



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंजिल 4th Floor, हड्को भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20251171MN0000555A24

क	फाइल संख्या FILE NO.	S/49-117/CUS/MUN/24-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-410-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	18.11.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/53/2024-25 dated 05.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	18.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Cargo Care B-109, DDA Shed, Okhla Industrial area , Phase - 1 New Delhi-110020



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते 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.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(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)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	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)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(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)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(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.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस 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 सेवा कर 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 :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td style="vertical-align: top;">दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-</p> <p>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 -</p> <p>(क) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रुपए.</p> <p>(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;</p> <p>(ख) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रुपए</p> <p>(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 ;</p> <p>(ग) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रुपए.</p> <p>(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</p> <p>(घ) इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।</p> <p>(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.</p>				
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.				
	<p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



ORDER-IN-APPEAL

Appeal has been filed by M/s Cargo Care, B-109, DDA Shed, Okhla Industrial area, Phase-1, New Delhi-110020, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AK/53/2024-25 dated 05.06.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that M/s Mahaveera Enterprises (IEC: AWUPJ5772C) (hereinafter referred to as "the importer") filed Bill of Entry for import of goods declared as "Cold Rolled Stainless Steel declared J3 Ex Stock" from their supplier M/s Foshan Lixin Stainless Steel Co. Ltd. at Mundra Port through their Customs Broker M/s Cargo Care i.e appellant.

TABLE-A

Exchange Rate: 1 USD = INR 84.10

Bill of Entry No. & Date	Description of Goods	CTH	Qty (Net Wt) Kgs	Declared Value in (INR)	Qty. (Net wt.) Kgs.	Declared Duty Payable (INR)
8700207 dated 09.11.2023	Cold Rolled Stainless Steel Coils Grade J3 Ex Stock	72199090	52783	4885858	52783	1355093

2.1 However, during physical examination of the imported goods, the goods were found to be of Grades J1 and J3 as per PMI (Positive Material Identification) Testing. Further, as per Circular dated 20.10.2023 issued by Ministry of Steel, it is mandatory for all the steel Importers to apply and seek clarification for each and every consignment which is imported in the country without BIS license/certification. Further, vide CBIC letter F.No.401/88/2023-Cus.III dated 09.11.2023, it is further clarified that mandatory clarification is required only for steel products of those ITCHS codes which have been mapped with the Indian Standards notified under the Quality Control Order issued by Ministry of Steel. Accordingly, as declared CTH 72199090 was mapped with the Indian Standards notified under the Quality Control Order issued by Ministry of Steel, therefore, mandatory clarification/NOC from Ministry of Steel was




required in the instant case before clearance of the said goods.

2.2 The Importer submitted BIS NOC dated 15.01.2024 in Customs for clearance of the said goods, however, the same was submitted for Grade J2 and quantity of 58337 kgs. The Grade of the Steel Coils and Quantity were different in the said NOC/clarification, therefore, the same appeared as fake BIS NOC/clarification. RMS Cell, Dock Examination Section vide e-mail dated 19.01.2024 forwarded the said NOC for verification of genuineness. In reply, Ministry of Steel vide e-mail dated 19.01.2024 stated that 'the attached letter has not been issued by Ministry of Steel'. The Importer vide letter dated 02.03.2024 submitted that no such NOC letter from Ministry of Steel was submitted by them to Customs either directly or through their authorised CHA. Further, they destuffed the goods into warehouse due to non-availability of BIS Certificate when they received license from DGFT, they found that no data against BE No. 8700207 dated 09.11.2023 had existed in EDI System, hence, they had to file new BE No. 2211093 dated 26.02.2024. The Importer further requested to release the goods. From EDI System, it was observed that details in respect of BE No. 8700207 dated 09.11.2023 were not available in EDI System as it was purged due to non-regularization of Advance BE. Further, BE No. 2311093 dated 26.02.2024 was filed under Advance Authorization No. 0511023959 dated 14.02.2024 with following details:

