

 <p>सीमा शुल्क के प्रधान आयुक्त का कार्यालय सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT Phone: 02838-271426/271428 FAX :02838-271425, Email-group4-mundra@gov.in</p>	 <p>सत्यमेव जयते</p>	
A. File No.	:	CUS/APR/BE/MISC/30/2025-Gr 4
B. Order-in-Original No.	:	MCH/ADC/AKM/248/2024-25
C. Date of order	:	04.01.2025
C. Passed by	:	Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
F. Noticee(s) / Party / Importer	:	M/s K. M. Marketing
G. DIN	:	20250171MO000016481B

1. यह अपील आदेश संबन्धित को निःशुल्क 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 129A(1) के अंतर्गत प्रपत्र सीए3-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(, चौथी मंजिल, हुड़को 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 be 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 मदसं०-6 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 ऊटी/ 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

M/s K. M. Marketing (IEC- AKYPA8603P) (hereinafter referred to as the 'Importer'), having their office at 30, R.K. Estate, Behind Ekta Hotel, Sarkhej, Ahmedabad - 382210 have filed a Bill of Entry No. 7449600 dated 25.12.2024, (hereinafter referred to as the 'said Bill of Entry') through their Customs Broker M/s. SSS Sai Shipping Services Pvt. Ltd. Details of declared Assessable Value and Duty are as below-

Table-A

Sl. No.	Bill of Entry No.	Assessable Value	Duty
1	7449600 dated 25.12.2024	Rs. 32,15,046/-	10,34,112/-

2. The aforesaid Bill of Entry has been pending for assessment in PAG. It has been found that item no. 15 to 22 has been declared as "ALUMINIUM PROFILE" under CTH 76042990 of total assessable value of Rs. 17,52,091/-. Further, it has been found that NFMIMS registration date is 02.01.2025. Details of particulars are as under:

Table-B

Sl. No.	Bill of Entry No. & date	IGM Inward date	B/L date	SIMS Registration No. Date
1	7449600 dated 25.12.2024	31.12.2024	14.12.2024	MIN202100517841 02.01.2025

3. As per DGFT Notification No. 26/2015-20 dated 10.08.2022

"The Non-Ferrous Metal Import Monitoring System (NFMIMS) shall require importers to submit advance information in an online system for import of items in the Annexure-I (for copper) and Annexure-II (for aluminium) of this notification and obtain an automatic Registration Number by paying a registration fee of Rs.500/-. The importer shall apply for registration before the arrival of import consignment. Registration can be applied not earlier than 60th day before the expected date of arrival. The automatic number thus granted shall remain valid for a period of 75 days."

4. However, in the instant case, the importer has not followed the timelines/guidelines of DGFT Notification No. 26/2015-20 dated 10.08.2022. IGM inward date is 31.12.2024 whereas NFMIMS registration date is

02.01.2025. Therefore, it is evident that NFMIMS registration has been made after the arrival of the goods.

5. Since, goods were imported into India without the requisite NFMIMS certificate, the impugned goods have been imported without authorization and are liable for confiscation under Section 111(d) of the Customs Act, 1962, and for his act of omission and commission the importer is liable for penalty under Section 112(a) of the Customs Act, 1962.

6. The relevant provisions of law relating to import and valuation of goods in general, the Foreign Trade Policy and Rules relating to imports, the liability of the goods to confiscation under the provisions of the Custom Act, 1962 and other laws for the time being in force are summarized as under:

- a. As per **Section 46(4) of the Customs Act, 1962**, 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, relating to the imported goods.
- b. **Section 111(d) of the Customs Act, 1962** provides for confiscation of any goods which are imported or attempted to be imported or are brought within the Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force.
- c. **Section 112(a) of the Customs Act, 1962**:- penalty for 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 111, or abets the doing or omission of such an act

7. In view of above, it appears that impugned goods are imported without requisite NFMIMS registration. Therefore, it appears that the goods imported vide impugned bill of entry are liable for confiscation under Section 111(d) of the Customs Act, 1962 and the importer is liable for penalty under Section 112(a) of the Customs Act, 1962.

