	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in	
A	फा. सं./ FILE NO.	GEN/ADJ/ADC/1110/2026-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/306/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	11.09.2026
E	जारी करने की तिथि DATE OF ISSUE	11.09.2026
F	कारण बताओ नोटिस सं. एवं तिथि SCN NO. & DATE	SCN Waived as the Importer made payment u/s 28(5) of Customs Act,1962 with applicable Interest and Penalty
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	M/s. Chirag Udyog (IEC No. 0501067183)

1. यह अपील आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए 3-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 128A 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), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"

   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months from the date of communication of this order.
4. 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 Rs. 5/- under Court Fee Act it must accompanied by –
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
   The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
   While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.
8. 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 (Appeals) 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

The Investigation was initiated Customs Preventive, New Delhi for the past consignment in respect of Bill of Entry filed at INMUM1 (Container Freight Station (CFS) at Mundra Port in Gujarat, India) for import of goods by M/s Chirag Udyog (hereinafter referred to as the importer), (IEC No. 0501067183, GSTIN: 07AAJPG8375M2Z2), having its principal place of business at GF - 147, Banjara Wali Gali, Near Chopal, Haiderpur, Delhi-110088 (hereinafter referred as 'the importer').

2. Specific intelligence was received in the form of DRI-1 that M/s Chirag Udyog has imported Non-Magnetic Stainless Steel Cold Rolled Coil Grade J3 classifiable under CTH 72199090 by availing the benefit of duty exemption under the Advance Authorisation Scheme which permits duty-free import of specified inputs strictly subject to the condition of fulfilment of the prescribed export obligation and compliance with the provisions of the Foreign Trade Policy and relevant Customs notifications. The intelligence suggested that the importer has availed the benefit of the said scheme without adhering to its mandatory conditions and possible misuse of the facility and evasion of legitimate Government revenue. The Advance Authorization-wise and Bill of Entry-wise details of the goods imported by M/s Chirag Udyog as per the intelligence received are tabulated in Table-A as under:

Table-A

S.No.	Licence No	Last date of export	Bill of Entry No.	Bill of Entry Date	Qty imported as per BE (in Kg.)	Assessable Value as per BE (in Rs.)	Approx. total duty inv. @27.735% (in Rs.)
1	0511025500	14-05-2024	5178559	22-08-2024	55856	6635134	1840254
2	0511025500	14-05-2024	3601179	22-05-2024	27644	3007985	834265
Total					**83500**	**9643119**	**2674519**

3. Acting on the specific intelligence received, the documents/ details as available related to the above said licenses were scrutinized which indicated towards huge possibility that the duty-free imported goods were not utilized in the manufacture of export goods in contravention of the conditions stipulated under the Advance Authorisation Scheme and instead, the said goods were deliberately and clandestinely diverted into the domestic market without payment of applicable Customs duty, IGST, and Compensation Cess, thereby defeating the very purpose of the scheme.

4. On the basis of above intelligence received, to protect the Government dues involved, search under section 105 of the Customs Act, 1962 was conducted on 23.05.2026 on the registered premises of M/s Chirag Udyog located at

i. M/s Chirag Udyog, GF - 147, Banjara Wali Gali, Near Chopal, Haiderpur, New Delhi - 110088 **(Principal place of business of the Importer)**

ii. M/s Chirag Udyog, Khasra No. 230, Right Portion, Ground Floor, Govind Mohalla, Village Haiderpur, Near Acid Godown, New Delhi - 110088 **(Additional place of business of the Importer)**

4.1 On searching the premises of M/s Chirag Udyog located at Khasra No. 230, Right Portion, Ground Floor, Govind Mohalla, Village Haiderpur, Near Acid Godown, New Delhi - 110088, it was found to be a factory premises admeasuring 600 sq. yards (approx.) and consists of Ground and 1st Floor. The premises at the Ground Floor was taken on rent by M/s Chirag Udyog for manufacturing operations. The ground floor has seven rooms i.e. 3 rooms on left side and 4 rooms on right side. Shri Jagdish Ray, Die Maker of M/s Chirag Udyog was available during the search proceedings. The factory has 16 pressing/die cutting machines, 1 drilling machine, 1 coil cutting machine and 1 surface grinding machine. 15 workers were working in the factory. Upon checking the physical stock in the factory premises, imported Stainless Steel Sheet in cut form weighing around 4,740 Kgs and semi-finished goods in the form of kitchenware weighing around 175 Kgs was found. Further upon inquiring about the finished goods and the coil, Shri Jagdish Ray informed that finished goods were stored at the office premises situated at M/s Chirag Udyog at 147, Banjara Wali Gali, Haiderpur, New Delhi and that no stock of stainless steel coil was present in the factory as all the coils had already been cut into sheet. Further, the stock of domestically procured raw material tallied with the stock as on 30.05.2026. Upon asking for more documents such as Bills of Entry, Shipping Bills, Advance License Copy, Bills, Invoices etc, Shri Jagdish Ray informed the officers that all documentation work are being maintained by Chirag Garg at the

