



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हड्डकोभवनHUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281
DIN – 20250471MN000042424F

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| क | फाइलसंख्या FILE NO. | S/49-38/CUS/MUN/23-24 |
| ख | अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962): | MUN-CUS-000-APP-004-25-26 |
| ग | पारितकर्ता PASSED BY | Shri Akhilesh Kumar Commissioner of Customs (Appeals), Ahmedabad |
| घ | दिनांक DATE | 09.04.2025 |
| ङ | उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO. | MCH/ADC/MK/164/2022-23, dated 20.02.2023 issued by Additional Commissioner of Customs, Customs House, Mundra |
| च | अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON: | 09.04.2025 |
| छ | अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT: | M/s Seminox Pipes and Tubes Pvt. Ltd., A-602, 6 th Floor, Plot No. 608-609, 212-22, Vithalbhai Patel Road, Topiwala Wadi, Girgaon, Mumbai-400004. |
| 1. | यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागया है। This copy is granted free of cost for the private use of the person to whom it is issued. | |
| 2. | सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन),वित्तमंत्रालय, | |

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| | (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकते हैं। | |
| | Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order. | |
| | निम्नलिखितसम्बन्धितआदेश/Order relating to : | |
| (क) | बैगेजकेरूपमेंआयातितकोईमाल. | |
| (a) | any goods imported on baggage. | |
| (ख) | भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउत्तरेनगएमालयाउसगन्तव्य स्थानपरउत्तरेजानेकेलिएअपेक्षितमालउत्तरेनजानेपरयाउसगन्तव्यस्थानपरउत्तरेगएमालकीमात्रामेंअपेक्षितमालसे कमीहो। | |
| (b) | any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination. | |
| (ग) | सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी. | |
| (c) | Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder. | |
| 3. | पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए : | |
| | The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by : | |
| (क) | कोर्टफीएक्ट, 1870 के मदसं. 6 अनुसूची 1 के अधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए। | |
| (a) | 4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870. | |
| (ख) | सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदि हो | |
| (ब) | 4 copies of the Order-in-Original, in addition to relevant documents, if any | |
| (ग) | पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां | |
| (c) | 4 copies of the Application for Revision. | |
| (घ) | पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु. 1,000/- (रूपएएकहजारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी. आर. 6 कीदोप्रतियां। यदि शुल्क, मांगागयाव्याज, लगायागयादंडकीराशि औररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु. 200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 1,000/-। | |
| (d) | The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-. | |
| 4. | मदसं. 2 के अधीनसूचितमामलोंके अलावा अन्यमामलोंके सम्बन्धमें यदि कोई व्यक्तिइस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवाकर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं। | |
| | In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address : | |
| | सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवाकर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench |

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| | दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016 | 2 nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 |
| 5. | सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए- | Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of - |
| (क) | अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहजाररुपए. | |
| (a) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees; | |
| (ख) | अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो; पांचहजाररुपए | |
| (b) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ; | |
| (ग) | अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो; दसहजाररुपए. | |
| (c) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees . | |
| (घ) | इसआदेशकेविरुद्धअधिकरणकेसामने, मांगेगाएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेहै, यादंडके 10% अदाकरनेपर, जहांकेवलदंडविवादमेहै, अपीलरखाजाएगा। | |
| (d) | An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. | |
| 6. | उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए. | |
| | Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- | |
| | (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees. | |



ORDER-IN-APPEAL

M/s. Seminox Pipes and Tubes Pvt. Ltd., A-602, 6th Floor, Plot No. 608-609, 212-22, Vithalbhai Patel Road, Topiwala Wadi, Girgaon, Mumbai - 400004 (hereinafter referred to as "the Appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order-in-Original No. MCH/ADC/MK/164/2022-23, dated 20.02.2023 (hereinafter referred to as "the impugned order") issued by the Additional Commissioner of Customs, Customs House, Mundra (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that the Appellant had filed three Bills of Entry bearing No. 4262229, dated 24.12.2022 (Container No. CSNU8352440), No. 4307513, dated 22.01.2023 (Container No. WHSU5462311) and No. 4322072, dated 23.01.2023 (Container No. WHSU5111322) for import of goods declared as Stainless - Steel Seamless Pipes (Cold rolled) from China with total weight of 85.901 MTs. Intelligence was gathered by the officers of SIIB, Custom House, Mundra that some importers, including the Appellant, were evading Anti-Dumping Duty on imports of Stainless - Steel Seamless Tubes and Pipes with specifications of diameters up to and including 6 NPS, or comparable thereof after issuance of Notification No. 31/2022 - Customs (ADD), dated 20-12-2022. It was observed that the aforesaid 03 Bills of Entry were not filed with ADD notification. Accordingly, the above mentioned containers were examined and it was found that the consignment of imported goods consisted of 'Stainless-Steel Seamless Pipes (Cold rolled) having dimension as 42.2 x 3.5, 88.9 x 5.5, 114.3 x 6.02, 219.1 x 12.7, 43.21 x 3.38, 168 x 7, 219 x 8, 43.21 x 4.55, 48 x 3.68, 60.3 x 3.91, 88.9 x 5.5, 114 x 6 (all in mm).

