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	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KACHCHH 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/1056/2024-EA-O/o Pr-Commr-Cus-Mundra
B. Order-in- Original No.	: MCH/ADC/MK/149/2024-25 dated 05.10.2024
C. Passed by	: Mukesh Kumari, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D. Date of order /Date of issue	: 05.10.2024/07-10-2024
E. Show Cause Notice No. & Date	: SCN and PH Waiver
F. Noticee(s)/Party/ Exporter	: M/s. Ecosure Pulp molding Technologies Limited, Plot no-92, Udyog Kendra I, Ecotech-III, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh - 201306
G. DIN	: 20241071MO00008183E5

- यह अपील आदेश संबन्धित 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),
 7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, 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 Rs. 5/- under Court Fee Act it must be 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 सं-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 Rs. 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. Eclosure Pulp molding Technologies Limited, Plot no-92, Udyog Kendra I, Ecotech-III, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh - 201306 having IEC No. AAFCE7193L filed Shipping Bill No. 2602943 dated 22.07.2024 through their CHA-Masters Logistics Solutions for export of BH Kraft Pulp classified under CTH 47032900.

2. At the time of Assessment of Shipping Bill No. 2602943 dated 22.07.2024, Assessment officer raised query “Chemical Wood Pulp, Soda or Sulphate, Other than Dissolving Graded are Prohibited. Please Justify Export” in the system.

3. Vide letter dated 17.08.2024 exporter requested for Back to Town of goods and submitted that he is exporting the goods first time this product so that he was not aware about export prohibition from India to any country for this product and filed the Shipping Bill due to mistake.

4. As per Sr No. 192 of Export Policy schedule II the goods of CTH 4703 are prohibited for Export and same is reproduced below:

ITC (HS), 2018
SCHEDULE 2 – EXPORT POLICY

CHAPTER 47

PULP OF WOOD OR OF OTHER FIBROUS CELLULOSIC MATERIAL; WASTE AND SCRAP OF PAPER OR PAPERBOARD

S.No.	Tariff Item HS Code	Unit	Item Description	Export Policy	Policy Conditions
190	4701 00 00	Kg	Mechanical wood pulp	Prohibited	Not permitted to be exported
191	4702 00 00	Kg	Chemical wood pulp, Prohibited dissolving grades	Prohibited	Not permitted to be exported
192	4703 00 00	Kg	Chemical wood pulp, Prohibited soda or sulphate, other than dissolving grades	Prohibited	Not permitted to be exported
193	4704 00 00	Kg	Chemical wood pulp, Prohibited sulphite, other than dissolving grade	Prohibited	Not permitted to be exported
194	4705 00 00	Kg	Semicchemical Wood Pulp	Prohibited	Not permitted to be exported
195	4707 00 00	Kg	Waste paper	Restricted	Export permitted under Licence

5. The exporter has declared the goods to be exported vide the said SB as "BH Kraft Pulp" and classified the same under CTH-47032900. However, As per Sr. No. 192 of Export Policy schedule II the goods of CTH 4703 are prohibited for Export.

6. Whereas, from the above, it is evident that the export of "Chemical Wood Pulp, Soda or Sulphate, Other than Dissolving Graded classified under CTH 47030000 are Prohibited, As per Sr. No. 192 of Export Policy schedule II. Accordingly, it appears that, the exporter by resorting to mis-declaration has rendered the impugned goods liable for confiscation under Section 113(d) 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(i) of the Customs Act, 1962.

7. Relevant Legal Provisions:

7.1. **Section 50 : Entry of goods for exportation. –**

(1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed.

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:

- (a) the accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any document supporting it; and*
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. ”.*

7.2. 113. Confiscation of goods attempted to be improperly exported, etc.—

The following export goods shall be liable to confiscation:—

(a).....

.....

.....

