



सीमा शुल्क(अपील) आयुक्त का कायालिय, अहमदाबाद

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

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

DIN - 20251071MN0000818179

क	फ़ाइल संख्या FILE NO.	S/49-82/CUS/MUN/2024-25
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-379-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.10.2025
ड	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/25/2024-25 dated 29.04.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Shrutam Metals Private Limited, Basement Shed No 23 Wazirpur Industrial Area, Delhi-110052



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 style="vertical-align: top;">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 style="vertical-align: top;">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; पाँच 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.	<p>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> <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 Shrutam Metals Private Limited, Basement Shed No 23 Wazirpur Industrial Area Delhi-110052, (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/25/2024-25 dated 29.04.2024 (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 the Appellant had filed the following Bill of Entry for import of "Cold Rolled Stainless Steel Coils Grade J2" at Mundra Port through their CB M/s Kashish Impex:

TABLE - A

Bill of Entry No. & Date	Description of Goods	CTH	Qty. (Net wt.) Kgs.	Declared Value in (INR)	Declared Duty Payable (INR)
8665899 dated 07.11.2023	Cold Rolled Stainless Steel Coils Grade J2	72199090	55236	5148193	1427850
	Total			5148193/-	1427850/-

2.1 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 is 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 vide letter dated 15.03.2024 addressed to the Deputy Commissioner, Dock Examination Section submitted the BIS NOC. During the course of verification of documents in RMS Cell, Dock Examination Section, it was observed that:



"In response of Dept's mail for NOC verification, the MoS replied that 'the attached letter was not issued by Ministry of Steel'. It is evident from said mail, Importer has submitted fake/forged NOC."

2.3 In view of the above, it appeared that the imported goods have become liable for confiscation under Section 111(o) of the Customs Act, 1962. Accordingly, the Appellant appeared liable for penal action under Section 112(a)(ii) of the Customs Act, 1962. Further, it is clear that the Appellant had submitted fake/forged Ministry of Steel NOC for clearance of the imported goods. Therefore, the Appellant also appeared liable for penalty under Section 114AA of the Customs Act, 1962.

2.4 Being Custom Broker (CB), M/s Kashish Impex is 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, M/s Kashish Impex has failed to advise their client M/s Shrutam Metals Private Limited regarding submission of genuine BIS NOC from Ministry of Steel. Further, M/s Kashish Impex has failed to discharge their duties properly as they have not brought the fact of submission of forged/counterfeit BIS NOC to the notice of the Customs which indicates their involvement in attempting to clear the impugned consignment by submission of forged/counterfeit BIS NOC purported to be issued by Ministry of Steel and in suppressing the said facts with a malafide intention by collusion with the said Importer. Therefore, M/s Kashish Impex has contravened Customs Brokers Licensing Regulations (CBLR), 2018 made under Section 146(2) of the Customs Act, 1962. From above, it appears that M/s Kashish Impex is liable for penal action under Section 117 of the Customs Act, 1962.

2.5 The Appellant vide letter dated NIL received on 16.04.2024 submitted that they received a call from Number +919717929681 with name Shyam who ensured about NOC and after some days they received mail from teqco@gov-steel.com and got NOC and that after submission of NOC, they came to know that the NOC was forged and that they called on that mobile number too many times but no response was received. The Importer has further submitted that they applied for NOC on 02.04.2024 and got the same on




08.04.2024 which was verified by the Customs. The Appellant further submitted that they do not want Show Cause Notice and Personal Hearing and requested to release the goods as demurrage charges are almost 50% of the cargo. The CB M/s Kashish Impex vide letter dated 22.04.2024 submitted that they received BIS NOC from the Appellant vide letter dated 15.03.2024 and submitted the same in RMS Cell, Dock Examination Section, for verification from issuing authority and that on receipt of instructions from RMS Cell, they uploaded the NOC in e-Sanchit and after verification of the same by department, they came to know that the said NOC has not been issued by Ministry of Steel and that there is no type of involvement from their side. The CB has further submitted that they do not require Show Cause Notice and Personal Hearing.