2.1 Further, it was observed that out of total weight of 85.901 MTs of consignment, 61.131 MTs of pipes were found to have diameter much below 6NPS or 168.3 mm and that goods appeared to be covered under Serial No. 10 of Notification No. 31/2022 - Customs (ADD), dated 20-12-2022 which prescribes that Stainless-Steel Seamless Tubes and Pipes (with diameter up to and including 6 NPS) having origin in China PR and produced by any manufacturer is leviable to Anti-Dumping Duty @ 3801 USD per MT.

2.2. Further, it appeared that the Appellant had failed to mention the correct configuration/size of the imported goods which eventually impacted the leviability of ADD on such goods. Further, the Appellant vide their letter dated 20.02.2023 had requested that they do not require any SCN or Personal Hearing in the case. Thereafter, the request of the Appellant was considered and the case was decided vide impugned order, without issuing any show cause notice and passing orders as under:

- i. It was ordered to re-assess the 03 Bills of Entry No. 4262229, dated 24.12.2022, No. 4307513, dated 22.01.2023 and No. 4322072, dated 23.01.2023 under Section 17 (4) of the Customs Act, 1962 with imposing Anti-Dumping Duty leviable in terms of Notification No. 31/2022 - Cus (ADD), dated 20-12-2022.
- ii. It was ordered for confiscation of the goods imported under 03 Bills of Entry No. 4262229, dated 24.12.2022, No. 4307513, dated 22.01.2023 and No. 4322072, dated 23.01.2023 as goods declared are in contravention of Section 46 of the Act and are liable for confiscation under Section 111(m) of the Customs Act, 1962. However, an option was given to re-deem the goods in lieu of confiscation under Section 125 of Customs Act, 1962 on payment of Redemption Fine of Rs. 5,00,000/-.
- iii. Penalty of Rs. 10,00,000/- was imposed on the Appellant under Section 112(a)(ii) of the Customs Act, 1962.

3. Being aggrieved with the impugned order, the appellant have filed the present appeal and mainly contended that;

- That non mentioning of the diameter in the Bills of Entry does not amount to mis declaration and there is no dispute over description and classification of the goods, therefore, the goods are not liable for confiscation under Section 111 (m) of Customs Act, 1962.
- That 64.131 MTs out of total 85.901 MTs were found to be liable for ADD, so re assessment of entire quantity covered under 03 Bills of Entry and imposition of fine and penalty is not legal.
- That the Bills of entry were prepared on the basis of documents like Invoice, Packing List, Bill of Lading etc. that were received from the supplier. Since these documents did not mention the specifications, the same was not mentioned in the Bills of Entry prepared on the basis of such documents.
- That that fine was imposed to wipe out profit. In this case, it is an admitted position that there was no requirement to deposit any amount towards anti-dumping duty in as much as it was ordered to be debited in the bond executed by the appellant for taking clearance against advance authorization. In result, no profit was accrueable to the appellant. Consequently, it is submitted that no fine is imposable on the goods under consideration.

4. Shri Vikas Mehta, Consultant, appeared for personal hearing on 27.12.2024 on behalf of the Appellant. He reiterated the submission made in the appeal memorandum.

5. It is observed that the present appeal has not been filed within 60 days as prescribed under Section 128 of the Customs Act, 1962. An application for Condonation of delay has been filed by the Appellant, wherein it is stated that the appeal was required to be filed before 22.04.2023, whereas the appeal has been filed on 19.05.2023 i.e. there is delay of 26 days. In the Condonation of delay application, it is submitted that the appeal could not be filed within the prescribed time limit owing to the fact that the Appellant was compelled to change the legal counsel. The Appellant thereafter appointed the present counsel and got the appeal drafted on top priority basis after collecting the papers and forwarding them to the present counsel causing the delay of 26 days. In this regard, I am of the considered view that it is a settled principle of jurisprudence to take lenient view in such cases. Hence, I exercise the powers granted under proviso to sub-section (1) of Section 128 of the Customs Act, 1962 and condone the delay in filing the appeal and take up the matter for decision on merit.