office premises situated at M/s Chirag Udyog at 147, Banjara Wali Gali, Haiderpur, New Delhi which is at the walkable distance from the factory and only Dharampal Garg is able to answer about the stock statements of goods procured domestically as well as imported. The proceedings of the search were recorded under panchnama dated 30.05.2026 drawn at the spot.

4.2. On searching the premises of M/s Chirag Udyog located at GF - 147, Banjara Wali Gali, Near Chopal, Haiderpur, New Delhi – 110088, it was found to be a factory premises admeasuring 700 sq. yards (approx.) and consists of Ground + 2 Floors. The premises at the Ground Floor was taken on rent by M/s Chirag Udyog for manufacturing operations. The ground floor has seven rooms i.e. 3 rooms on left side and 4 rooms on right side. On the ground floor there were two partitions, in one of the partition, packing of finished goods was being done whereas in the other partition, there was stock of finished goods kept. On the first floor, there was administrative office on one side where records were kept and on other side there was large hall for storage of finished goods where small quantity of finished goods were found. On the other side of the first floor across the gallery there were reception lobby adjacent to kitchen, one small room, one large room and one room for display of cutlery items. Shri Chirag Garg, son of Proprietor of M/s Chirag Udyog was available during the search proceedings and after sometime, Sh. Dharam Pal Garg, Proprietor of M/s Chirag Udyog, also joined the search proceedings.

4.2.1 Shri Dharam Pal Garg submitted stock position of goods shown in the books of account as on 30.05.2026 and the same was physically verified during the search in the presence of panchas and Shri Dharam Pal Garg and Chirag Garg. On verification, the stock procured locally was found tallied with the stock reflected in books of accounts. However, in respect of goods imported under Advance Authorization, the 21447 Kgs of goods imported vide Bill of Entry No. 5178559 dated 22.08.2024 under the Advance Authorization license no. 0511025500 dated 14.05.2024 was found short. Sh. Dharam Pal Garg informed that goods in respect of above Bills of entry were imported under Advance License. Upon being asked about the stock quantity, Shri Dharam Pal Garg stated that due to business-related financial constraints, arising out of adverse business conditions, he sold the above-mentioned quantity of imported goods in the domestic market and submitted that he was ready to pay the Customs Duty on the stock diverted in the open market. The duty on diverted quantity of imported goods was calculated as under:

Bill of Entry	BE Date	License No.	License Date	Qty imported as per BE (in Kg.)	Assessable Value as per BE (in Rs.)	Import Qty which was found short in stock (in Kg.)	Assessable Value of Import qty which was found short in the premises (in Rs.)	Total duty Payable @27.735% (in Rs.)
5178559	22-08-2024	0511025500	14-05-2024	55856	6635134	21447	2547689	706602

4.2.2 Shri Dharam Pal Garg voluntarily agreed with the contention of the officer and informed that they would deposit the differential Customs duty of Rs.7,06,602/- along with interest and penalty. The proceedings of the search were recorded under panchnama dated 30.05.2026 drawn at the spot.

5. Thereafter, in response to the summons dated 31.05.2026, statement of Sh. Dharam Pal Garg, proprietor of M/s Chirag Udyog was recorded under Section 108 of the Customs Act, 1962 on 02.06.2026.