RECORD OF PERSONAL HEARING AND SUBMISSION OF IMPORTER

8. The Importer vide their letter vide email dated 02.01.2025 submitted that due to oversight they have not registered and not obtained the MINES Registration before filing the Bill of entry and now, they have obtained NFMIMS Certificate Reg. No. MIN202100517841 dt. 02.01.2025 and the same has been uploaded in E-sanchit. They are aware that they have violated the provision of DGFT Not. No. 61/2015-2020 dt. 31.03.2021 and they are ready to pay the applicable minimum penalty. They further submitted that they do not want any Show Cause Notice and Personal Hearing.

DISCUSSION AND FINDINGS

9. I have carefully gone through the fact of the case. I find that M/s. K. M. Marketing (IEC- AKYPA8603P) filed Bill of Entry No. 7449600 dated 25.12.2024

with declared Assessable value and Duty as Rs. 32,15,046/-and Rs. 10,34,112/- respectively. I find that impugned bill of entry been pending in assessment queue on the ground that the importer has not followed the timelines/guidelines of DGFT Notification No. 26/2015-20 dated 10.08.2022 for the NFMIMS registration in the instant case.

10. Now, I take up the above matter in detail. I find that item no. 15 to 22 in the Bill of Entry No. 7449600 dated 25.12.2024 has been declared as "ALUMINIUM PROFILE" under CTH 76042990 having total assessable value of Rs. 17,52,091/-. The above said items imported vide said bill of entry required compulsory NFMIMS registration for importing into India in terms of DGFT Notification No. 26/2015-20 dated 10.08.2022. The importer can apply for said registration not earlier than 60th day before the expected date of arrival of import consignment and the automatic Registration Number thus generated shall remain valid for a period of 75 days. However, in the instant case, the importer has not followed the timelines/guidelines of said DGFT Notification and registration was not completed before Inward date time limit.

11. In the instant case, IGM inward date of Bill of Entry No. 7449600 dated 25.12.2024 is 31.12.2024 whereas NFMIMS registration date is 02.01.2025. Therefore, it is evident that NFMIMS registration has been made after the arrival of the goods. Importer have not applied for NFMIMS registration before IGM inward date. I find that it is nothing but utter negligence on the part of the importer in respect of the compliance at Customs end as it is evident that the Importer has enough time period i.e. 60 days before arrival of import consignment to apply for NFMIMS registration as per DGFT Notification No. 26/2015-20 dated 10.08.2022.

Further I find that importer vide letter dated 02.01.2025 has submitted that due to oversight they have not registered and not obtained the MINES Registration before filing the Bill of entry and now they have obtained NFMIMS Certificate Reg. No. MIN202100517841 dt. 02.01.2025 and the same has been uploaded in E-sanchit. The Importer waived their right of Show Cause Notice and Personal Hearing.

12. Since goods were imported into India without requisite NFMIMS certificate, the impugned goods have been imported without authorization and therefore, are liable for confiscation under Section 111(d) of the Customs Act, 1962, and for his act of omission and commission the importer is liable for penalty under Section 112(a) of the Customs Act, 1962. Since the Importer has submitted NFMIMS registration on date 02.01.2025, therefore, the goods can be cleared for home consumption under the provision of Section 125 (1) of the Customs Act, 1962.

13. Accordingly, I pass the following order:

ORDER

- i. I order for confiscation of the impugned goods mentioned at item no. 15 to 22 imported vide Bill of Entry No. 7449600 dated 25.12.2024 having total assessable value of Rs. 17,52,091/- under Section 111(d) of the Customs Act, 1962. However, I give the importer an option under provision of Section 125(1) of the Customs Act, 1962, to redeem the said goods on payment of redemption fine of **Rs. 1,70,000/- (Rupees One Lakhs Seventy Thousand only)**.
- ii. I impose a penalty of **Rs. 20,000/- (Rupees Twenty Thousand only)** on M/s K. M. Marketing under Section 112(a)(i) of the Customs Act, 1962, for their act of omission and commission.

14. This Order is issued without prejudice to any other action that may be taken against the notice or persons or imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.

Signed by Amit Kumar

Mishra

Date: 04-01-2025 14:36:35
Additional Commissioner of Customs,
Import Assessment,
Customs House, Mundra.

Date: 04-01-2025

To,

M/s K. M. Marketing,
30, R.K. Estate, Behind Ekta Hotel,
Sarkhej, Ahmedabad - 382210

Copy to:

1. The Deputy Commissioner of Customs, Review Section, CH, Mundra
2. The Deputy Commissioner of Customs, TRC, CH, Mundra
3. The Deputy Commissioner of Customs, EDI, CH, Mundra
4. Guard File