6. I have gone through the appeal memorandum filed by the Appellant, records of the case and submissions made during personal hearing. The issues to be decided in present appeal are whether the impugned order passed by the adjudicating authority for re assessment of 03 Bills of Entry No. 4262229, dated 24.12.2022, No. 4307513, dated 22.01.2023 and No. 4322072, dated 23.01.2023 under Section 17(4) of the Customs Act, 1962 with imposing ADD in terms of Notification No. 31/2022 - Customs (ADD), dated 20-12-2022, confiscation of imported goods under Section 111(m) of the Customs Act, 1962, imposing redemption fine under Section 125 of the Customs Act, 1962 and imposing penalty on the Appellant under Section 112(a)(ii) of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1. I find that the Appellant had imported consignment of goods declared as Stainless-Steel Seamless Pipes (Cold Rolled) from China PR under 03 Bills of Entry No. 4262229, dated 24.12.2022, No. 4307513, dated 22.01.2023 and No. 4322072, dated 23.01.2023 with total weight of 85.901 MTs without mentioning the ADD Notification. During examination, it was found that the diameter of 64.131 MTs of the total consignment is below 6 NPS. Further, as per Serial No. 10 of Notification No. 31/2022 - Customs (ADD), dated 20-12-2022 the import of Stainless-Steel Seamless Tubes and Pipes (with diameter up to and including 6 NPS) having origin in China PR and produced by any manufacturer is liable to Anti-Dumping Duty (ADD) @3801 USD per MT. In view of the same, it is held that the consignment of 64.131 MTs is liable for ADD. Further, it is observed that the instant imports under all 03 Bills of Entry

have been made under Advance Authorization No. 0311020699, dated 13.01.2023.

6.2. It is further observed that the Appellant has contended that only 64.131 MTs out of total 85.901 MTs were found to be liable for ADD, so re assessment of entire quantity covered under 03 Bills of Entry is not legal. In this regard, it is observed that the adjudicating authority has in Para 4.4 of the impugned order determined the total differential duty leviable on the imported goods, after levying ADD, as Rs. 2,38,04,932/-. The duty liability determined in the impugned order is inclusive of the ADD for 03 Bills of Entry, amounting to Rs. 2,01,73,670/-. However, it is observed that the Appellant has neither contested the quantum of the ADD determined by the adjudicating authority in the impugned order nor provided any quantification of the ADD to be imposed on 64.131 MTs @3801USD PMT in terms of Serial No. 10 of Notification No. 31/2022 - Customs (ADD), dated 20-12-2022. Therefore, the contention of the Appellant regarding re-assessment of entire quantity covered under 03 Bills of Entry is not maintainable on facts.

6.3. Further, adjudicating authority vide the impugned order has also confiscated the impugned goods under Section 111(m) of the Customs Act, 1962 and allowed their release on Redemption fine under Section 125 of the Customs Act, 1962. The adjudicating authority has also imposed penalty under Section 112(a)(ii) of the Customs Act, 1962 on account of mis-declaration by the Appellant. In this regard, the Appellant have contended that they had filed Bills of entry on the basis of documents like Invoice, Packing List, Bill of Lading etc. that were received from the supplier. Since these documents did not mention the specifications, they had not mentioned the details of ADD Notification in the Bills of Entry. However, this *per se* cannot be held against them.

6.4. In this regard, I have perused the relevant Section 111(m) of the customs Act, 1962 and the same is reproduced hereunder:

"111. Confiscation of improperly imported goods, etc.

- The following goods brought from a place outside India shall be liable to confiscation: -

....
(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54].

....

It is observed that the imported goods have not been found to be mis-declared in respect of valuation or any other particular and description or classification of goods have also not been disputed. The Appellant have made the declarations in the Bill of Entry as per the documents received from the supplier. Further, it is observed that the declaration of the configuration/size of the imported goods would not have impacted the duty implications as the goods have been cleared against the Advance authorization. Further, it is observed that adjudicating authority vide Para 4.6 of the impugned order stated that the instant imports under all 03 Bills of Entry have been made under Advance Authorization No. 0311020699, dated 13.01.2023 wherein the Appellant was not required to discharge the Customs Duty on the imports in lieu of fulfilling the Export Obligations and the total duty, from all 03 Bills of Entry, has been secured by debiting the Bond against valid Advance Authorisation. Goods imported under Advance Authorization Scheme are exempted from various duties, including Basic Customs Duty (BCD), Additional Customs Duty (CVD), Education Cess, Anti-Dumping Duty, Safeguard Duty, Integrated Goods and Services Tax (IGST), and Compensation Cess. In view of the above, it is observed that the main ingredient of the Section 111(m) of the Customs Act, 1962 i.e. mis-declaration of the valuation or any other particular is not present in the matter. Merely not making proper entries of the details of ADD in the Bill of Entry and configuration/size of the imported goods while declaring all other goods related details correctly does not attract the confiscation of the impugned goods under Section 111(m) of the Customs Act, 1962.

