujarat-382421 (hereinafter referred to as the "exporter" for brevity), filed Shipping Bill No. 8096653 dated 12.02.2025 for "White Onion" against Invoice no. CI-531/2024-25 dated 12.02.2025 under CTH 07031019 at Mundra Port through their Customs Broker, M/s. Credence Shipping. The consignment had an FOB value of ₹11,14,464/- and a total quantity of 78 MT.

2. Observations and Queries Raised:

2.1 During assessment of the aforementioned shipping bill, it was noted by the Assessing Officer that the goods declared as "White Onion" under CTH 07031019 are dutiable as per Notification No. 43/2024-Customs dated 13.09.2024. However, the Cess amount was not mentioned in the documentation. In light of this, the following query was raised on 30.12.2024:

"Goods are dutiable Good, you have not paid the Cess/Duty amount. Pls Explain"

3. Subsequent Developments:

3.1 Instead of addressing the query, the exporter filed another Shipping Bill No. 8270049 dated 18.02.2025, referencing the Invoice No. CI-531A/2024-25 dated 12.02.2025 for the same cargo through another Custom Broker M/s. A.T.P. & Sons, without cancelling the first one. During the assessment of the new shipping bill, it was found that while the Cess was included, the exporter had claimed RoDTEP on dutiable goods. Further on review of both the Shipping Bills, it was found that they claimed 'RoDTEP' amount on dutiable goods.

4. Response from the Exporter:

4.1 In response, M/s. Mansi International, the exporter, vide their letter dated 22.02.2025 have submitted their reply, which is re-produced as under: -

"...we exporter MANSI INTERNATIONAL would like to inform you that we have filed the shipping no 8096653 dt 12-Feb-2025 for export of our cargo White Onion against our invoice no CI-531/2024-25.

In that shipping bill we have mentioned freight amount EUR 28860.00 which includes our loading cost, transportation, clearance charges, ocean freight and shipping line local charges and sum of all cost comes to 28860.00 and same was mentioned in shipping bill.

After filling that shipping bill, we came to know that freight rate includes only ocean freight rate which comes to EUR 3400 and Insurance amount EUR 150 rest all charges are not included in freight.

Hence, due to above all our fob value of shipping was reduced to 12480.00 instead of actual fob value EUR 32550.

We also accept that we have filed another shipping bill no 8270049 Dt 18/02/2025 against our invoice no CI-531A/2024-25 for same cargo with another CUSTOM BROKER A.T.P.& SONS due to urgency of cargo at destination and perishable goods.

*We confirm that we **do not require any show cause notice or personal hearing** in this matter.*

So, now accordingly we request you to proceed our shipment with correct fob EUR 32550 value i.e., and allow us to export at the earliest the our cargo as our cargo perishable cargo."

4.2 Exporter has also submitted Proforma Invoice, as buyer seller contract, wherein total CIF value mentioned as 42900 EUR and Freight Certificate from M/s. Maxima Freight India Pvt. Ltd, wherein Ocean Freight mentioned as 3400 EUR/40 RF, total Freight as 10200 EUR.

4.3 From the submissions of the exporter, it has been found that they have accepted their fault and request to decide on merits without issuing any SCN and personal hearing in the matter.

5. Summary of the Case

5.1 Based on the above, it appears that the exporter attempted to export "White Onion" without paying export duty, which is made dutiable at the rate of 20%, as per Notification No. 43/2024-Customs dated 13.09.2024.

5.2 The details of both Shipping Bills are as under:-

TABLE-I

S/bill no. &	Descri	Oty (N	CIF V	FOB Amoun	Freight	Insuran	Whethe	RoDTEP
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Date	Option	Net Wt. in MT	Value (in EUR)	Value (in ₹)	Amount (in EUR)	Amount (in EUR)	CESS mentioned	Claimed Amount (in ₹)
8096653 dated 12.02.2025	White Onion	78 MT	42900 EUR	11,14,464/-	28860 EUR	1560 EUR	No	21,175/-
8270049 dated 18.02.2025	White Onion	78 MT	42900 EUR	12,88,599/-	28080 EUR	390 EUR	Yes	24,483/-

5.3 Further, as per Para 4.55 of the Foreign Trade Policy 2015-20 issued by the DGFT, goods subject to export duty are ineligible for rebate under the RoDTEP scheme. The exporter had erroneously claimed RoDTEP (at the rate of 1.9%) in Shipping Bill No. 8096653 dated 12.02.2025 & 8270049 dated 18.02.2025, making this claim liable for rejection.