TABLE-B

Exchange Rate: 1 USD = INR 83.90



Bill of Entry No. & Date	Description of Goods CTH	CTH	Net Qty. (Nett wt.) Kgs.	Declared Value (INR)	Declared Duty Payable (INR)	Total Duty foregone (INR)
2311093 dated 26.02.2024	Cold Rolled Stainless Steel Coils Grade J3 Ex Stock	72199090	52783	4871343.07	NIL (filed under Advance Authorization No. 0511023959 dated 14.02.2024)	1351067/-

2.3 The Importer, vide letter dated 07.03.2024, submitted that no such BIS NOC was ever submitted either by them directly or through their CHA Cargo Care to Customs. The Importer further submitted that they did not agree with the PMI Test result and requested to allow Chemical Testing of sample by competent laboratory to ascertain exact grade/composition of the goods imported by them against the said B/E. Further, the Competent Authority approved the request of the Importer to send Representative Sealed Sample to

CRCL Kandla for chemical testing thereof. Vide Test Report No. 133/05-04-24, it was reported that:

"The sample as received is in the form of a irregular cut piece of metallic sheet having shiny, smooth surface on both side.

It is made of Stainless Steel having following composition.

Average Thickness of the Metallic Sheet (in mm) = 0.60 Percentage of Chromium Content (% by weight) = 14.39 Percentage of Nickel Content (% by weight) = 1.02 Percentage of Manganese Content (% by weight) = 10.60.

The above tested parameters agrees with Stainless Steel Grade ISS NI as mentioned in IS 6911. Sealed remnant sample returned herewith. "

As per Test Report No. 133/05-04-24, the imported goods were found to be of Stainless Steel Grade N1 which attract BIS as per Quality Control Order (QCO) issued by Ministry of Steel.

2.4 Valuation of imported goods for the purposes of calculation of Customs duties is governed by the provisions of Section 14 of the Customs Act, 1962. Further, the Customs Valuation (Determination of Price of imported goods) Rules, 2007 (here-in-after referred to as the 'CVR, 20-7'), having been framed under the provisions of Section 14, provide for determination of value in a variety of situations. More specifically, Rule 12 of Customs Valuation (Determination of Value of Imported goods) Rules, 2007 provides for rejection of the declared value when there is a doubt that the declared value does not represent the true transaction value. The declared value can also be rejected in case the parameters such as description, quantity, country of origin, brand, grade, specification etc., that have relevance to the value, are mis-declared. Further, Rule 3 of the CVR, 2007 provides that subject to Rule 12, value of the goods shall be the Transaction Value adjusted in accordance with Rule 10.....". Rule 12 of the CVR, 2007, in turn, provides that when the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the Importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of the Importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3. Further, as per Rule 3 (4). "If the value cannot be determined under the provisions of sub-rule (1), the value shall be determined

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by proceeding sequentially through rules 4 to 9". 13. Thus, in terms of Rule 12 of the said CVR, 2007, value declared by an Importer can be rejected in certain circumstances. Explanation (1) to the said Rule 12 ibid lists out certain reasons based upon which the proper officer has the powers to raise doubts on the accuracy of the declared value. Mis-declaration of the description of the goods is one such reason.

2.5 In the impugned imports, the description of the goods had been mis-declared inasmuch as that the "Cold Rolled Stainless Steel Coils Grade N1 Ex Stock" has been mis-declared as "Cold Rolled Stainless Steel Coils Grade J3 Ex Stock" as evident from the above mentioned Test Report of CRCL Kandla. It, therefore, appeared that the declared value of Rs. 4871343/- was liable to be rejected under the provisions of Rule 12 of the CVR, 2007 and liable to be re-determined by proceeding sequentially through Rules 4 to 9. 14. As per Rule 4 of the CVR, 2007, subject to the provisions of Rule 3, the value of imported goods shall be the Transaction Value of identical goods sold for export to India and imported at or about the same time as the goods being valued, subject to certain conditions and parameters. 'Identical goods' are defined as those imported goods which are same in all respects including physical characteristics, quality, reputation as the goods being valued except for minor differences in appearance that do not affect value of the goods. Scrutiny of import data available in the Customs database revealed following contemporaneous imports of consignments of "Cold Rolled Stainless Steel Coils Grade NI Ex Stock" from same supplier, same country of origin, same country of export, same port of shipment, having substantially same quantity and assessed on final basis & out of charged:

TABLE- C

Sr. No.	BE Number	BE Date	Name of Supplier	Description of Goods	Net Weight	Unit Price (CIF)
1	8871730	21.11.2023	M/s Foshan Lixin Stainless Steel Co. Ltd.	Cold Rolled Stainless Steel Coils Grade NI Ex Stock	55332 kgs	1.32 USD per kg
2	9495485	01.01.2024	M/s Foshan Lixin Stainless Steel Co. Ltd.	Cold Rolled Stainless Steel Coils Grade NI Ex Stock	47582 kgs	1.32 USD per kg

It therefore appeared that unit price of 1.32 USD per kg could be considered to be fair value. This appeared to be consistent with the provisions of Rule 4 of the CVR, 2007. Unit price of 1.32 USD per kg was accordingly proposed to be adopted for the purpose of assessment to duty. Further, the applicable Customs

duty on the impugned goods is calculated as detailed below:



TABLE-D

Exchange Rate: 1 USD = INR 83.90

Bill of Entry No. and Date	Description of Goods	Weight (KGS)	Price per KG in USD (CIF)	Price per KG (INR) Exchange Rate: 1 USD = INR 83.90	Total Ass. Value (INR)	Total Duty Payable (INR)	Total Duty foregone (INR)
2311093 dated 26.02.2024	Cold Rolled Stainless Steel Coils Grade NI, Ex Stock	52783	1.32	110.748	58,45,611.684	NIL (filed under Advance Authorization No. 0511023959 dated 14.02.2024)	16,21,280
					Rs. 162		
	Total Duty foregone				1280		
	Duty Declared as foregone				Rs. 1351067		
	Differential Duty foregone				Rs. 2,70,213		

2.6 In view of the above, it appeared that the Importer mis-declared the description of goods imported vide Bill of Entry as Cold Rolled Stainless Steel Coils Grade J3 Ex Stock instead of Cold Rolled Stainless Steel Coils Grade NI Ex Stock for evasion of duty foregone amounting to Rs. 2,70,213/- . Therefore, the imported goods having re-determined assessable value of Rs. 58,45,611.68 appeared liable for confiscation under Section 111(m) of the Customs Act, 1962. Further, the impugned goods viz. Cold Rolled Stainless Steel Coils Grade N1 Ex Stock require mandatory BIS Registration for clearance as per provisions contained in the Steel and Steel Products (Quality Control) Order, 2024 dated 05.02.2024 issued by the Ministry of Steel, Government of India. With effect from 12.10.2017, Section 17 of the BIS Act, 2016 specifically prohibits the import of goods or articles notified vide an order under Section 16(1) of BS Act, 2016 without a Standard Mark, except under a valid licence. It appeared that the Importer had imported the impugned goods without valid mandatory BIS license required as per the provisions of Steel and Steel Products (Quality Control) Order, 2024. In absence of valid BIS license, the above said goods appeared to become prohibited for import in India and appeared liable for confiscation under Section 111(d) of the Customs Act, 1962.




2.7 In addition, it also appeared that the Importer submitted fake/forged Ministry of Steel NOC for clearance of the imported goods. Therefore, the imported goods appeared liable for confiscation under Section 111(m) of the Customs Act, 1962. Further, as the Importer submitted fake/forged Ministry of Steel NOC for clearance of the imported goods, therefore, the Importer also appeared to be liable for penalty under Section 114AA of the Customs Act, 1962.