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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

- (i) The impugned goods attempted to be exported under Shipping Bill No. 2602943 dated 22.07.2024 under CTH 47032900 are prohibited, as per Sr. No. 192 of Export Policy schedule II;
- (ii) Impugned goods covered under Shipping Bill No. 2602943 dated 22.07.2024 having FOB value Rs. 16,12,017 are liable for confiscation under Section 113(d) of the Customs Act, 1962;
- (iii) The exporter, M/s. Ecosure Pulpmolding Technologies Limited, having IEC No. AAFCE7193L for rendering the impugned goods under confiscation is liable for penal action under Section 114(i) of the Customs Act, 1962.

RECORDS OF PERSONAL HEARING :

9. The Exporter has requested for waiver of Show Cause Notice and Personal Hearing by the adjudicating authority vide letter dated 18.09.2024.

DISCUSSION AND FINDINGS:

10. I have carefully gone through the records of the case. The exporter requested for waiver of Show Cause Notice and personal hearing and requested to decide the matter on merit. 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.

10.1. The issues to be decided by me are:

- (i) The impugned goods attempted to be exported mentioned under Shipping Bill No. 2602943 dated 22.07.2024 under CTH 47032900 are prohibited, as per Sr. No. 192 of Export Policy schedule II;
- (ii) Impugned goods covered under Shipping Bill No. 2602943 dated 22.07.2024 having FOB value Rs. 16,12,017 are liable for confiscation under Section 113(d) of the Customs Act, 1962;
- (iii) The exporter, M/s. Ecosure Pulpmolding Technologies Limited, having IEC No. AAFCE7193L for rendering the impugned goods under confiscation is liable for penal action under Section 114(i) of the Customs Act, 1962.

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

10.2. I find that the exporter made an attempt to improperly export of the prohibited goods, As per Sr. No. 192 of Export Policy schedule II under Shipping Bill No. 2602943 dated

22.07.2024 declared as "BH Kraft Pulp" under CTH-47032900.

10.3. I find that the exporter has contravened the provisions of Export Policy by an attempt to improperly export of the prohibited goods, as per Sr. No. 192 of Export Policy schedule II under Shipping Bill No. 2602943 dated 22.07.2024 declared as "BH Kraft Pulp" under CTH-47032900, I find that the goods are liable for confiscation under Section 113(d) of the Customs Act, 1962.

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

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 ¹f² [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.

10.5. I find that the impugned goods under Shipping Bill No. 2602943 dated 22.07.2024 declared as "BH Kraft Pulp" under **CTH-47032900** are prohibited for Export, as per Sr. No. 192 of Export Policy schedule II, and therefore, the same is liable for confiscation under Section 113(d) of the Customs Act, 1962. Further, I find that the impugned goods are Prohibited goods, hence, penalty is imposable in the case under **Section 114(i)** of the Customs Act, 1962 for rendering the same liable for confiscation under Section 113 of the Customs Act, 1962.

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

ORDER

(i) I order to confiscate the Impugned goods covered under Shipping Bill No. 2602943 dated 22.07.2024 having FOB value Rs. 16,12,017 under Section 113(d) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same for Back To Town against payment of a Redemption Fine of Rs. 4,00,000/- (Rupees Four Lakhs only) under Section 125 of the Customs Act, 1962;

(ii) I order to impose and recover Penalty of Rs. 2,00,000/- (Rupees Two Lakhs Only) on the exporter under Sections 114(i) of the Customs Act, 1962.

12. 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.

Signed by

OLC

Mukesh Kumari

MUKESH KUMARI

Date: 07-10-2024 17:48:51
ADDITIONAL COMMISSIONER

ADC/JC-I-O/o Pr Commissioner-Customs-Mundra

F.No. CUS/ASS/MISC/1056/2024-EA

Date : 07-10-2024

BY SPEED POST

5461

To,
M/s. Elosure Pulp molding Technologies Limited,
Plot no-92, Udyog Kendra I,
Ecotech-III, Greater Noida,
Gautam Buddha Nagar,
Uttar Pradesh – 201306

Copy to:- (1) The Deputy Commissioner(TRC)/RRA /Review Section/EDI/SIIB/ Guard File.

CB M/s Masters Logistics Solution

- Received on behalf of the CB.

Vikas

Vikas Saathia

9974535444

Case No:- 2013 DELM0687