5.1 In his statement dated 02.06.2026, Sh. Dharam Pal Garg stated that M/s Chirag Udyog is engaged in the manufacturing of stainless-steel utensils such as bowls, tea pots etc. and kitchen tools such as spoon, fork etc. as per the requirement of buyers meant for sale in domestic market as well as for overseas clients. That for manufacturing the goods, they fulfil their raw material needs through domestic Indian market as well as through imports also. They have also utilised the benefit of Advance Authorization Scheme and got the licenses issued from DGFT for Duty free import of goods under mandatory obligation to export the goods manufactured from raw materials imported by utilising the said licenses issued to them by DGFT. That they have majorly imported J-3 grade of SS coils and at few times imported 430 grade also as per the requirements under Advance Licenses issued by DGFT. That their major overseas suppliers are M/s Sun Ming Group Co., Ltd., Hong Kong, M/s Hong Kong Guangtaida Trade Limited, Hong Kong, M/s Newwei Trading Company Limited, Hong Kong and their major export clients are M/s Mohammad Faiz Abdullah, Saudi Arabia, M/s Astroluxe, UK, M/s GWD, Germany and M/s Harewood, UK. That their major domestic suppliers are M/s Shiv Steels Rajasthani Udyog Nagar, Delhi - Supplier of SS Sheets, M/s Maven AB Inox, Uttar Pradesh - Supplier of SS Sheets, M/s Grover Stainless, Sonepat - Supplier of SS Sheets and their major domestic buyers are M/s KKR Steel, Mumbai, M/s Pahadia Export, Sonepat and M/s Alliance Export, Sonepat. That they always export goods directly from M/s Chirag Udyog and have never done any third-party export.

5.2 Upon being asked about the details of advance licenses registered by M/s Chirag Udyog along with their status of redemption, Shri Dharam Pal Garg

submitted that eleven (11) advance authorization licenses have been registered in the name of M/s Chirag Udyog and submitted the details of the same as below:

S.No.	License No.	Issue Date	Last Date of Export	License Status	EODC Status	Remarks
1	0510405654	16-02-2018	16-08-2019	Expired	Closed	EODC/ Redemption letter issued
2	0510406909	19-06-2018	19-12-2019	Expired	Closed	EODC/ Redemption letter issued
3	0510410451	02-05-2019	02-11-2020	Expired	Closed	EODC/ Redemption letter issued
4	0510411247	15-07-2019	15-01-2021	Expired	Closed	EODC/ Redemption letter issued
5	0510414704	23-07-2020	23-01-2022	Expired	Open	Export obligation completed, redemption certificate issuance process has been initiated.
6	0511023600	01-02-2024	01-08-2026	Live	Open	Approx. 5 Mts of stock pending to be exported. Rest all obligations completed
7	0511025500	14-05-2024	31-08-2026	Expired	Open	Qty of 21.447 Mts found short on which duty is paid. Rest all obligations completed. Due to some clerical error, in few Shipping Bills, the license no. is inadvertently mentioned as 0511029536. The rectifications/ amendment in r/o same is in process.
8	0511029536	10-12-2024	10-06-2026	Live	Open	Export obligation completed, redemption certificate issuance process has been initiated
9	0511032167	29-04-2025	29-10-2026	Live	Open	Obligation of approx. 10 Mts of imported RM pending. Goods are in WIP/ FG condition.
10	0511034170	29-07-2025	29-01-2027	Live	Open	Obligation of approx. 12

						Mts of imported RM pending. Goods are in WIP/ FG condition.
11	0511035431	01-10-2025	01-04-2027	Live	Open	Obligation of approx. 22 Mts of imported RM pending. Goods are in WIP/ FG condition.

5.3 Shri Dharam Pal Garg also submitted the copy of Advance Authorization Licenses, Bills of Entry, corresponding Shipping Bills and invoices in respect of aforementioned licenses. Upon being asked as to whether they have kept the separate inventory for domestic and imported goods in their premises, Shri Dharam Pal Garg replied in positive and submitted that they have kept separate inventory for both the domestic goods as well as for goods imported/ manufactured using the Advance Authorization licenses. That they have also kept the separate stocks in their books of account.