2.8 Being Custom Broker (CB), M/s Cargo Care i.e the appellant was bound to comply with Customs Brokers Licensing Regulations (CBLR), 2018. As per CBLR, 2018, it is the duty of a Customs Broker (CB) to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. However, the appellant failed to advise their client M/s Mahaveera Enterprises regarding submission of genuine BIS NOC from Ministry of Steel. Further, the appellant failed to discharge their duties properly as they did not bring the fact of submission of forged/counterfeit BIS NOC to the notice of the Customs. Therefore, it appeared that the appellant had contravened Customs Brokers Licensing Regulations (CBLR), 2018 made under Section 146(2) of the Customs Act, 1962. From above, it appeared that the appellant is liable for penal action under Section 117 of the Customs Act, 1962.

2.9 The Importer vide letter dated 24.04.2024 submitted that they had obtained Advance License No. 0511024888 dated 05.04.2024 from DGFT and that they do not want any show cause notice and personal hearing and further requested to decide the case taking a lenient view.

2.10 The appellant, vide letter dated 07.03.2024, submitted that no such NOC/document was ever submitted by them to Customs and that the Importer never handed over to them any such document. The appellant vide letter dated 24.04.2024 re-iterated that no such NOC/document was ever submitted by them to Customs and further submitted that the said document was given to them by Supdt. Shri Rajesh Kumar Meena on 20.01.2024 stating that someone from Sadguru Logistics handed over it to him (Shri Rajesh Kumar Meena). The appellant further submitted that since they could not verify the authenticity of the said document, hence, they did not upload it in e-Sanchit. The appellant further requested to grant Personal Hearing to them and submitted that they did



not want any show cause notice. The appellant vide letter dated 29.04.2024 reiterated the submissions made vide their letter dated 24.04.2024 and authorised G card Holder Shri Rakesh Sharma to attend the personal hearing on behalf of the appellant. During Personal Hearing on 29.04.2024, Shri Rakesh Sharma, G card Holder and authorised representative of the appellant M/s Cargo Care, submitted that they never submitted any NOC to Customs department. He further submitted that they never received any NOC from the Importer to submit to the Customs department. He pleaded that since they did not submit the said NOC, they are not liable for any penalty.

2.11 Consequently, the Adjudicating Authority passed the following order:

- i. He rejected the declared transaction value of Rs. 4871343/- of the goods imported vide Bill of Entry No. 2311093 dated 26.02.2024 (originally imported vide purged Bill of Entry No. 8700207 dated 09.11.2023) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods), Rule, 2007 read with Section 14 of the Customs Act, 1962. He ordered to re-determine the same Rs. 58,45,612/- under Rule 9 of the CVR, 2007 read with Section 14 of the Customs Act, 1962. He ordered re-assessment of the goods imported vide Bill of Entry No. 2311093 dated 26.02.2024 accordingly including amendment of description and value of the goods.
- ii. He ordered confiscation of the goods imported vide Bill of Entry No. 2311093 dated 26.02.2024 (originally imported vide purged Bill of Entry No. 8700207 dated 09.11.2023) having re-determined assessable value of Rs. 58,45,612/- under Section 111(m) of Customs Act, 1962. However, he gave an option to the Importer M/s. Mahaveera Enterprises to re-deem the goods under provisions of Section 125 of Customs Act, 1962 on payment of Redemption Fine of Rs.8,00,000/- (Rs. Eight lakh Only)
- iii. He ordered to impose a penalty of Rs. 15,000/- (Rs. Fifteen Thousand only) on the Importer M/s Mahaveera Enterprises under Section 112(a)(ii) of Customs Act, 1962;
- iv. He refrained from holding the goods imported vide Bill of Entry No.



2311093 dated 26.02.2024 having re-determined assessable value of Rs. 58,45,612/-, liable to confiscation under Section 111(d) of Customs Act, 1962.