5.4 As per Exporter's submission in their letter dated 22.02.2025, Freight Certificate & Proforma Invoice, the actual details of the export shipment should be as under:-

(1 EUR = 89.3 ₹)

Total Qty (Net Weight) : 78 MTS
Total CIF Value (in EUR) : 42900 EUR
Total FOB Value(in EUR) : 32550 EUR
Total FOB Value (in ₹) : ₹ 29,06,715/-
Total Freight (in EUR) : 10200 EUR
Total Insurance (in EUR) : 150 EUR
Total Cess/Duty Amount (in ₹) : ₹ 5,81,343/-

5.5 Since the exporter, as detailed in the foregoing paragraphs, by increasing the Freight Amount, tries to minimize the actual value of the goods with intention to less payment/non-payment of duty on dutiable goods and erroneously claimed RoDTEP, the goods are liable for confiscation under Section 113(i) & 113(ja), making the exporter liable for penalties under Section 114(ii) & 114(iii) of the Customs Act, 1962. The relevant portion of the Section 113(i), 113 (ja), 114(ii) & 114(iii) are as follows:

SECTION 113. Confiscation of goods attempted to be improperly exported, etc. –

The following export goods shall be liable to confiscation as per:

(i) any goods entered for exportation which do not correspond in respect of value or material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77.

(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. Penalty for attempt to export goods improperly, etc.—

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, —

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, 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 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.

5.6 Further, in view of the facts, it appears that, the exporter has tried to minimize the actual FOB value of the goods by increasing the Freight amount abruptly and also tried to export dutiable goods i.e. “White Onion” without paying applicable duty/less payment of duty, for the subject S/bill & erroneously claimed RoDTEP. Therefore, the exporter has contravened the provisions of Section 50 of Customs Act, 1962 and rendered the impugned goods liable for confiscation under Section 113(i) & 113(ja) of the Customs Act, 1962. Furthermore, for rendering the goods liable for confiscation, the exporter has also rendered themselves liable for penal action under Section 114(ii) & 114(iii) of the Customs Act, 1962.

The Sections 50 of the Customs Act, 1962 is re-produced here-in-below:

SECTION 50. Entry of goods for exportation. -

(1) ..

(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.

6. In view of the above, it appears that:

- i. The actual FOB value of the goods should be 32550 EUR i.e. ₹ 29,06,715/- instead of FOB Value as declared above in Table-I.
- ii. The goods i.e. "White Onion", mentioned in the Shipping Bill 8096653 dated 12.02.2025 under CTH 07031019 are dutiable as per Second Schedule-Export Tariff, with rate of duty @20%.
- iii. The RoDTEP claimed by the exporter are liable to be rejected under Shipping Bill No. 8096653 dated 12.02.2025 & 8270049 dated 18.02.2025, as RoDTEP claimed on goods subject to export duty are ineligible, as per Para 4.55 of the Foreign Trade Policy 2015-20 issued by the DGFT.
- iv. Impugned goods covered under Shipping Bills Nos. 8096653 dated 12.02.2025 and 8270049 dated 18.02.2025 under CTH 07031019, are liable for confiscation under Section 113 (i) & 113(ja) of the Customs Act, 1962;
- v. The exporter, M/s. Mansi International (IEC No. 0810030136), for rendering the impugned goods under confiscation is liable for penal action under Section 114(ii) & 114(iii) of the Customs Act, 1962.

RECORDS OF PERSONAL HEARING:

7. The exporter vide their letter dated 22.02.2025 submitted that they are ready to pay the applicable fines and penalties, as per instructions provided by Customs; they also submitted that they don't want to receive any Show Cause Notice or Personal Hearing, in this regard.

DISCUSSION AND FINDINGS:

8. I have carefully gone through the brief facts of the case and the applicable provisions of the Customs Act/Rules. The exporter requested for waiver of Show Cause Notice and personal hearing. Thus, I find that the principles of natural justice as provided in Section 122A of The Customs Act 1962 has been complied with and therefore, I proceed to decide the case on the basis of the documentary evidence available on records.