2.4 Consequently, the Adjudicating Authority passed the following order:

- i. He refrained from holding the goods imported vide Bill of Entry No. 8665899 dated 07.11.2023 having declared assessable value of Rs. 5148193/-, liable to confiscation under Section 111(o) of Customs Act, 1962.
- ii. He refrained from imposition of penalty under Section 112(a)(ii) of Customs Act, 1962 on the Appellant M/s Shrutam Metals Private Limited.
- iii. He ordered to impose a penalty of Rs. 13,50,000/- (Rs. Thirteen Lac Fifty Thousand Only) on the Importer M/s Shrutam Metals Private Limited under Section 114AA of Customs Act, 1962.
- iv. He ordered to impose a penalty of Rs. 2,50,000/- (Rs. Two Lac Fifty Thousand Only) under Section 117 of Customs Act, 1962 on the CB M/s Kashish Impex.
- v. The goods imported vide Bill of Entry No. 8665899 dated 07.11.2023 are to be released only after payment of applicable duties and Penalties as above.

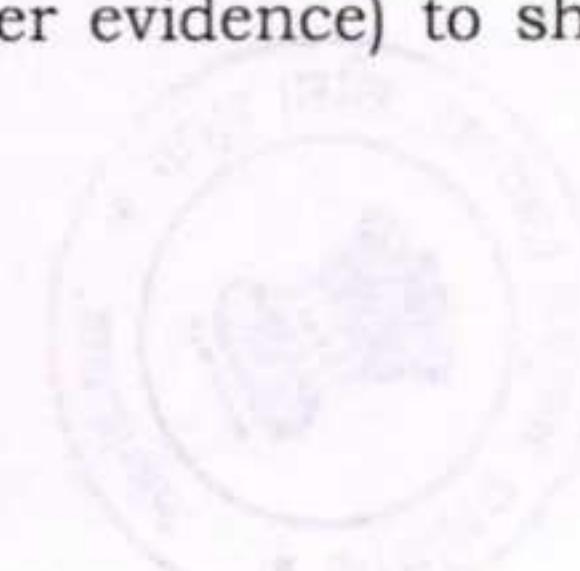


SUBMISSIONS OF THE APPELLANT:

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 impugned Order-in-Original passed by the Additional Commissioner of Customs, Mundra, is bad in law that all the allegations levelled against this appellant in the impugned Order-in-Original are denied as baseless, unfounded, untenable and lacking in credence and therefore unsustainable, on each of the following grounds, which are taken separately without impinging upon each other to overall proved non liability for any penalty:

3.2 No mens rea no penalty- That after importation of goods and filing of Bill of Entry the Appellant came to know that obtaining NOC from the Ministry of Steels was mandatory in the light of Circular dated 20.10.2023 issued by the Ministry of Steels. Thus, efforts were made to obtain NOC and the Appellant was approached by a person named Shyam who assured them to provide the NOC hassle free and the same was also provided within time frame, further the Appellant bona fide submitted the NOC to the Department assuming it to be necessary document for clearance of goods; the so obtained NOC was submitted to the Department on bona fide belief that the goods will be cleared by the Department after submission of the same. However, the Department on verification found it fake, and that the Appellant only came to know about the fakeness of the NOC upon intimation by the Department. It is submitted that the Appellant had no means to verify the authenticity of the NOC and is in fact a victim of a fraud committed against them by someone else. As the Appellant had no knowledge about the fake NOC being submitted by it, there is no mens rea on the part of the appellant, therefore, penalty under Section 114AA of the Customs Act, 1962 cannot be imposed upon the Appellant. That the sole reason given by the Adjudicating Authority for imposing penalty on the Appellant is that it had received the NOC from third person which was forged. However, the Adjudicating Authority has failed to appreciate that for imposition of penalty under Section 114AA, the requirement is that the person should be "knowingly or intentionally" submitting false documents. There is nothing on record (no inculpatory statement or any other evidence) to show that the Appellant was



aware that the NOC being submitted by it was forged. Accordingly, no penalty is imposable on the Appellant under Section 114AA.

3.2 Reliance in this regard is placed on the following case law:

- INGRAM MICRO INDIA P. LTD. Versus C.C., AIR CARGO COMPLEX (I), NEW DELHI [2019 (369) E.L.T. 1668 (Tri. - Del.)]
- SREE AYYANAR SPINNING & WEAVING MILLS LTD. Versus C.C., TUTICORIN [2019 (370) E.L.T. 1681 (Tri. - Chennai)]

3.3 It is surprising that the Additional Commissioner on one hand despite noting in Para 19 of his findings that "However, the Importer vide letter dated 10.04.2024 submitted Ministry of Steel NOC which was sent for authentication from the Ministry of Steel vide e-mail dated 25.04.2024. In reply, Ministry of Steel vide e-mail dated 26.04.2024 has informed that the said NOC/clarification is found correct/true. As the condition of mandatory NOC has been fulfilled by the Importer, therefore, the import stands regularised and Section 111 (o) of Customs Act, 1962 becomes inapplicable." and finds that the goods are not liable to confiscation and on the other hand proposes/imposes and confirms penalty upon the Appellant. It is respectfully submitted that when goods are not liable to confiscation, penalty cannot be imposed. Order, therefore is improper and liable to be set aside.