5.4. He was informed that during the search proceedings dated 30/31.05.2026 conducted at the premises of M/s Chirag Udyog, it was observed that 64485 Kgs of imported raw material i.e. stainless steel coils in WIP/ FG condition was found in the premises whereas the Advance License Stock Summary duly signed by Shri Dharam Pal Garg reflected 64,485 Kgs stock of imported Stainless Steel Coil in the form of SS Sheets/ SS Cutlery/ SS Patti. The details of stock as per books of accounts and stock actually found are as under:

Sr No	**Description of goods**	**Qty found in books of accounts under Advance Authorization in Kgs**	**Total Qty found on Physical Verification in Kgs**	**Qty found short in Kgs**
1	SS Cutlery (82159900)	59568	38121	21447
2	Stainless Steel Patta 72199090	4917	4917	nil

5.4.1 Upon being asked about the reasons of mismatch in the stock, Shri Dharam Pal Garg submitted that due to business related financial constraints, arising out of adverse business conditions, they had sold 21,447 Kg of imported stainless steel cutlery in the domestic market.

5.5 He was informed that on the above said 21447 Kg of imported stainless steel coils found short in the factory premises of M/s Chirag Udyog, there was loss of Customs Duty amounting to Rs.7,06,602/- as calculated below:

Bill of Entry	BE Date	License No.	License Date	Qty imported as per BE (in Kg.)	Assessable Value as per BE (in Rs.)	Import Qty which was found short in stock (in Kg.)	Assessable Value of Import qty which was found short in the premises (in Rs.)	Total duty Payable @27.735% (in Rs.)
5178559	22-08-2024	0511025500	14-05-2024	55856	6635134	21447	2547689	706602

5.5.1 Upon being asked about the loss of Customs Duty of Rs.7,06,602/-, Shri Dharam Pal Garg submitted that they agree that the Custom Duty amounting to Rs.7,06,602/- is payable as calculated above on the 21447 Kg of imported stainless steel coils found short in their premises. He submitted that they had deposited the Customs duty of Rs.7,06,602/- along with interest of Rs.1,88,459/- and penalty Rs.1,05,991/-, in total Rs.10,01,051/- vide challan no. 1948203670 dated 02.06.2026 and challan no. 5446339887 dated 02.06.2026 on the above account and also submitted the copy of challans deposited to the officers.

5.6 Upon being asked that duty free procured goods imported by utilizing the benefit of Advance Authorization scheme cannot be diverted in domestic Indian market as the same is against the provisions of the Customs Act, 1962 as well as in violation of the Advance Authorization Scheme, he submitted that they had intentionally never diverted the duty free procured goods imported by utilizing the benefit of Advance Authorization scheme in domestic Indian market. That due to business related financial constraints, arising out of adverse business conditions, they had sold the 21,447 Kg of stainless-steel cutlery manufactured using the stainless steel coils imported against advance authorization in the domestic market. That he knew that this is against the spirit of Advance Authorization Scheme and resulted in loss of Customs Duty to the Govt. He admitted that the company had committed mistake by diverting the material meant for export in domestic local market. That as a gesture of the same they had already deposited the applicable dues vide challans dated 02.06.2026. He requested that as they had fulfilled the dues arising on them, the investigation initiated against them may be closed at the earliest.

6. The investigation conducted against M/s Chirag Udyog revealed that they have got total four (11) Advances Authorization Licenses for import of cold rolled stainless steel coils without payment of Customs Duty with a mandatory obligation to export the goods manufactured using the goods imported against the said licenses. The details of the said Advance Authorization Licenses are tabulated under para 5.6 *supra*. Sh. Dharam Pal Garg during the course of investigation submitted the documents viz. copy of Advance Authorization Licenses, Bills of Entry, Shipping Bills, invoice etc. As mentioned in the Table in para 5.6 *supra*, out of the 11 AA

licenses issued to the importer, they have completed export obligations in respect of the 06 licenses [EODC issued in 04 cases and process of issuance of EODC initiated in remaining 02 cases]. In 04 cases small quantity of goods to be exported for completion of export obligation however the time period for completion of export obligation is pending in these 04 cases.

6.1 In respect of License No. 0511025500 dated 14.05.2024, export obligation was found pending to be completed in respect of 21,447 Kg stainless coil imported against the said license. However, during physical verification of the stock during search at the importer's premises, the stock of 21,447 Kg of coil was found missing. The importer admitted that they have diverted the said quantity of stock in domestic Indian market due to financial distress. The total dues arising on the 21,447 Kg of coil diverted in the local market are calculated in Table-B as under:

Table-B

Bill of Entry	BE Date	License No.	License Date	Qty imported as per BE (in Kg.)	Assessable Value as per BE (in Rs.)	Import Qty which was found short in stock (in Kg.)	Assessable Value of Import qty which was found short in premises (in Rs.)	Total duty Payable @27.735 % (in Rs.)	Interest payable (in Rs.)	Penalty payable (in Rs.)	Total dues payable (in Rs.)
5178559	22-08-2024	0511025500	14-05-2024	55856	6635134	21447	25,47,689	7,06,602	1,88,459	1,05,990	10,01,051

6.2 The importer in his statement admitted of committing the mistake and also voluntary deposited the Customs Duty along with applicable interest and penalty arising upon them due to their above said mistake.