8.1 The issues to be decided by me are:

- i. The actual FOB value of the goods should be 32550 EUR i.e. ₹ 29,06,715/- instead of FOB Value as declared above in Table-I.
- ii. The goods i.e. "White Onion", mentioned in the Shipping Bill 8096653 dated 12.02.2025 under CTH 07031019 are dutiable as per Second Schedule-Export Tariff, with rate of duty @20%.
- iii. The RoDTEP claimed by the exporter are liable to be rejected under Shipping Bill No. 8096653 dated 12.02.2025 & 8270049 dated 18.02.2025, as RoDTEP claimed on goods subject to export duty are ineligible, as per Para 4.55 of the Foreign Trade Policy 2015-20 issued by the DGFT.
- iv. Impugned goods covered under Shipping Bills Nos. 8096653 dated 12.02.2025 and 8270049 dated 18.02.2025 under CTH 07031019, are liable for confiscation under Section 113 (i) & 113(ja) of the Customs Act, 1962;

- v. The exporter, M/s. Mansi International (IEC No. 0810030136), for rendering the impugned goods under confiscation is liable for penal action under Section 114(ii) & 114(iii) of the Customs Act, 1962.

Now, I proceed to decide the case issue-wise.

8.2 I find that from the Exporter's submission in their letter dated 22.02.2025, Freight Certificate & Proforma Invoice, the exporter has tried to minimize the actual FOB value of the goods by increasing the Freight amount abruptly and also tried to export dutiable goods i.e. "White Onion" without paying applicable duty of the subject S/bill & erroneously claimed RoDTEP.

8.3 I find that as per the Second Schedule-Export Tariff, Export duty @20% is leviable on export of "Onion" under CTH 07031019. Therefore, the goods i.e. "White Onion" under CTH 07031019 attracts duty @20%.

8.4 I find that the Exporter had taken the undue benefit in the form of RODTEP under Shipping Bill No. 8096653 dated 12.02.2025 & 8270049 dated 18.02.2025, as RoDTEP claimed on goods subject to export duty are ineligible, as per Para 4.55 of the Foreign Trade Policy 2015-20 issued by the DGFT. Hence, the same is liable for rejection.

8.5 I find that, **Section 114 of the Customs Act, 1962 stipulates that:**

"Section 114. Penalty for attempt to export goods improperly, etc.—

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—

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, 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 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.

”

8.6 I find that impugned goods to be exported under Shipping Bill No. 8096653 dated 12.02.2025 are liable for confiscation under 113 (i) & 113(ja) and Shipping Bill No. 8270049 dated 18.02.2025 under Section 113(ja) of the Customs Act, 1962. Therefore, penalty is imposable under Section 114(ii) & 114(iii) of the Customs Act, 1962 for

rendering the same liable for confiscation under Section 113 of the Customs Act, 1962.

9. In view of the forgoing discussions and findings, I pass the following order:

ORDER

- i. I order to reject the declared FOB value of 28860 EUR and 28080 EUR mentioned in both Shipping Bills 8096653 dated 12.02.2025 & 8270049 dated 18.02.2025 respectively and re-determine the same as 32550 EUR i.e. ₹ 29,06,715/-
- ii. I order to levy the duty @20% on goods i.e. "White Onion" under CTH 07031019 in the Shipping Bill No. 8096653 dated 12.02.2025/8270049 dated 18.02.2025, on re-determined FOB Value of ₹29,06,715/- and accordingly to pay applicable duty amounting to ₹ 5,81,343/-;
- iii. I order to reject erroneously claimed RoDTEP in both the Shipping Bill No. 8096653 dated 12.02.2025 & 8270049 dated 18.02.2025 as mentioned in Table-I above;
- iv. I order to confiscate the impugned goods of the Shipping Bills Nos. 8096653 dated 12.02.2025 and 8270049 dated 18.02.2025, having total declared FOB value as mentioned in Table-I, under Section 113 (i) & 113(ja) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same, against payment of a **Redemption Fine of Rs 4,00,000/- (Rupees Four Lakhs only)** under Section 125 of the Customs Act, 1962;
- v. I order to impose and recover **Penalty of Rs 50,000/- (Rupees Fifty Thousand Only)** on the exporter under Section 114(ii) of the Customs Act, 1962;
- vi. I order to impose and recover **Penalty of Rs 3,00,000/- (Rupees Three Lakhs Only)** on the exporter under Section 114(iii) of the Customs Act, 1962;

11. This order is issued without prejudice to any other action that may be contemplated against the exporter or any other person(s) under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

MUKESH KUMARI
ADDITIONAL COMMISSIONER
ADC/JC-I-O/o Pr Commissioner-Customs-Mundra

F.No. CUS/ASS/MISC/187/2025-EA

Date : 25-02-2025

BY SPEED POST

To,

M/s. Mansi International (IEC No. 0810030136),
3rd Floor, A-311, Pramukh Arcade,
Reliance Cross Road, Kudasan, Gandhinagar, Gujarat-382421.

Copy to:-

- (1) The Deputy Commissioner (TRC)/RRA /EDI.
- (2) Guard File.