- v. He refrained from imposition of penalty under Section 112(a)(i) of Customs Act, 1962 on the Importer M/s Mahaveera Enterprises.
- vi. He ordered to impose a penalty of Rs. 8,00,000/- (Rs. Eight Lakh only) on the Importer M/s Mahaveera Enterprises under Section 114AA of Customs Act, 1962.
- vii. He ordered to impose a penalty of Rs. 1,00,000/- (Rs. One Lakh Only) under Section 117 of Customs Act, 1962 on the CB M/s Cargo Care.
- viii. He further ordered that the goods imported vide Bill of Entry No. 2311093 dated 26.02.2024 (originally imported vide purged Bill of Entry No. 8700207 dated 09.11.2023) were to be released only after payment of applicable duties, fine and Penalties as above.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal wherein they have submitted grounds which are as under:-

3.1 The appellant has submitted that the Adjudicating Authority has gravely erred in his finding that the Appellant contravened Regulation 10(4) of the Customs Broker Licensing Regulations (CBLR), 2018. The Appellant has submitted that Regulation 10(4) stipulates that CB shall advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. The Appellant has submitted that in the present case they have never advised Importer to file fabricated NOC issued by Ministry of Steel to the Customs department and till the time they received communication from the Department, they were not aware about the fake NOC submitted with Customs.



3.2 The Adjudicating Authority has gravely erred in his finding that the Appellant failed to discharge its duty as they did not bring the fact of submission of 'forged' counterfeit NOC to the notice of Customs department. The Appellant has submitted that they were not aware that any fake NOC had been submitted to the Customs department till they received communication from the department. Besides there is no allegation much less any evidence in the entire Order that Appellant had submitted fake NOC on behalf of the importer or wrongly advised the importer.

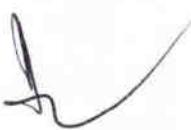
3.3 The Adjudicating Authority has gravely erred in imposing penalty on the Appellant under Section 117 of the Customs Act which stipulates that Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees. The Appellant has submitted that in the facts and circumstances of the case no act of the Appellant as stated in the entire case, attracts penalty under Section 117 of the Customs Act, 1962.

3.4 The Adjudicating Authority has gravely erred in imposing penalty under Section 117 of the Customs Act 1962 for violation of Regulations of CBLR, 2018 which is patently wrong. Appellant has submitted that the Customs Act, 1962 and Customs Brokers Licensing Regulations, 2018 are different and mutually exclusive in nature.

3.5 The Adjudicating Authority failed to appreciate that in the impugned Order, learned Respondent himself recorded in para 23 that Appellant vide letters dated 07.03.2024, 24.04.2024 and 29.04.2024 as well as during personal hearing clearly stated that they never submitted any NOC to the Customs department nor they ever received any NOC from the Importer to submit to the Customs department, however imposed penalty on the Appellant for the same which is contrary to record.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 02.07.2025, following the principles of natural justice wherein Ms. Reena Rawat, Advocate, appeared for the hearing and she re-iterated the submissions made at the time




of filing the appeal. As the appellant had not submitted the pre-deposit challan in their own name, next personal hearing was held on 07.11.2025 wherein Ms. Reena Rawat, Advocate, appeared for the hearing and she submitted the pre-deposit challan and re-iterated the submissions.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that following issues required to be decided in the present appeals which are as follows:

- (i) Whether the Appellant (Customs Broker) contravened Regulation 10(d) of the Customs Broker Licensing Regulations (CBLR), 2018.
- (ii) Whether the imposition of penalty under Section 117 of the Customs Act, 1962, is legally sustainable for contravention of CBLR, 2018.
- (iii) Whether the quantum of penalty imposed is proportionate.

5.2 Regulation 10(d) of the CBLR, 2018, is a crucial provision that casts a significant responsibility on Customs Brokers. It states that a Customs Broker shall:

"advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be."

5.3 Customs Brokers occupy a pivotal position in the import-export trade. They act as intermediaries between importers/exporters and Customs authorities. The nature of their license and the trust reposed in them by the Department necessitate a very high degree of diligence and responsibility. In the present case, the importer (M/s Mahaveera Enterprises) was found to have mis-declared the grade of steel (J3 vs. N1), a material particular. More critically, a fake BIS NOC was submitted for the clearance of the consignment. While the Appellant denies direct involvement in submitting the fake NOC, their statutory



duty under Regulation 10(d) extends to advising their client on compliance and, crucially, to bringing instances of non-compliance (like the mis-declaration or the fake NOC) to the notice of the proper officer. The adjudicating authority's finding that the Customs Broker "failed to bring the matter of the said non-compliance to the notice of the proper officer" is a direct finding of contravention of Regulation 10(d). Therefore, given the established mis-declaration by the client and the presence of a fake BIS NOC related to the consignment, the Appellant's failure to effectively ensure client compliance and, more importantly, to report the specific non-compliance (the fake NOC) to the proper officer constitutes a clear contravention of Regulation 10(d) of CBLR, 2018.