7. CONTRAVENTIONS OF PROVISIONS OF THE CUSTOMS ACT, 1962:

7.1 SECTION 2(33): *import, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

7.2 SECTION 12. Dutiable goods*. – (1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under [the Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.*

7.3 SECTION 17. Assessment of duty. *– (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods*

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.
(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

7.4 SECTION 28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

(1) Where any [3][duty has not been levied or not paid or short-levied or short-paid] or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any willful mis-statement or suppression of facts,-

(a) the proper officer shall, within [4][two years] from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied [5][or paid] or which has been 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;
***Provided** that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;]*

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of,-

(i) his own ascertainment of such duty; or
(ii) the duty ascertained by the proper officer, the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.
***[Provided** that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.]*

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:
***[Provided** that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon*

under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.]

(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section(1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of [9][two years] shall be computed from the date of receipt of information under sub-section (2).

(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 reason of, –

(a) collusion; or
(b) any wilful 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.

(5) Where any [duty has not been levied or not paid or has been short-levied or short paid] or the interest has not been charged 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 by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to [fifteen per cent.] of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion –

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or

sub- section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of [two years] shall be computed from the date of receipt of information under sub-section (5).

***7.5. 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.

(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.

7.6 SECTION 46. Entry of goods on importation. —

(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed] :

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed].

[(4A) The importer who presents a bill of entry shall ensure the following, namely :–
(a)the accuracy and completeness of the information given therein;
(b)the authenticity and validity of any document supporting it; 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.]

7.7 Sections 110AA. Action subsequent to inquiry, investigation or audit or any other specified purpose.-

Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an officer of customs has reasons to believe that––

(a) any duty has been short-levied, not levied, short-paid or not paid in a case where assessment has already been made;
(b) any duty has been erroneously refunded;
(c) any drawback has been erroneously allowed; or
(d) any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded,
then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing –

(i) to the proper officer having jurisdiction, as assigned under section 5 in respect of assessment of such duty, or to the officer who allowed such refund or drawback; or
(ii) in case of multiple jurisdiction's, to an officer of customs to whom such matter is assigned by the Board, in exercise of the powers conferred under section 5, and thereupon, power exercisable under section's 28, 28AAA or Chapter X, shall be exercised by such proper officer or by an officer to whom the proper officer is subordinate in accordance with sub-section (2) of section 5]

7.8 SECTION 112. 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 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 4 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;]

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

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

7.9 SECTION 114A : *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 3 [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:*

Provided that where such duty or interest, as the case may be, 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 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:

8. Findings of investigation:

8.1 The importer, M/s Chirag Udyog, is engaged in the import of cold-rolled stainless steel coils by utilising the benefit of duty free import of goods [by paying Basic Customs Duty (BCD) @0%, Social Welfare Surcharge (SWS) @0% and IGST

@0%] as available by virtue of Licenses for Advance Authorization Scheme issued by DGFT subject to the fulfilment of mandatory export obligation and other necessary compliances mandated by DGFT. They used to manufacture steel utensils and export the same for fulfilment of requisite export obligations of the said licenses.

8.2 Investigation has revealed that 21447 Kg of cold rolled stainless steel coils imported in respect of Advance Authorization number 0511025500 dated 14-05-2024 vide Bill of Entry No. 5178559 dated 22-08-2024 had been sold by the importer in the domestic Indian market resulting in non-fullfillment of export obligation due to which Customs Duty amounting to Rs.7,06,602/- (as detailed in Table-B above) appears to be payable by them. The importer has admitted in his statement that due to business related financial constraints, arising out of adverse business conditions, they had sold the 21,447 Kg of stainless-steel cutlery manufactured using the stainless steel coils imported against advance authorization in the domestic market. They also admitted that their above act has resulted in non-payment of Customs Duty and loss of revenue to the Government Exchequer. They voluntarily deposited the applicable Customs duty along with interest and penalty arising due to their divergence of duty-free imported stainless steel coil diverted in domestic Indian market.