3.4 The Appellant had no means to verify the genuineness of the NOC provided to them by a person named Shyam, therefore, the same was submitted to the Department to get the same verified from the concerned Department, and as a result of verification by the Department this fact also came to knowledge of the Appellant which made them disappointed. However, this mistake has already been corrected and another certificate was obtained and produced by the Appellant to the Department prior to issuance of the impugned order, which was found to be correct.

19. "However, the Importer vide letter dated 10.04.2024 submitted Ministry of Steel NOC which was sent for authentication from the Ministry of Steel vide e-mail dated 25.04.2024. In reply, Ministry of Steel vide e-mail dated 26.04.2024 has informed that the said NOC/clarification is found correct/true. As the condition of mandatory NOC has been fulfilled by the



Importer, therefore, the import stands regularised and Section 111 (o) of Customs Act, 1962 becomes inapplicable."

"21. However, I find that the Importer vide letter dated NIL received on 16.04.2024 has admitted that they received NOC from third person. I further find that the Importer vide letter dated 15.03.2024 addressed to the Deputy Commissioner, Dock Examination Section submitted the said NOC. Therefore, it is evident that the Importer did not follow the due procedure by applying to Ministry of Steel for BIS NOC and submitted forged NOC purported to be issued by Ministry of Steel for clearance of the impugned consignment, therefore, I hold that the Importer is liable for penal action under Section 114AA of Customs Act, 1962."

Since, the mistake has already been rectified by the Appellant, well before the issuance of the impugned order which made the goods not liable to confiscation, and the Adjudicating Authority also refrained from confiscation of goods, therefore, penalty under Section 114AA cannot be imposed.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 27.05.2025, following the principles of natural justice wherein Shri Salil Arora, Advocate appeared for the hearing and he re-iterated the submission made at the time of filing the appeal. He also submitted that no penalty is imposable on the Appellant under Section 114AA, as the same was introduced to penalise the fraudulent exporters as per the 27th report of the Standing Committee in 2005. He placed reliance on the following judgments (copies of which have been provided):

- 2022 (379) E.L.T. 120 (Tri. Bang.): ACCESS WORLD WIDE CARGO Versus COMMISSIONER OF CUSTOMS, BANGALORE
- (2024) 25 Centax 37 (Tri. Del):- A. V. Global Corporation Pvt. Ltd. Vs. Commissioner of Customs (Import & General), New Delhi.



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 the following issues need to be addressed:

- (i) Whether the penalty imposed under Section 114AA of the Customs Act, 1962, on the importer M/s Shrutam Metals Pvt Ltd for the use of a forged document is legally justified and sustainable.
- (ii) Whether the argument that Section 114AA of the Customs Act, 1962 applies exclusively to fraudulent exporters holds merit in the facts of the instant case.
- (iii) Whether the Appellant's claim of absence of mens rea (i.e., acting as an innocent victim of fraud) negates the imposition of penalty under Section 114AA of the Customs Act, 1962.

5.2 The Appellant contends that Section 114AA of the Customs Act, 1962 is only for 'fraudulent exporters', relying on the 27th Report of the Standing Committee in 2005. However, this is a misinterpretation of the statutory provision's scope. Section 114AA of the Customs Act, 1962, reads as under:

"If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

5.3 The plain reading of the Section uses the word "person" and the phrase "in the transaction of any business for the purposes of this Act". This language is broad and inclusive, clearly extending beyond the category of 'exporter' to cover any person dealing with Customs for any purpose under the Act. The historical context of the section's introduction, as found in a Standing



(Signature)

Committee Report, can be used to understand its purpose but cannot limit the plain, unambiguous scope of the law as enacted by Parliament. The clear, unambiguous language of the Act must prevail.

5.4 The Appellant, being an importer, used a forged NOC, which is a document that is false or incorrect in a material particular, in the clearance process of the imported goods. The condition of obtaining a mandatory NOC was a prerequisite for the clearance of the said goods. Therefore, the act of submitting a forged document squarely falls within the ambit of the offence defined under Section 114AA of the Customs Act, 1962.