5.4 The Appellant argues that the Customs Act and CBLR are "different and mutually exclusive," implying that a CBLR violation cannot attract a Section 117 penalty. This argument is legally unsound. Section 117 of the Customs Act, 1962, is a residuary penalty provision. It states: "Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.". The Customs Broker Licensing Regulations, 2018, are framed by the Central Board of Indirect Taxes and Customs (CBIC) in exercise of powers conferred by Section 146(2) of the Customs Act, 1962. This means that the CBLR are rules/regulations made under the Customs Act. Therefore, a contravention of any provision of the CBLR is, by definition, a contravention of "any provision of this Act" (read as "any provision of this Act or rules/regulations made thereunder") for the purpose of Section 117. Therefore, the imposition of penalty under Section 117 of the Customs Act, 1962, for contravention of CBLR, 2018, is legally sustainable.

5.5 The adjudicating authority imposed a penalty of ₹1,00,000/- on the Customs Broker. The Appellant argues this is excessive. The contravention involves a failure of statutory duty by a Customs Broker in a case where the client was involved in mis-declaration of goods and the submission of a fake BIS NOC. Such acts have serious implications for revenue collection, trade facilitation, and national security (in the context of quality control). The integrity of the import process heavily relies on the diligence of Customs Brokers.

5.6 The imposed penalty of ₹1,00,000/- under Section 117, is well within this statutory limit. Considering the gravity of the contravention and the



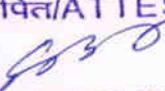
Customs Broker's pivotal role, the penalty imposed cannot be considered disproportionate. *Hindustan Steel Ltd. vs. State of Orissa (supra)*, cited by the Appellant, suggests that penalties should not be imposed for mere technical breaches without mens rea. However, the failure of a Customs Broker to discharge their statutory duty under Regulation 10(d), especially in a case involving mis-declaration and a fake document, is not a mere technical breach. It represents a significant lapse in professional responsibility. The mens rea here is not necessarily an active criminal intent to defraud but rather a failure to act with the required diligence and to report non-compliance, which is a breach of a positive statutory obligation. Therefore, the quantum of penalty imposed is proportionate to the gravity of the contravention.

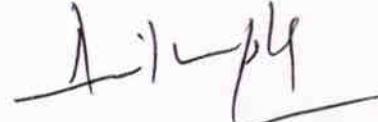
6. In view of the detailed discussions and findings above, this appellate authority concludes that the appeal filed by M/s Cargo Care is not sustainable on merits. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) The finding that the Appellant (M/s Cargo Care) contravened Regulation 10(d) of the Customs Broker Licensing Regulations, 2018, as confirmed by the impugned Order-in-Original No. MCH/ADC/AK/53/24-25 dated 05.06.2024, is hereby upheld.
- (ii) The imposition of penalty of ₹1,00,000/- on M/s Cargo Care under Section 117 of the Customs Act, 1962, as confirmed by the impugned order, is hereby upheld.

7. The appeal filed by M/s Cargo Care is hereby rejected.



सत्यापित/ATTESTED

 अधीक्षक/SUPERINTENDENT
 सीमा शुल्क (अपील), अहमदाबाद
 CUSTOMS (APPEALS), AHMEDABAD


 (AMIT GUPTA)
 Commissioner (Appeals),
 Customs, Ahmedabad

By Speed Post/E-Mail

To,
M/s Cargo Care
B-109, DDA Shed, Okhla
Industrial area , Phase -1
New Delhi-110020

Copy to:

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