9. DEMAND OF DUTY:

9.1 In respect of Bill of Entry No. 5178559 dated 22-08-2024 as tabulated in Table-B above, the investigations conducted and the submissions of the Proprietor of M/s Chirag Udyog i.e. Sh. Dharam Pal Garg in his statement dated 02.06.2026 revealed that 21447 Kg of stainless steel coils imported in respect of Advance Authorization number 0511025500 dated 14-05-2024 issued by Directorate General of Foreign Trade in the domestic market and have not fulfilled the mandatory export obligation as provided in the condition of the AAs issued to them. This has resulted in evasion of total Customs Duty (incl. BCD+SWS+IGST) amounting to Rs.7,06,602/-. The details of Customs Duty payable and the applicable interest and penalty is mentioned in **Table-B** above.

10. LIMITATION AND INVOCATION OF EXTENDED PERIOD

10.1 The issue of limitation has been carefully examined in light of the facts on record and the settled legal position. It is a well-established principle of Customs law that where short levy or non-levy of duty arises by reason of wilful misstatement, suppression of material facts, or deliberate contravention of statutory provisions with intent to evade duty, the extended period of limitation under section 28(4) of the Customs Act, 1962 is invocable. The Hon'ble Supreme Court has consistently held that suppression does not necessarily require a positive act of concealment;

deliberate non-disclosure of material facts or conscious adoption of an incorrect classification, when the facts are exclusively within the knowledge of the importer, is sufficient to attract the extended period (see *Cosmic Dye Chemical v. CCE*, 1995 (75) ELT 721 (SC); *Pushpam Pharmaceuticals Co. v. CCE*, 1995 (78) ELT 401 (SC)).

10.2 In the present case, the importer has admitted in his statement that due to business related financial constraints, arising out of adverse business conditions, they had sold the 21,447 Kg of stainless-steel cutlery manufactured using the stainless steel coils imported against advance authorization in the domestic market. The importer admitted that they knew that this is against the spirit of Advance Authorization Scheme and resulted in loss of Customs Duty to the Govt and that they voluntarily paid the applicable Customs Duty on the same. Thus, in the instant case, the deliberate choice to divert the goods imported duty free against Advance Authorization in domestic market, appears to amount to suppression of material facts and wilful misstatement within the meaning of sections 28(4) of the Customs Act, 1962. Accordingly, it is held that the conditions precedent for invocation of the extended period of limitation under section 28(4) appear to be satisfied in the present case and thus the demand of short paid/ not paid Customs duty in respect of past consignment falling within the extended period is therefore legally sustainable.

10.3 The issue of imposition of penalty under section 114A of the Customs Act, 1962 has been examined in light of the findings recorded on classification and limitation. section 114A mandates imposition of penalty equal to the duty determined under section 28(4) where such duty has not been levied or has been short-levied by reason of wilful misstatement or suppression of facts with intent to evade payment of duty. Thus, once the conditions for invoking the extended period under section 28(4) are satisfied, the statutory foundation for penalty under section 114A automatically follows, subject to the existence of *mens rea*.

10.3.1 The Hon'ble Supreme Court has repeatedly held that section 114A is not a discretionary penalty provision, but a mandatory consequence where duty becomes recoverable under the extended period on account of suppression or wilful misstatement. In *Union of India v. Dharamendra Textile Processors* (2008 (231) ELT 3 (SC)), the Court authoritatively held that penalty under provisions *pari materia* to section 114A is a civil liability, and that once the statutory conditions are satisfied, intention to evade is presumed in law. Though subsequent decisions have clarified that the foundational facts of suppression or wilful misstatement must be established, once such facts are found, penalty follows as a matter of course.

10.3.2 This legal position was further clarified in *Rajasthan Spinning & Weaving Mills Ltd. v. CCE* (2009 (238) ELT 3 (SC)), wherein the Supreme Court held that *mens rea* is built into the statutory language of provisions such as section 114A, and where

wilful misstatement or suppression is established, penalty is mandatory and not subject to further discretion. The Court emphasized that once the ingredients of the section are satisfied, the authority has no option but to impose penalty.