5.5 The cases cited by the Appellant are distinguishable because they relate to the liability of Customs House Agents (CHAs) who merely processed documents on behalf of their clients without proven mens rea (lack of mala fide and wilful mis-representation by the CHA was noted in the judgment). In the instant case, the penalty is imposed on the importer (M/s Shrutam Metals Pvt Ltd), who is the principal beneficiary and primary actor in the import transaction, and the submission of the false document was for their direct benefit. The Adjudicating Authority, in the impugned order, has correctly applied the section to the primary party responsible for the use of the false document.

5.6 The Appellant claims the absence of mens rea (criminal intent), arguing they were victims of a fraud by a third party named 'Shyam'. However, the admission of the Appellant itself suggests a deliberate disregard for the prescribed due procedure. Section 114AA requires that a person "knowingly or intentionally" uses a false document. The Appellant's statement shows they did not follow the due procedure of applying to the Ministry of Steel directly. Instead, they followed an unscrupulous route by receiving a call from an unverified third person named 'Shyam' and accepted an NOC via a non-official email ID (tcqco@gov-steel.com - later clarified as forged by the MoS). The Adjudicating Authority rightly concluded that the submissions of the Importer "do not stand ground as the Importer did not follow the due procedure by applying to Ministry of Steel for BIS NOC and rather followed unscrupulous route for procuring NOC".

5.7 Where the facts demonstrate a deliberate bypassing of the legal and mandatory procedure to expedite clearance using a document obtained through unverified channels, the element of mens rea—if not direct knowledge, then willful blindness or reckless disregard of the truth and accuracy of the



document—can be inferred. The reliance on SREE AYYANAR SPINNING & WEAVING MILLS LTD. is misplaced. That judgment required the Revenue to prove mala fides and culpability. In the instant case, the Adjudicating Authority has established the culpability by finding that the Appellant actively avoided the official procedure and knowingly engaged with an external, non-official entity for a mandatory NOC. The initial forged NOC was submitted on 15.03.2024 even though the Bill of Entry was dated 07.11.2023, indicating a clear and active attempt to facilitate clearance with the forged document. The subsequent obtainment of a genuine NOC and regularisation of the import only addresses the confiscation aspect (Section 111(o)), not the past offence of using the forged document (Section 114AA).

5.8 The Appellant's actions constitute a reckless, deliberate disregard for the legal process, and their engagement with an unverified third party to procure a mandatory document instead of following the official route demonstrates an intent to circumvent the law. This satisfies the requirement of "knowingly or intentionally uses" under Section 114AA.

5.9 As both the conditions of 'use of a false document in a material particular' and the presence of 'mens rea' (as inferred from the wilful circumvention of the prescribed procedure) are satisfied, the imposition of penalty on the Appellant is legally justified and sustainable. The rejection of the confiscation under Section 111(o) and penalty under Section 112(a)(ii) (as the goods ultimately complied with the condition) does not absolve the importer of the separate, distinct, and completed offence of using a forged document under Section 114AA.

5.10 The penalty of ₹ 13,50,000/- imposed by the Adjudicating Authority is well within the maximum prescribed limit of five times the value of the goods (where the declared value is ₹ 51,48,193/-), and is therefore proportionate and legally valid.

6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

(i) The imposition of penalty of ₹ 13,50,000/- (Rupees Thirteen Lakh Fifty Thousand Only) on the importer M/s Shrutam Metals Pvt Ltd under Section



114AA of the Customs Act, 1962, for the offence of using a forged document is upheld.

(ii) The appeal filed by M/s Shrutam Metals Pvt Ltd is hereby rejected.



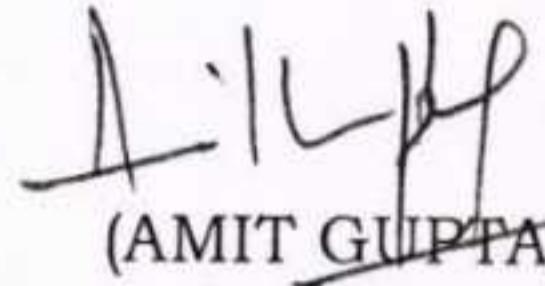
सत्यापित/ATTESSED

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

F. No. S/49-82/CUS/MUN/2024-25

4168

By Speed Post/E-Mail


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

Date: 30.10.2025

To,
M/s Shrutam Metals Private Limited,
Basement Shed No 23,
Wazirpur Industrial Area Delhi-110052

Copy to:

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