6.5. In this regard, I rely upon the decision of Hon'ble Tribunal, Mumbai in the case of LEXMARK INTERNATIONAL (I) P. LTD Vs C.C. (IMPORTS), NAVA SEHVA [2011 (274) E.L.T. 556 (Tri. - Mumbai)] wherein the Hon'ble Tribunal while interpreting Section 111(m) of the Customs Act, 1962, held that the goods can be confiscated only when there is any mis-declaration of the goods as declared in the bill of entry or for any valuation mismatch. The relevant paras are reproduced as under:

"6. Section 111(m) of the Customs Act provides for confiscation of the goods only if the goods declared in the bill of entry do not correspond in respect of the value or in any other material particular with the entry (bill of entry) made under the Act. In this case, the appellants had declared the goods correctly as laser printers and parts and also classified them under Heading 8471.60 in respect of printers and Heading 8473.30 in respect of parts of printers of the Customs Tariff which has also been accepted by the Customs. Further, the Customs have also accepted the transaction value declared by the appellants in the bill of entry for determination of the basic Customs duty. Only in

respect of computation of CVD, there is a dispute between the importer/appellant and the department. The department was of the view that the CVD assessment should be done on MRP basis whereas, the importer appellant felt that it should not be on that basis. Finally, the Customs assessed the goods to CVD on MRP basis, which importer accepted and discharged the liability accordingly. Merely because the appellant had sought an exemption from RSP based assessment in respect of CVD, it does not amount to any misdeclaration on the part of the importer. Therefore, in the instant case, the provisions of Section 111(m) are not attracted at all.

7. In view of the above legal and factual position, confiscation under Section 111(m) of the Customs Act, 1962 is not justified and consequential imposition of fine in lieu of confiscation under Section 125 of the said Customs Act, is also not correct. Accordingly, I set aside the confiscation and consequent imposition of fine in lieu of confiscation. Imposition of penalty under Section 112(a) is attracted only when the goods are liable to confiscation. As discussed above, since confiscation of goods has been set aside, penalty under Section 112 of the Customs Act is also not sustainable and is set aside.

8. The appeal is allowed, with consequential relief, if any, on the above terms."

6.6. I also rely upon the decision of Hon'ble Tribunal, Mumbai, in the case of LSML Pvt. Ltd. Vs Principal Commissioner of Customs, Chennai [2023 (383) E.L.T. 75 (Tri. - Chennai)] wherein, the ADD was imposed on the appellant, however confiscation, redemption fine and penalties were set aside. The relevant paras are reproduced as under:

"20. However, we find that confiscation and imposition of redemption fine are not warranted as here was nothing that the appellant-importers have consciously suppressed or misrepresented. If ADD escaped assessment, the department is free to demand the same as per provisions of Customs Act, 1962. However, for the same reason, goods cannot be confiscated and penalty cannot be imposed. Therefore, we set aside the confiscation of the goods, imposition of redemption fine and various penalties. For this reason, we find that department appeal has no merit and needs to be rejected except on levy of interest under Section 28AA on ADD of Rs.79,55,066/- in respect of goods cleared vide BE No.3056014 dt. 31.08.2017 which we have already upheld."



[Signature]

7. In view of the statutory provisions and respectfully following the decisions of Hon'ble Tribunals as discussed above, I am of the considered view that confiscation of the imported goods under Section 111(m) of the Customs Act, 1962 in the impugned order is not legally sustainable. Since the primary condition, i.e. confiscation of goods, to impose the Redemption fine under Section 125 and penalty under Section 112(a)(ii) of the Customs Act, 1962, is not sustained. Therefore, the impugned order imposing Redemption fine under Section 125 and penalty under Section 112(a)(ii) of the Customs Act, 1962 are also liable to be set aside.

8. In view of the discussions made above, I allow the appeal and set aside the impugned order to the extent of confiscating the goods under Section 111(m) of the Customs Act, 1962 and imposing redemption fine under Section 125 of the Customs Act, 1962 and imposing penalty on the Appellant under Section 112(a)(ii) of the Customs Act, 1962.



Akhilesh Kumar
93 April, 2025.
(AKHILESH KUMAR)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

F.Nos. S/49-38/CUS/MUN/23-24

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Dated – 09.04.2025

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- 1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
- 2. The Commissioner of Customs, Customs, Mundra.
- 3. The Additional Commissioner of Customs, Customs House, Mundra.
- 4. Guard File.