10.3.3 Applying the above principles to the present case, from the discussions in paras supra, it has been clearly established that the importer has willfully and deliberately diverted the imported goods meant exclusively for export in the domestic market thereby causing loss of revenue to the Government exchequer. In *CCE v. Chemphar Drugs & Liniments* (1989 (40) ELT 276 (SC)), it was held that deliberate withholding of correct information, when the facts are within the exclusive knowledge of the assessee, constitutes suppression justifying penal consequences.

10.4 In view of the above settled legal position and the findings recorded in the present case, it is held that in respect of duty free import of goods as detailed in Table-B above, the importer's conduct appear to satisfy all the statutory ingredients of section 114A, namely:

- wilful misstatement and suppression of material facts,
- intent to evade payment of duty, and
- recovery of duty under the extended period of limitation.

10.4.1 Accordingly, the importer appears to be liable to penalty equal to the amount of duty determined under section 28(4) of the Customs Act, 1962 in respect of import of goods as mentioned in Table-B above.

11. <u>Payment of Differential Duty:</u>

In respect of import of goods as detailed in Table-B above, the importer has voluntary deposited Customs duty of Rs.7,06,602/- along with interest of Rs.1,88,459/- and penalty Rs.1,05,991/-, in total Rs.10,01,051/- vide challan no. 1948203670 dated 02.06.2026 and challan no. 5446339887 dated 02.06.2026 in respect of 21447 Kg of SS coils imported vide BE No. 5178559 dated 22-08-2024 against Advance Authorization License No. 0511025500 dated 14-05-2024 arising on account of non-fulfillment of export obligation in respect of duty free imported goods against Advance Authorization.

12. <u>Request of importer for closure of proceedings</u>

12.1. Vide the statement given under Section 108 of the Customs Act, 1962 on 02.06.2026, Shri Dharam Pal Garg, Proprietor of M/s Chirag Udyog (IEC-

0501067183) has stated that they have paid the payable duty, applicable interest and 15% penalty, and requested to conclude the present investigation.

12.2 In this context, the relevant provisions of Section 28 of the Customs Act, 1962 is reproduced hereunder:

> *"(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged 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 by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer,* ***such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent****. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.*
>
> *(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-*
>
> > *(i) that the* ***duty with interest and penalty has been paid in full, then, the proceedings in respect of such person*** *or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140,* ***be deemed to be conclusive as to the matters stated therein****; or*
> >
> > *(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5)."*

12.3 In the instant case, the importer has paid the differential duty, along with interest under Section 28AA, and 15% penalty in terms of Section 28(5) of the Customs Act, 1962 as detailed below: -

S. No	Differential Duty (Rs.)	Interest (Rs.)	15% Penalty (Rs.)	Total (Rs.)	Challan No./date
1	7,06,602/-	1,88,459/-	1,05,990/-	10,01,051/-	1948203670 Dt. 02.06.2026 &

					5446339887 Dt. 02.06.2026

DISCUSSION AND FINDINGS

13. I have carefully gone through the Investigation Report dated 19.06.2026 issued under Section 110AA of the Customs Act, 1962 by the Customs Preventive, New Delhi, the relied upon documents, the submissions made by Shri Dharam Pal Garg, Proprietor of M/s Chirag Udyog in statement recorded under Section 108 of the Customs Act, 1962, the legal provisions and all the evidences placed on record.

14. I find that the Importer, M/s Chirag Udyog, is engaged in the import of cold-rolled stainless steel coils by utilising the benefit of duty free import of goods [by paying Basic Customs Duty (BCD) @0%, Social Welfare Surcharge (SWS) @0% and IGST @0%] under Advance Authorization issued by DGFT subject to the fulfilment of mandatory export obligation and other necessary compliances mandated by DGFT. They used to manufacture steel utensils and export the same for fulfilment of requisite export obligations of the said licenses. Further, I find that part of the duty-free imported goods, in contravention of the conditions stipulated under the Advance Authorisation Scheme, was deliberately and clandestinely diverted into the domestic market without payment of applicable Customs duty, IGST, and Compensation Cess, thereby defeating the very purpose of the scheme.

15. I find that the importer has admitted in his statement that due to business related financial constraints, arising out of adverse business conditions, they had sold the 21,447 Kg of stainless-steel cutlery manufactured using the stainless steel coils imported against advance authorization in the domestic market and that their above act has resulted in non-payment of Customs Duty and loss of revenue to the Government Exchequer. By admitting the mistake made by them, they have voluntary deposited the Customs Duty along with applicable interest and penalty arising upon them due to divergence of duty-free imported stainless steel coil diverted in domestic Indian market.

16. As mandated under Section 28(6) of the Customs Act, 1962, the proper officer is required to determine the duty payable under Section 28(4) together with the interest leviable under Section 28AA and ascertain whether the duty, interest, and penalty at the rate of fifteen percent have been discharged in full. Where the entire liability stands paid, the proceedings are deemed to be concluded in terms of Section 28(6)(i) of the Customs Act, 1962. Accordingly, I proceed to determine the differential duty payable under Section 28(4), interest payable under Section 28AA,

and penalty@15% of the said duty and verify whether such amounts have been paid by the importer under Section 28(5) of the Customs Act, 1962.

17. I find that 21,447 Kg of cold rolled stainless steel coils imported in respect of Advance Authorization number 0511025500 dated 14-05-2024 vide Bill of Entry No. 5178559 dated 22-08-2024 had been sold by the importer in the domestic Indian market resulting in non-fulfilment of export obligation due to which Customs Duty amounting to Rs.7,06,602/- (as detailed in Table-B above) appears to be payable by the Importer. The interest and penalty payable are determined as under:-

Total Customs Duty (Rs.)	**Interest u/s 28AA (Rs.)**	**Penalty @15% u/s 28(5) (Rs.)**	**Total Amount Payable (Rs.)**
7,06,602/-	1,88,459/-	1,05,990/-	10,01,051/-

The details of Customs Duty payable on account of sale of imported 21,447 Kg of cold rolled stainless steel coils in the domestic market and the applicable interest and penalty are mentioned in **Table-B** in para 6.1 supra.

18. Thus, the total amount (Duty + Interest + Penalty@15%) payable is determined Rs.10,01,051/- (Rupees Ten Lakh One Thousand Fifty One only) and the importer i.e. M/s Chirag Udyog has voluntary paid the said amount of Rs.10,01,051/- under Section 28(5) of the Customs Act, 1962 vide challan no. 1948203670 dated 02.06.2026 and challan no. 5446339887 dated 02.06.2026 as detailed in para 12.3 above. Since the importer has voluntarily paid the amount of differential duty, interest at the applicable rate, and penalty@15%, totally amounting to Rs.10,01,051/- under Section 28(5) of the Customs Act, 1962, I find that the proceedings initiated against M/s Chirag Udyog are deemed to be concluded in terms of Section 28(6)(i) of the Customs Act, 1962.

CONFISCATION OF GOODS-

19. I find that the goods imported by M/s Chirag Udyog covered under BE No. 5178559 dated 22-08-2024 against Advance Authorization License No. 0511025500 dated 14-05-2024 were liable to confiscation under Section 111(m) of the Customs Act, 1962, on account of misclassification. However, the first proviso to Section 125(1) of the Customs Act, 1962 provides that where the proceedings are deemed to be concluded under clause (i) of sub-section (6) of section 28 in respect of goods which are not prohibited or restricted, no redemption fine shall be imposed. Since the goods are neither prohibited nor restricted and proceedings have been deemed

to be concluded under Section 28(6)(i) of the Customs Act, 1962, redemption fine is not imposable.

20. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

The proceedings initiated in the matter of 21,447 Kg of stainless-steel cutlery for manufacturing using the stainless steel coils imported vide BE No. 5178559 dated 22-08-2024 against Advance Authorization License No. 0511025500 dated 14-05-2024 filed by M/s Chirag Udyog, (IEC No. 0501067183) but diverted into the domestic market without payment of applicable Customs duty, IGST, and Compensation Cess, are hereby deemed concluded in terms of Section 28(6)(i) of the Customs Act, 1962.

21. This order is issued without prejudice to any other action that can be taken against the importer or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force.

Digitally signed by
Dipakbhai Zala
Date: 11-09-2026
17:44:32

(Dipak Zala)
Additional Commissioner of Customs
Customs House, Mundra

Encl. As above

To,

M/s Chirag Udyog, (IEC No. 0501067183),
GF - 147, Banjara Wali Gali, Near Chopal,
Haiderpur, Delhi-110088.

Copy to:

1. The Asstt. Commissioner, Gr.VI, Customs Preventive, New Delhi.
2. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
3. Guard File.